

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 30th October, 2001

The House met at 2.30 p.m.

[Mr. Speaker in the Chair]

PRAYERS

ORAL ANSWERS TO QUESTIONS

Question No.170

EXPENDITURE ON *EL NINO*
REHABILITATION PROJECTS

Mr. Kiunjuri asked the Minister of State, Office of the President:-

(a) whether he could give a breakdown of how the money meant for *El Nino* rehabilitation projects, obtained from the Kenya Government, the World Bank, African Development Bank and the French Government has been spent; and,

(b) how much money was given by each of the above/or any other donor.

The Minister of State, Office of the President (Mr. Nassir): Mr. Speaker, Sir, I beg to reply.

(a) My colleague has asked about the money. The World Bank gave Kshs4,650,000,000; African Development Bank gave Kshs900 million; the Government of Kenya gave Kshs90 million, which is 10 per cent and French Government gave Kshs1,125,000,000; totalling to Kshs6,765,000,000.

(b) An amount of Kshs2,017,000,000 was used to repair urban roads and drainage. An amount of Kshs2,287,000,000 was used to repair rural roads and bridges. An amount of Kshs1,169,000,000 was used for water supply and sanitation and Kshs231 million was used for health facilities. The above amounts totalled Kshs5,704,000,000.

Mr. Kiunjuri: Mr. Speaker, Sir, it means that Kshs6.765 billion was given by various governments, including our generous Government. We believe that no work was done using that money. If there was any work done, then it was "ghost work"! Could the Minister lay on the Table a list showing all the districts that benefitted from the rehabilitation of roads and how much was spent?

Mr. Nassir: Mr. Speaker, Sir, if you allow me, I will table a list showing how we used the money in every district. Otherwise, it will take me nearly one hour to read the whole list!

(Mr. Nassir laid the list on the Table)

Mr. Kiunjuri: Mr. Speaker, Sir, out of all that money, various districts did not qualify due to various reasons. One of the reasons was that they did not present their cases to the District Development Committees (DDCs). Could the Minister assure this House, now that the funds are there--- The first question is: How much of that money is left and how will the districts that never qualified benefit?

Mr. Nassir: Mr. Speaker, Sir, very luckily, we have some money which we received recently. We received about Kshs15 million from Europe and US\$17 million from other places. Although that money has been allocated already, a smart Member of Parliament like him, and everybody else, has come to ask for the allocation. But, as far as I am concerned, I will never forget him because he comes from Laikipia where my best friend, Mr. Speaker, comes from!

Mr. Sangu: Mr. Speaker, Sir, is the Minister satisfied that, that money was properly utilised? For example, with regard to the colossal amount of money allocated for rural roads, Road D290, Chiga-Rabuor, has already been damaged beyond repair! No vehicle can pass through that road and yet, Kshs12 million was used on that road for only seven kilometres. That was over Kshs1 million per kilometre of murrum road! Is the Minister satisfied that, that money

was properly utilised and that there was no corruption?

Mr. Nassir: Mr. Speaker, Sir, all the jobs in Kenya are done by human beings. In some places where I have visited, they have made big mistakes. Then, I come back to the office and do the job! If anybody says that roads in his place have not been done properly or money was not used properly, I am ready to take him either by plane or car to see whether the job has been done properly!

Mr. Wamae: Mr. Speaker, Sir, is the Minister satisfied that there is proper and effective supervision of the *El Nino* jobs that are being done on our roads?

Mr. Nassir: Mr. Speaker, Sir, as I said, I always go and visit every place!

An hon. Member: But you are not an engineer!

Mr. Nassir: I am not an engineer, but I have engineers working with me! I am not a lawyer, but I have lawyers working with me! So, when I go out, I go with the full team to see whether the jobs are done properly! Just call me there instead of asking Questions here!

Question No.602

COMPLETION OF NYANZA
PROVINCIAL HEADQUARTERS

Mr. Sungu asked the Minister of State, Office of the President:-

- (a) when the construction of Nyanza Provincial Headquarters will be completed;
- (b) what the original contract price of this project and the completion period was; and,
- (c) how much money has been expended on this project and how much money is required to complete it.

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I beg to reply.

(a) The Government is in the process of addressing all stalled projects, and the Nyanza Provincial Headquarters will be one of them.

(b) The original contract price for the project was Kshs183,456,572 and the project is 75 per cent complete.

(c) The amount of money expended on the project is Kshs178,749,520, and Kshs604,658,490 is required to complete the project.

Mr. Sungu: Mr. Speaker, Sir, the Minister said approximately Kshs604 million is required to complete this project. The Kenya Government spends about Kshs600,000 per month in office rent. From the time this project was started, the amount of money used as rent for Government offices in Kisumu would have been adequate to complete the project. What is the rationale of creating new districts and building new district headquarters when Nyanza Provincial Headquarters is not complete?

Maj. Madoka: Mr. Speaker, Sir, the creation of new districts has always been at the request of wananchi, depending on the various factors which determine the establishment of districts.

Mr. Anyona: Mr. Speaker, Sir, the Minister, in his answer, did say that apart from Nyanza Provincial Headquarters, there are other projects across the country which are being considered for completion. In that context, could he tell the House when he is going to complete the stalled projects in Nyamira District and how much money has been earmarked for them? There are a lot of stalled buildings in Nyamira District!

Maj. Madoka: Mr. Speaker, Sir, that is a different Question. I am not prepared to answer any questions on Nyamira District. But I can get that information and report back to the House.

Mr. Anyona: On a point of order, Mr. Speaker, Sir. It would have been a different Question if the Minister had not stated in his reply that all of them were being considered. He indicated that he had that information. It is in that context that I am asking him about Nyamira District!

Maj. Madoka: Mr. Speaker, Sir, I did not bring that information on Nyamira District. It is true that there are many stalled projects throughout the country, but I do not have the figures here with me at the moment.

Dr. Omamo: Mr. Speaker, Sir, the delay in constructing the Nyanza Provincial Headquarters has been a very bad example of the low priority being given to Nyanza Province. If the Minister says that this project is going to be tackled along with others, could he tell the House what priority Nyanza Provincial Headquarters is taking? Is it going to be number one, or number two?

Maj. Madoka: Mr. Speaker, Sir, all the projects are categorised into three groups. We have got the core priority projects, for example, the various police accommodation buildings and high priority projects. Nyanza Provincial Headquarters is in that group. We also have the medium priority projects. Once we have done the core projects, we will consider the high priority projects and Nyanza Provincial Headquarters is one of them. But to complete it, it is going to cost us Kshs604 million. That is a colossal amount of money and I cannot give the exact date

when this will be done.

Mr. Omino: Mr. Speaker, Sir, could the Minister explain how 25 per cent of the remaining work is going to cost a whopping Kshs604 million when the project was supposed to cost only Kshs175 million? Under those circumstances, could the Minister consider selling that project and let private people complete it instead of wasting Kshs604 million which could be used to do other development work?

Mr. Sifuna: Say "yes" and sit down!

Maj. Madoka: Mr. Speaker, Sir, I will not definitely say "yes" and sit down. I will explain the circumstances which led to this sum. When the construction was going on, the Ministry of Roads and Public Works varied the contractual sum and when they came up with the figure, it was difficult for us to get approval from the Treasury. That is why we could not continue. As to whether we will sell the project and get somebody else to complete it, we have been considering that option for some of the projects, but no firm decision has been made.

Mr. Sungu: Mr. Speaker, Sir, I would like to disagree with the Minister that the project is 75 per cent complete. The building is actually 90 per cent complete. What is left is partitioning! It is a real waste of Government resources to allow this thing to go on. Could the Minister give a specific date when this project will start? We need this office space. We are paying rent at the rate of Kshs600,000 per month and that is a waste of Government resources!

Maj. Madoka: Mr. Speaker, Sir, I cannot give a definite date when this project will be completed.

Mr. Speaker: Very well. Next Question, Mr. Kariuki!

Question No.405

SPECIAL SCHOOLS FOR HIV/AIDS ORPHANS

Mr. Kariuki asked the Vice-President and Minister for Home Affairs, as a way of eradicating poverty and other social ills associated with the increasing number of street children and HIV/AIDS orphans, whether the Government could consider building special homes and schools for street children and HIV/AIDS orphans.

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): I am aware of the increasing number of street children and HIV/AIDS orphans. This is as a result of the difficult economic situation which the country is facing. The Government has taken positive steps, in association with Non-Governmental Organizations (NGOs), donor agencies and other stakeholders, to alleviate this situation. At the moment, there are about 220 such programmes in the country aimed at addressing issues related to children in need of special protection. These programmes include health for example, Nyumbani Children's Home for HIV/AIDS orphans, skilled training provided by approved schools, foster care and adoption run by the Child Welfare Society of Kenya, vocational training and rehabilitation.

Mr. Kariuki: Mr. Speaker, Sir, as you heard from the Assistant Minister, the Government is taking this issue of street children and HIV/AIDS very casually and yet, the problem is increasing by the day. Leaving this problem to NGOs is a mockery. Could he explain what definite programmes the Government is directly involved in, in order to address this problem?

Mr. Osundwa: Mr. Speaker, Sir, the Government has established District Children Advisory committees. The main goal of these committees is to enhance local level planning and co-ordination of children's projects and programmes aimed at promoting community participation in identifying problems affecting children and finding sustainable solutions.

Mr. Speaker, Sir, my Ministry also introduced volunteer children's officers to encourage community responsibility in the rehabilitation of street children and other children in need of special protection.

Mr. Kariuki: On a point of order, Mr. Speaker, Sir. The Assistant Minister is merely reading the answer. He is not addressing the issue I raised. I am aware of the answer he is reading. I have asked him what specific projects and programmes the Government has put in place to solve this problem.

Mr. Osundwa: Mr. Speaker, Sir, I was just outlining the programmes. I do not understand why the Questioner is insisting that I should give alternative programmes. That is what I am doing. Could I be allowed to proceed?

An hon. Member: But you have not answered the Question!

Mr. Speaker: Order, hon. Members! None of you has the right to tell the Assistant Minister how to answer the Question or what to say! It is his business to say what he pleases and it is your duty to question him on it!

Mr. Osundwa: Mr. Speaker, Sir, in view of the large number of children in need of special protection, the Government encourages NGOs, donor agencies and other stakeholders to assist street children and HIV/AIDS orphans

at the community level. The community rehabilitation of street children is the best way forward rather than institutionalising them as the hon. Member would like the Government to undertake.

Mr. Sungu: Mr. Speaker, Sir, the Questioner has correctly stated that the Government is not taking this matter seriously enough. I know of locations where there are as many as 800 orphans. Half the students in schools in my area are orphans. It is a shame that the Government has not thought about setting up Inter-Departmental Committees to **[Mr. Sungu]**

look into this issue and that one of education. Could the Assistant Minister assure us that he will go back and look at this issue properly, consult with the other Ministries concerned, and set up Inter-Departmental Committees within the Ministries concerned, including education so that these children can get free education?

Mr. Osundwa: Mr. Speaker, Sir, we will consider that.

Mr. Munyao: Mr. Speaker, Sir, the concern about street children is very rife, particularly considering that some of them have grown up in the streets. Now they are mature people and they are the ones involved in criminal activities in this country. Could the Assistant Minister get about 1,000 acres of Government land, fence it and install facilities like schools and universities to train these children so that they can earn a living?

Mr. Osundwa: Yes, we will be glad to do that, but for the time being, the Government is still financially constrained. The Government does not have funds to put up such institutions.

Mr. Kariuki: Mr. Speaker, Sir, in view of the fact that there are children who have been orphaned by the HIV/AIDS, and they are being sent away from school, could the Assistant Minister consider waiving school fees for any orphans who are in school so that they can continue and finish their education without interruption? He should, at the same time, also consider creating institutions that can accommodate and take care of street children who are increasing in number.

Mr. Osundwa: Mr. Speaker, Sir, the question of raising funds for school fees rests with the Ministry of Education, Science and Technology. As I mentioned, when funds become available, the option of putting up institutions to house these orphans may be considered.

Question No.560

REFUND OF MR. MASINDE'S SHARE CONTRIBUTIONS

Mr. Sifuna asked the Minister for Agriculture:-

- whether he is aware that Mr. Jackson Wafula Masinde, P/No.101676/68020844, retired from the Civil Service five years ago while he was a member of Ulinzi Co-operative Society;
- whether he is further aware that Mr. Masinde has been requesting for the refund of his share contributions from Ulinzi Co-operative Society for the last five years in vain; and,
- whether he could direct the management of Ulinzi Co-operative Society to refund Mr. Masinde's share contributions plus interest for the period without further delay.

The Assistant Minister for Agriculture and Rural Development (Mr. J.D.M. Lotodo): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that Mr. Jackson Wafula Masinde, P/No.101676/68020844, retired from the Civil Service five years ago while he was a member of Ulinzi Sacco Society Limited.

(b) I am also aware that Mr. Masinde has been requesting for the refund of his share contributions over the same period.

(c) On 5th June, 2001, the management of Ulinzi Sacco Society Limited refunded Mr. Masinde's share contributions as follows:

Share Contribution - Kshs28,800

Dividends - Kshs572

Total - Kshs29,372

Less Outstanding Loan of Kshs6,000

The balance of Kshs23,372 was sent via cheque No.004518 to Mr. Masinde via his last known address of c/o Chiloba Village PO Box 496, Bungoma.

Mr. Sifuna: Mr. Speaker, Sir, could the Assistant Minister tell this House whether he is satisfied with the interest on the principal amount of Kshs28,800; and if so, what was the rate of interest payable to this man?

Mr. J.D.M. Lotodo: Mr. Speaker, Sir, I am not aware of the exact percentage of the interest, but this is what was calculated by the management of the Ulinzi Sacco.

Mr. Sifuna: Mr. Speaker, Sir, even if the interest rate was 3 per cent per annum for five years on the principal amount of Kshs28,800, Mr. Masinde could have been paid Kshs4,320 which is just 3 per cent only. The Assistant

Minister is telling us that the dividends for five years given to Mr. Masinde was Kshs572. Are you satisfied or not?

Mr. J.D.M. Lotodo: Mr. Speaker, Sir, I am not satisfied that the interest is Kshs572, but we will check on it. If there are any arrears, we will pay them to Mr. Masinde.

Question No.360

PAYMENT OF PENSION DUES
TO FORMER KCHS EMPLOYEES

Mr. Maitha asked the Minister for Labour:-

- (a) whether he is aware that the former employees of Kenya Cargo Handling Services which has hitherto merged with Kenya Ports Authority, have not been paid their pension dues; and,
(b) what action he is taking to ensure that employees are paid their dues.

Mr. Speaker: Where is the Minister? Is he not here?

Mr. Maitha: Mr. Speaker, Sir, this is the fourth time this Question has come to this House and the Minister is always asked to bring a report from the KPA. Some of my other Questions are not allowed to appear on the Order Paper because this Question is ever coming every now and then. I would like your ruling on this matter.

Mr. Speaker: What would you like me to do if the Minister does not turn up?

Mr. Maitha: The Minister is evading this Question!

Mr. Speaker: Where is the Minister for Labour? Could he be asked to answer this Question on Thursday? I will defer the Question to Thursday.

(Question deferred)

Question No.600

PAYMENT OF TERMINAL BENEFITS
TO MS. WANGARI MWANGI

Mr. Anyona asked the Minister for Labour:-

- (a) whether he is aware that Ms. Beatrice Wangari Mwangi was employed by Bomco Building Contractors Limited for five years between 1984 and 1989 when her employment was irregularly terminated;
(b) whether he is further aware that she has not been paid her terminal benefits, including two months in lieu of notice, cumulative leave for five years, underpayment for five years, transport allowance and workman's compensation arising from a fire accident at the place of work; and,
(c) whether he could investigate the case and ensure her reinstatement or settlement of all terminal benefits in full with interest.

Mr. Speaker, Sir, I suppose my Question suffers the same fate?

Mr. Speaker: I think it follows or maybe he is seated there. Is the Minister for Labour not here?

An hon. Member: He is in labour!

(Laughter)

Mr. Speaker: I will defer this Question to next week.

Mr. Anyona: I will not be here next week. I wonder if the Question could be deferred to either tomorrow afternoon or Thursday because I will be away for some time.

Mr. Speaker: Okay, the Question is deferred to Thursday.

(Question deferred)

Question No.584

AMBULANCE FOR KABUCHAI HEALTH CENTRE

Mr. Speaker: Is Mr. Munyasia not here? So, what do we say about Mr. Munyasia?

An hon. Member: He is stuck in Mombasa in a meeting!

Mr. Speaker: The Question is dropped!

(Question dropped)

QUESTIONS BY PRIVATE NOTICE

PRESENCE OF PCS AT KANU/NDP DELEGATES CONFERENCE

Mr. Gatabaki: Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

Why did all the eight Provincial Commissioners attend the Kenya African National Union's (KANU) and the National Development Party's National Delegates' Conference held on 24th August, 2001, at the Moi International Sports Complex, Kasarani, Nairobi, considering that Public Service employees who include the Provincial Administration are required to be impartial and to keep out of affairs of political parties?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I beg to reply.

The Provincial Commissioners attended this particular meeting as observers.

Mr. Gatabaki: Mr. Speaker, Sir, I have just come from a tour of South Africa. The question we were being asked is when will Kenya accept the democratic process? When I came, I read in the newspapers that Mr. Okemo was arguing with the International Monetary Fund (IMF). Kenya will not get aid from the IMF until it shows signs of reform. Why did the PCs fail to attend the Democratic Party Convention?

Maj. Madoka: Mr. Speaker, Sir, the Provincial Commissioners are Kenyans and they can choose which meetings to attend as observers and which ones not to attend.

Mr. Kibicho: Mr. Speaker, Sir, does the KANU Government subscribe to the principle that civil servants must be independent from party politics?

Maj. Madoka: Yes, the Government does subscribe to that.

Mr. Kathangu: Asante, Bw. Spika. Mimi ninaelewa kwamba wakuu wa wilaya na mikoa hawawezi kuwa wa kidemokrasia kama vile tunavyoambiwa sasa kwa sababu wako chini ya Rais. Kwa hivyo, watakuwa pale Rais yupo. Ukweli ni kuwa katika Bunge hili tunakubali vile Waziri anavyotambia kuwa walienda kujua jinsi NDP na KANU wanavyofanya kazi yao. Tunatakiwa tukubaliane kwamba wale Wakuu wa Mikoa wataendelea kufanya namna hiyo ama ikiwa si hivyo, Waziri aliambie Bunge hili kwamba, labda kuanzia sasa, Rais atawakataza hawa watu kuendelea kumfuata kila mahali atakapokuwa.

Maj. Madoka: Bw. Spika, Wakuu wa Mikoa wana haki ya kutembelea na kuhudhuria mikutano yoyote vile wanavyotaka kufanya.

Mr. Kiunjuri: On a point of order, Mr. Speaker, Sir. Is the Minister in order to continue convincing the House that Provincial Commissioners are not partisan while the Nairobi Provincial Commissioner, Mr. Maina, has a portrait of President Moi and KANU colours are painted on the trees and gate to his house in his own home in Mukurweini?

(Laughter)

Mr. Speaker: Order! Mr. Kiunjuri, are you suggesting that they, unlike other Kenyans, cannot have their own private preferences in their houses?

Mr. Kiunjuri: Mr. Speaker, Sir, but the KANU national colours are painted on the gate and trees! This is a clear indication of partisan politics. I can substantiate this.

(Laughter)

Mr. Speaker: Order! I suppose the day you will do that will be when this Parliament will be visiting private residences of individual Kenyans to monitor what their political preferences are. Surely, I think you can question about their official capacities but not private ones. Anyway, whose trees are they?

Mr. Munyao: Mr. Speaker, Sir, I still insist that the Minister is misleading the House. If the Provincial Administration went to observe the KANU and NDP National Delegates Conference, held at the Moi International Sports Complex, Kasarani, the Democratic Party had the same conference on the 5th of October. We waited for them

all the time because we were actually trailed by the security personnel around and nobody came. Is he in order to mislead the House?

In fact, it is not only applicable to this incident but to all KANU meetings, particularly in Kilome, where the main candidates are having meetings. No single Provincial Commissioner attends Opposition meetings there. However, during the KANU meetings all helmets and these khaki uniforms are all there! Is he in order to mislead the House when these officers are actually paid through public funds?

Maj. Madoka: Mr. Speaker, Sir, I am not misleading this House in anyway. The point is that these Provincial Commissioners---

A hon. Member: You are a liar!

Maj. Madoka: Certainly, I am not a liar! Mr. Speaker, Sir, the Provincial Commissioners are always on duty. You know that sometimes they are required to be there to ensure that there is security. However, Opposition Members of Parliament, particularly hon. Muniyao, says he never wants these people around him and I think that is why they kept away from the DP Delegates Conference.

Mr. Gatabaki: Mr. Speaker, Sir, could the Minister now assure the House that since these Provincial Governors or Provincial Commissioners, are not members of the ruling party KANU, and that when other political parties hold conventions, the Provincial Commissioners, including the Army Generals will also attend as observers?

(Applause)

Maj. Madoka: Mr. Speaker, Sir, I do not know the political affiliations of all these Provincial Commissioners since that is their private choice.

INVASION OF SUMBA ISLAND

Mr. Wanjala: Mr. Speaker, Sir, I beg to ask the Minister of State, Office of the President, the following Question by Private Notice.

(a) Is the Minister aware that Ugandan Revenue Officers accompanied by their Army Personnel invaded Sumba Island of Lake Victoria on 11th August, 2001 and confiscated goods belonging to Kenyans shopkeepers?

(b) What urgent measures will the Minister take to stop further harassment of Kenya citizens and ensure their security?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I beg that we defer this particular Question because the hon. Member gave us some information which is different from what we have got. We are trying to check on the actual boundaries and we have not got the maps he was suggesting. I think I will be a lot more comfortable to answer this Question when I have got the maps he was referring to.

Mr. Speaker: How long will it take?

The Minister of State, Office of the President (Maj. Madoka): Mr. Speaker, Sir, I will request until next week.

Mr. Speaker: Mr. Wanjala, is that alright with you?

Mr. Wanjala: Mr. Speaker, Sir, I concur with the Minister.

Mr. Speaker: Very well. The Question is deferred to next week.

(Question deferred)

DETENTION OF BENSON IRUNGU BY AIC CHURCH

Mr. Thirikwa: Mr. Speaker, Sir, I beg to ask the Vice-President and Minister for Home Affairs the following Question by Private Notice.

(a) Is the Minister aware that a child by the name Benson Irungu son of Mr. Wamuri Kabui and Teresia Muthoni, residents of Kirima Sub-Location, Shamata Location, Ndaragwa Division, Nyandarua District, is being detained at AIC Church, Diguna?

(b) Is he further aware that the said child was a subject in case No.430 of 2001 at Kapsabet Principal Magistrate's Court?

(c) What immediate action is he taking to have the said child released to his parents?

The Assistant Minister, Office of the Vice-President and Ministry of Home Affairs, Heritage and Sports (Mr. Osundwa): Mr. Speaker, Sir, I beg to reply.

(a) I am aware that a child by the name Benson Irungu alias Mabadiliko Muturi is at AIC Church, Diguna in Nandi District.

(b) It is not true that the child was a subject in case No.430 of 2001. The said case number involved eight people charged with being members of an unlawful sect, contrary to Section 6(a) Cap.108 of the Laws of Kenya, and no child was enjoined in this case.

(c) The said child was one of the 21 children who had been allegedly abducted by eight members of an unlawful religious sect. The Provincial Administration officers on the ground with the help of police and the Children's Office, took these children to AIC Rainbow Children's Home, Diguna. This was to allow their rightful parents to be contacted with a view to identifying their children. The children's pictures were displayed in both the local print and electronic media. Due to this publicity, Mr. and Mrs. Wamuri Kabui, from Nyandarua District, went to Kapsabet to lay claim to their lost son, Benson Irungu alias Mabadiliko. This is a boy aged three years. Simultaneously, Rose Cheyech and Josephat Wamui Kiragu also laid claim to the same child.

Mr. Speaker, Sir, due to these conflicting interests, I got in touch with the police and health authorities and we have concurred that an independent investigation and DNA test be carried out afresh on the subject and the feuding two parties. The findings will be placed before a court of law to resolve the issue of paternity in respect of the child, Benson Irungu alias Mabadiliko. Meanwhile, the child is in the custody of Diguna Children's Home awaiting the said court determination.

Mr. Thirikwa: Mr. Speaker, Sir, this is a case of conspiracy between the police and the accused. Mrs. Rose Cheyich was one of the accused persons in this particular case and, on her own plea of guilty, she was charged and fined Kshs4,000. The truth about this case is that the said child who was unfortunately three years old and thus a minor, when his parents from Nyandarua went to lay their claims--- The police and if my knowledge serves me right, have no legal authority whatsoever to order for a DNA test. But what happened is that---

Mr. Speaker: Order! What is the question out of all this? You have made it a debate now!

Mr. Thirikwa: Mr. Speaker, Sir, may I know from the Assistant Minister who ordered for a DNA test to establish the true parents of this child?

Mr. Osundwa: Mr. Speaker, Sir, the investigating officers, that is the police, ordered for this test. Indeed, I have the results of the DNA test here and I am seeking advice from the Chair whether it is proper to disclose them here?

Hon. Members: On a point of order, Mr. Speakers, Sir.

Mr. Speaker: Order! Order! Hon. Members, surely, this is the first time since I became the Speaker of this House, that we are talking about DNA tests and their results. Much more importantly, the matter involves a child. As you know, it is the Young Persons and Children's Act which governs the way the affairs of young persons and children are conducted, including mandating that their trial in a court of law will be done in *camera*. Honestly, I have not envisaged this.

I have not addressed my mind to whether this affects the children with regard to what the Assistant Minister has proposed. I would be very happy to get some assistance from the Floor if any of you, hon. Members, knows the best way to go about this matter. Mr. N. Nyagah, are you an expert in such matters?

Mr. N. Nyagah: Mr. Speaker, Sir, I would like to believe that I would, temporarily, be an expert in this matter. As you know, we have the Children Bill, which is pending before the House. I am a Member of the Departmental Committee on Health, Housing, Labour and Social Services. One of the things we are looking at in this Bill is exactly what you have said. In the matter at hand, we have not been told the age of the child. The Questioner and the Assistant Minister have kept referring to a child.

Mr. Speaker: The child in reference is three years old!

Mr. N. Nyagah: Mr. Speaker, Sir, if the said child is three years old, the issue of the DNA test, having been brought before this House, has become public. Continued debate on this matter here will defeat the purpose for which the law has provided; the hearing of such matters in *camera*. I think the hon. Questioner, and the Assistant Minister, should get together and ensure that the matter is not discussed publicly.

Mr. Speaker: Thank you, Mr. N. Nyagah. Mr. Muite, I would like some legal help on the matter before I make up my mind. Already, I am thinking about it.

Mr. Muite: Mr. Speaker, Sir, when I used to be active in legal practice, I used to come across matters relating to children quite often. In the case of the Children's Act, the rationale behind the relevant law is to protect the interests of the child. The idea was to avoid traumatising or making the child live the rest of his life with a trauma that can be avoided. The requirement for evidence to be taken in *camera* is in order not to embarrass the child; it is in order to promote the best interests of the child. So, if Mr. Speaker is satisfied that discussing the matter in this House, rather than embarrassing or traumatising the child, is in the interests of the child, he can allow the discussion to take place. If on the other hand there might be disclosures that might be embarrassing to the child and make him or her carry a

trauma, Mr. Speaker should prohibit the discussion in this House. So, the bottom line is what is in the best interests of the child.

Mr. Speaker: I thank the hon. Members who have made their contributions. I generally agree with the line taken by the two hon. Members. Generally, I agree with the line taken by the two hon. Members. I think it is not in the best interest of the child to discuss the matter here. However, I think this saga must be sorted out in the best interests of the child. So, although the results of the DNA tests will not be tabled here, I think the best thing I should do is to order the Assistant Minister to settle this matter in the best interests of the child and keep Mr. Speaker posted. So, the Assistant Minister and Mr. Thirikwa shall sit together and then later come to appraise Mr. Speaker of the steps taken to ensure that ultimately, the child gets to his parents soonest possible. Both the Assistant Minister and Mr. Thirikwa shall appear before Mr. Speaker, in his Chambers, on Tuesday, next week.

(Applause)

Mr. Thirikwa: On a point of order, Mr. Speaker, Sir. Besides that, this was a case of abduction. The Assistant Minister has stated this clearly in his reply. Could he explain why the abductors were not charged with abduction? That is why I said that there is conspiracy. Why were the abductors charged with belonging to an illegal organisation when they had abducted 21 children?

Mr. Speaker: Order! Order! Mr. Thirikwa, I think you understand that the whole idea of conducting a DNA test was that there is a dispute as to who owned the child. So, before you go to abduction, you must establish the identity of the rightful parents. I suppose that this is a legal problem. But, please, can the two of you get together in the course of this week, get all the necessary communication from the Children's Officer and everybody else and let us sort out this child's problems as quickly as we can?

Mr. Muchiri: On a point of order, Mr. Speaker, Sir. Suppose the Assistant Minister and the hon. Questioner agree to disagree in front of you, what will happen?

(Laughter)

Mr. Speaker: Mr. Muchiri, what are you saying?

Mr. Muchiri: Mr. Speaker, Sir, the ownership of the child is disputed. Suppose the Assistant Minister and the hon. Questioner disagree in front of you, in your Chambers, what will happen?

Mr. Speaker: Then I will know what to do next.

Mr. Thirikwa: On a point of order, Mr. Speaker, Sir. I would not like to challenge your ruling. But we have a whole Minister who is supposed to do this job. You are enjoining me to the Assistant Minister so that we can sort out the matter but I do not know actually exactly what I should be doing with him. So, I would rather you ask the Assistant Minister to do what he can and report to this House. If you require me and him---

Mr. Speaker: Order! Order! Mr. Thirikwa, this is not a contest, by the way. We are not supposed to be coming here to contest matters. We are supposed to come here and seek solutions to problems affecting Kenyans. We are more so enjoined when the Kenyan affected is a minor, or a child. That is why I have taken that attitude. That is also why I directed the Assistant Minister that they should take all necessary steps to ensure that this child ultimately gets to the parents. I do not even understand why the matter has taken this long. I was hoping that today the Assistant Minister would come here and say that the issue has been sorted out. I hope that between now and Tuesday next week, that will have been done. This is not a contest. Particularly, since this matter involves a child, let us have it sorted out. Mr. Osundwa, I believe that you will take my direction and have the matter sorted out in the best interests of this child.

Mr. Osundwa: On a point of order, Mr. Speaker, Sir. I think the hon. Member should direct the question as to why the abductors were not charged with the offence of abduction to the Attorney-General, who prosecutes criminal offences.

Mr. Speaker: Mr. Osundwa, you get the child to his parents, whoever they are.

UGANDA'S BAN ON KENYA FISHERMEN ON LAKE VICTORIA

Mr. Kanyauchi: Mr. Speaker, Sir, I beg to ask the Minister for Foreign Affairs and International Co-operation the following Question by Private Notice.

(a) Is the Minister aware that the Government of the Republic of Uganda is prohibiting Kenyan fishermen from fishing in some parts of Lake Victoria?

(b) What steps is the Minister taking to ensure that the Republic of Uganda complies with international law with regard to fishing, which allows the nationalities of the people around Lake Victoria to fish on its waters without hindrance?

Mr. Speaker: Is the Minister for Foreign Affairs and International Co-operation here? By the way, Mr. Kanyauchi, this Question, more or less, falls in the same category as the previous Question by Mr. Wanjala, does it not?

Mr. Kanyauchi: Mr. Speaker, Sir, I believe that Mr. Wanjala's Question is on the issue of invasion. My Question is on our being denied use of our own waters.

Mr. Speaker: Where is the Minister for Foreign Affairs and International Co-operation?

An hon. Member: He is away!

Mr. Speaker: What about his various Assistant Ministers?

Mr. Kanyauchi: Mr. Speaker, Sir, I have an answer here, signed by the Minister for Agriculture, probably because the matter also touches on fisheries. There is a note which reads: "This Question is to the Minister for Foreign Affairs and International Co-operation, but the Minister for Agriculture can reply on behalf of the other Minister." So, probably, either of the Ministers can reply to my Question.

Mr. Speaker: Where is the Minister for Agriculture?

An hon. Member: Unavailable!

Mr. Speaker: I can see Mr. J.D.M. Lotodo here.

The Assistant Minister for Agriculture and Rural Development (Mr. J.D.M. Lotodo): Mr. Speaker, Sir, I am not aware that the answer was brought here from the Ministry of Foreign Affairs and International Co-operation. Maybe, the Question should be deferred to another day so that we can prepare ourselves to reply to it.

Mr. Speaker: So, I defer the Question to another day for who to reply?

Mr. Wanjala: On a point of order, Mr. Speaker, Sir. The Government has neglected the fishing industry. For the whole of this month, people living along Lake Victoria have been suffering and the Government has not taken any action. You can see the way in which Ministers are behaving. The other day, I asked a Question which touched on the fishing industry and the Minister kept on postponing answering it. Up to now, he has not come to the aid of the fishermen. If it were cattle dying in this area, the Government would have mobilised the most specialised veterinary doctors to go and treat the animals, but because this is the fishing industry, nobody is taking any action. Could the Chair now direct the Minister to ensure that our fishermen fish peacefully?

Mr. Speaker: Order, Mr. Wanjala! I would not become so parochial. I am sure, Mr. Wanjala, in your life, you have heard of people called cattle rustlers. They steal cattle and not fish, and Questions on cattle rustling have come to this same House, so, let us make it wider. So, is there any Minister ready to reply on Thursday? Will you reply on Thursday, Mr. J.D.M Lotodo?

Mr. Kajwang: On a point of order, Mr. Speaker, Sir. I am wondering whether there is no Leader of Government Business to be ashamed that the Government cannot answer a Question which touches on an international dispute and border issues on the fresh waters of Lake Victoria. Our fishermen have been denied the right to fish where they must fish, because that is our land and our water. So, could you direct the Government generally, because there must be a Leader of Government Business every minute in this House, to answer this Question? **Mr. Speaker:** Order! Indeed, this matter has arisen all the time. This House begins at 2.30 p.m. on the days stipulated by the Standing Orders and that hon. Members must come to the House at 2.30 p.m. to transact national business. Among the hon. Members required to be present here are Ministers of the Government. Indeed, I would expect that, in defence of the Government they lead, Ministers must set an example by being present here punctually. Further, they should take seriously the responsibility bestowed upon them by the President, being the Head of the Government.

I think the factual position has been as follows, and I stand to be corrected. Without exception, at 2.30 p.m., you hardly get a Minister here. Ordinarily, you will get a couple of Assistant Ministers, very few Ministers if at all, and the Chair is being called upon all the time to make a ruling as to what Ministers must do. Why should I keep on being asked to do this? The Ministers must get their acts together and come and serve the Government in which they, by choice, are Ministers. That is the best I can say.

By the way, I now see an Assistant Minister for Foreign Affairs and International Co-operation. Why were you hiding, Mr. Affey?

(Mr. Affey stood up from the Back Bench)

Sit down! Take your seat until I sit down. Why did you let the Chair act in vain? You were seated there and I called out the Ministry of Foreign Affairs and International Co-operation, but you did not respond! Maybe, you have resigned!

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Mr. Speaker, Sir, I am sorry. I was not following the Communication from the Chair. I was engrossed in the Report that is supposed to be submitted before the House this afternoon. So, I apologise. We will answer this Question tomorrow.

Mr. Speaker: Are you ready now?

The Assistant Minister for Foreign Affairs and International Co-operation (Mr. Affey): Mr. Speaker, Sir, I am not ready now. We will answer it tomorrow in the afternoon.

Mr. Speaker: Very well; I think I have been too hard on you, but pass the message to your colleagues. It is painful not to have Ministers in the House.

The Assistant Minister for Agriculture and Rural Development (Mr. J.D.M. Lotodo): On a point of order, Mr. Speaker, Sir. Considering your earlier ruling on the issue of boundaries, I can foresee that this Question will raise the same problem. The Question on boundaries was earlier asked by Mr. Wanjala, and by the look of things, it might be naive for Mr. Affey to answer it if the boundary issue will not have been resolved.

Mr. Speaker: Order! It is really not the business of the Chair to decide how Government business is to be transacted. It is for the relevant Ministries to get in touch with one another. If the issue touches on the Ministry of Agriculture and Rural Development, because of fisheries, or on the Ministry of Foreign Affairs and International Co-operation, it is really your business to get together and decide between you, who answers the Question and how you answer it. It is really not my business. It is not the Business of the Chair.

I am supposed to sit here, never talk at all, just let the two sides of the House communicate and I can arbitrate when there is trouble. I should not really be a participant in these deliberations. I beg all of you to let the Chair take its traditional role of an honest arbiter. Then the Chair shall never get involved in the business of the House.

(Several hon. Members stood up in their places)

Order! Sit down all of you!

This Question will be put on the Order Paper on Thursday. The hon. Assistant Minister for Agriculture and Rural Development and the hon. Assistant Minister for Foreign Affairs and International Co-operation now here present, it is your business to find out between yourselves who will answer the Question and the best way to answer it.

It may, indeed, be necessary that the Assistant Minister for Agriculture and Rural Development will require an input from the Assistant Minister for Foreign Affairs and International Co-operation if he will be the one to answer the Question. If it is the Assistant Minister for Foreign Affairs and International Co-operation to answer it, he may require an input from the Ministry of Agriculture and Rural Development, which is in charge of fisheries, for him to answer it properly. But whatever the cost, it is the business of the Government to answer Questions in Parliament.

Dr. Omamo: On a point of information, Mr. Speaker, Sir. I would like to thank you for giving me this opportunity to give information to the Assistant Minister. It is true that a Question on boundaries was raised. Now, this is a Question of fish. I want to give the Assistant Minister this information: The question of fish and the question of boundaries are different. Fish in Lake Victoria like warm water. This warm water is brought to the fish by the rivers that flow into the lake. Out of the nine rivers that flow into the lake, seven of them are from the Kenyan side. So, fish come from Tanzania and Uganda to breed in Kenya. If they were human beings, those little fish would be Kenya citizens.

I would like to inform the Assistant Ministers that, when they are negotiating, they must know that the fish was born in Kenya and then swam all the way to Tanzania and Uganda. If there will be any agreement, it must be realised that what we are talking about is a common commodity, not belonging to Uganda or Kenya.

(Several hon. Members stood up in their places)

Mr. Wanjala: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Order, Mr. Wanjala! The Question will be put on the Order Paper on Thursday!

Mr. Wanjala: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: What is it?

Mr. Wanjala: The inhabitants of the Lake Region have not been protected for four years now, and I am protesting on their behalf. I will walk out of this House if I am not given an answer now!

Mr. Speaker: Order! Order! Mr. Wanjala, you must respect the House. Once an order has been given by the Chair, it will be followed! I have been very rough on the Government side for not doing what they ought to do. You may get a dose of my wrath, if you refuse to obey the Chair! So, please do not get it! Wait patiently until Thursday then

you will ask all your questions.

(Question deferred)

Mr. Wanjala: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Sorry, not any more! No more Questions! Dr. Kulundu's Question by Private Notice will be deferred!

USE OF CHLORAMPHENICOL IN
TREATMENT OF TYPHOID

(Dr. Kulundu) to ask the Minister for Medical Services the following Question by Private Notice.

- (a) Is the Minister aware that the Government hospitals and other health institutions still dispense chloramphenicol for the treatment of typhoid?
(b) What is the rationale?

(Question deferred)

Mr. Speaker: Next Order! Order! Order! Are there Ministers with Ministerial Statements to give?

An hon. Member: Yes, we have not received the Ministerial Statements we asked for!

Mr. Speaker: Yes, Dr. Wako!

MINISTERIAL STATEMENT

ASSISTANCE TO RENAL PATIENTS AT KNH

The Assistant Minister for Health (Dr. Wako): Mr. Speaker, Sir, the Ministerial Statement will be given by my Minister, but I would like to inform the House that, on Thursday there was a Question concerning four renal patients, when the Deputy Speaker ordered us to take them to hospital, admit them and start treating them. I want to tell this House that the patients have been admitted at Kenyatta National Hospital and treatment has started.

Mr. Speaker: Very well. Thank you very much. Mr. Kathangu, do you want some clarification?

Mr. Kathangu: Mr. Speaker, Sir, on Thursday, the Assistant Minister gave a letter to the Director, Kenyatta National Hospital, but the doctors and nurses refused to attend to the four patients. The patients came to my office on Friday morning and I escorted them back to Kenyatta National Hospital. They were put under the casualty process which took two days, yet it was known that the four patients suffered from renal problems.

Yesterday, the first patient started being attended while unconscious in Ward 8A. I want to know whether it is the intention of the Ministry of Health to do away with or clear out the renal patients in this country.

The Assistant Minister for Health (Dr. Wako): Mr. Speaker, Sir, it is not the intention of the Ministry of Health to deny offering to the renal patients treatment. The fact remains that Kenyatta National Hospital is the only public Renal Unit in the country. Actually, it is highly subsidized unlike other private clinics. The patients whose case Mr. Kathangu has raised before this House are actually regular patients and some of them, as we know, have actually got money even from the Ministry of Health to the tune of Kshs400,000 to pay for their renal treatment but they did not do so. What we have done is to take the patients on board and we have already admitted them and treatment has commenced.

Mr. Speaker: Very well. Order! Order! Again, as the Chair, I consider again in my mind that it is in the interest of the patients already admitted, that we discuss the kind of treatment they are receiving. My reaction is that, it is not. Let us see how the treatment goes on first.

Mr. Kathangu, as a Member of Parliament from the constituency where the patients come from, you are most welcome to go and see them. You may be elucidating some negative reaction from those who are charged with that responsibility, but they are only human beings. I think you have done your best, the Assistant Minister has done his best and also the Chair did its best.

So, can we follow in that spirit of trying to help the patients?

Mr. Kathangu, shall we do that?

Mr. Kathangu: Yes. But Mr. Speaker, Sir, there is something fundamental here. We are talking about life and the cost of treatment! How much does the Government expect to spend to look after 100 renal patients and how much does it expect to save when one patient dies?

Mr. Speaker: Put that Question in general terms and then we will direct it to the Assistant Minister.

Mr. Kathangu: Thank you.

Mr. Speaker: Order! Order, hon. Members! Is there any other Minister wishing to give a Ministerial Statement? There being no Minister with a Ministerial Statement, we are now going to Order No.7.

Mr. Angwenyi: On a point of order, Mr. Speaker, Sir.

Mr. Speaker: Order! Will you sit down, Mr. Angwenyi? We are going to Order No.7, and before we come to that Order, I direct that all strangers do now leave all the Galleries. That is direction number one. Direction number two, all external speakers to this Chamber should be switched off. The only microphones and speakers that will be left live are those within the Chamber to facilitate communication between Members. So, I want those two things to be done first before we come to Order No.7.

An hon. Member: They should do so immediately!

(The rest of the proceedings were heard in Camera)

*(Resumption of normal coverage of
House proceedings)*

BILL

Second Reading

THE FINANCE BILL

(The Minister for Finance on 24.10.2001)

(Resumption of Debate interrupted on 25.10.2001)

Mr. Speaker: Who was on the Floor? Mr. Waithaka, you were on the Floor, and you have 20 minutes left for you.

Now, the House resumes as usual. All strangers wishing to come are welcome to the House.

Mr. Waithaka: Mr. Speaker, Sir, it is the business of the Government of the day to impose certain legislations that exist to tax its citizens and it is also their obligation to give services out of the money collected from taxation. I had also said earlier on that the Government should not very much rely on either domestic borrowing or external borrowing because it is not the business of any Government of the day to make profits. This is because a Government is not a profit-making body. Therefore, it cannot borrow, in my view, hoping that it will make some profits in future. I had just stated that when a government over-borrows, it lives beyond its means. The Government has been borrowing and spending on its future, eating what it could have spent in future and indebting the people of this country. It is not the Government's business *per se* to borrow money, either internally or externally. It is its business to have a Budget that can be financed from revenue collected from taxes and this Government should, as much as possible, avoid the issue of over-relying on borrowing from local banks or foreigners. This is because even when they will be paying the money, they will be taxing people to pay it. This is because the Government has no other source of revenue, other than taxing its own people. That is my very well considered view.

On education, a lot has been said about sound education for all in this country. You will recall that there was an agreement between the Government and teachers through the Kenya National Union of Teachers (KNUT) on a better salary scheme for teachers. You will remember that there was the Koech Commission on Education which went round, and it is the feeling of Kenyans that teachers should be paid what they were promised by the Government. It is upon the Government to sit down and come up with a legislation as to how they will pass that burden to the people who wanted teachers to be paid. But here, we have a Government which is acting contrary to the wishes of the people of Kenya because the people of Kenya want teachers paid their salaries as promised. This is because you have no other way of getting money, and you should come up with a legislation to tax---

If you can say we are going to get Kshs10 from every employee for the purpose of meeting the education budget, you must pay teachers--- If parents are removing their children from public primary schools to academies or private institutions, and they are paying dearly for this, why are they doing so? This is because of the love that they have for their children and, therefore, they would not mind if you came up with a legislation that is going to tax them even further to finance the teachers' salaries.

Mr. Speaker, Sir, if you look at it critically, why are private schools performing better than public schools? A Question on that issue was asked twice by Eng. Muriuki in this House and it has not been satisfactorily answered as to why we have private schools and academies performing better than public schools, whereas we know that public schools have all the qualified personnel.

Mr. Speaker, Sir, some private academies - even in Nyandarua where they have mushroomed - are manned by unqualified teachers. Are you trying to tell us that unqualified teachers are better in teaching than qualified teachers? I am sure Mr. Karauri will tell me no. Then, why are we having so many unqualified teachers in our schools? If those schools manned by unqualified teachers perform better than those schools with qualified teachers, then, we have no business having teachers in colleges. We should pick people from the streets and take them to class, and they will teach very well. We must ask ourselves as to why there is that anomaly. But the problem is this: Teachers in public institutions are not performing well because they were promised something that they were not given. Why were they not given?

If you say that you seriously love children and even the kids at home, you must be seen to employ and pay your maid well! If we seriously love our children, and we would want them to get basic and sound education in this country, we must also be seen to pay those who stay with them from 8.00 a.m. in the morning to sometimes 5.00 p.m.

or 6.00 p.m. in the evening. So, I am calling upon the Government to come up---

Mr. Speaker: Time up! Could you move the Motion of Adjournment, Mr. Minister? How many minutes of Mr. Waithaka are left? Mr. Waithaka, you still have 15 minutes. So, could the Minister move the Motion of Adjournment, that the House do now adjourn under Standing Order No.18(1)? Mr. Muchiri was given time by me!

**MOTION FOR ADJOURNMENT OF THE HOUSE
UNDER STANDING ORDER NO.18(1)**

ILLEGAL ALLOCATION OF LAND

The Vice-President and Minister for Home Affairs (Prof. Saitoti): Mr. Speaker, Sir, I beg to move:- THAT, the House do now adjourn.

Mr. Muchiri: Thank you, Mr. Speaker, Sir---

Mr. Speaker: The whole Motion will take 30 minutes. Mr. Muchiri and the Minister will each have ten minutes. The whole House has the remaining ten minutes! That is the law. So, maybe, the others who have no right may get five minutes each! So, we can take two more Members! Is that alright with you?

Mr. Muchiri: It is alright, Mr. Speaker, Sir.

Mr. Speaker, Sir, arising from the Question, the position is that the land in question comprises of four parcels of land. It was occupied by Kenyans around 1920. In 1970, the late President Jomo Kenyatta authorised the former Provincial Commissioner (PC) of Nairobi to settle the squatters on that land at Mathare 4A. The District Officer (DO), acting under Section 23(1) of the Constitution, demarcated the land and allocated it to the residents of Mathare 4A.

On 12th November, 1990, there was a meeting at Norfolk Hotel which decided that the land was to be utilised on a tenant-purchase scheme. The following day, a meeting was arranged at the Minister's office. When the Ministry was approached, instead of allocating the land to the squatters, it allocated it to the Archdiocese of Nairobi. The reason as to why they allocated the land to the Archdiocese of Nairobi was that they were to upgrade Mathare 4A, from a slum area to a residential estate.

Mr. Speaker, Sir, the public were informed through barazas that the estate to be put up was to be on a tenant-purchase basis. It would comprise of three-bedroomed houses at a cost of Kshs260,000. The loan was repayable for a period of 30 years.

Mr. Speaker, Sir, what happened thereafter is that the Government entered into an agreement with the Government of Germany, through the KFW, the Archdiocese of Nairobi as the executing agent. But, instead of building the infrastructure, the Archdiocese of Nairobi put up rental houses. Those rental houses are one-roomed houses, which, even in accordance with the African culture, one family cannot live in such a house. Currently, the land has been allocated to the Archdiocese of Nairobi.

It is legally recognised in this country that the person holding the title deed of the land is the owner of the land. You will not hear that the money putting up the estate in Mathare 4A came through this Parliament as a grant under the Ministry of Roads and Public Works.

[Mr. Speaker left the Chair]

[Mr. Deputy Speaker took the Chair]

How that money ends up at the Catholic Archdiocese of Nairobi and a project called Amani Housing Trust under the Mathare 4A Programme, remains a mystery. All we are requesting the Government through this House is that the 6,000 people occupying that land, under the tenancy of the Catholic Archdiocese of Nairobi, be allocated that land through tenant-purchase scheme. Those who are there currently are being evicted because the Archdiocese of Nairobi has levied exorbitant rents which the residents cannot afford. The Catholic Archdiocese of Nairobi has acted contrary to promises that were given to the residents of Mathare 4A.

Mr. Deputy Speaker, Sir, currently, Provincial Administration officials are allocating land everywhere in the country. Every time we ask that Question here, we are told they are allocating land under Section 23(1) of the Constitution of Kenya. But they do not give any documents! Before this land was allocated, there were 30,000 residents in that area. They had their own structures, but the Government, with the stroke of the pen, took away their land. They have not even been compensated! The compensation they were given was peanuts! There are people who were born in that area and they know nowhere else. That is their home! Now that they have been evicted, we urge the Government to compensate them adequately. Instead of this Government eradicating poverty, it is increasing it by demolishing the houses belonging to its citizens. That is what is happening countrywide. The Government should stop this practice. Before it allocates land to anyone, it should give the people on the site first priority. Alternatively, it

should advertise the land.

Mr. Deputy Speaker, Sir, finally, the Government cannot deny that they signed an agreement with the German Government. That agreement deprives this Government of the authority to control that project. The current President of the Republic of Kenya was at Mathare 4A and he told the Provincial Commissioner and the Mayor of Nairobi to ensure that the people living in those houses, are not charged even a penny for rent. I was in that meeting and I can bear witness to that directive. But currently the Catholic Archdiocese of Nairobi and the Germans have defied that order. Four Cabinet Ministers have been there, and every Minister who has ever gone to Mathare 4A, and ordered that rent be reduced has always been transferred from that Ministry as a matter of urgency. Without even trying to blame any person, I have a letter here in which the Minister says that the rent will be at an average of Kshs400 subject to the Government considering, at the expiry of the agreement, what they will do with those houses.

Mr. Deputy Speaker, Sir, the Archbishop of the Archdiocese of Nairobi defied the instructions in writing and I will table before the House, a letter to that effect. My question is this: Who controls this project? Is it the German Government, the Archdiocese of Nairobi or the church? Has the Kenya Government abdicated its responsibility to look after its own citizens? If the answer is "yes", then this Government must resign because the Germans cannot come all the way from Germany to control Kenyans here. We would be pleased if the title deed of this land, which was allocated by the President under Section 23(1) of the Constitution, was revoked. I also wish to report to the House that the residents of Mathare 4A have been to court on several occasions. Without wasting much time, I wish to table the list of the tenants who are 6,000 in number. I also wish to table the affidavit indicating that there is an agreement between the German Government and the Kenya Government which was filed in High Court Case No.488 of 1998. I also wish to table a letter by the Archdiocese of Nairobi objecting the decision of the Ministry that the rents cannot be as indicated and also the Press release to the Minister indicating the rates to be paid---

Mr. Deputy Speaker: Order! Do lay your documents on the Table because your time is up!

(Mr. Muchiri laid the documents on the Table)

(Question proposed)

Mr. Mwenje: Mr. Deputy Speaker, Sir, I wish we had more time, but unfortunately we do not. First of all, I would like to address the Chair by saying that after all that we will say, does this House have the power to order the Minister to go and carry out the wishes of this House? If not, we may speak and eventually end up not solving the problem.

Mr. Deputy Speaker: Order, Mr. Mwenje! This Motion has been moved under Standing Order No.18 and you ought to know that at the end of it, there is no resolution. If you want a Motion where the House will take a decision, you should move a substantive Motion.

Mr. Mwenje: I am aware of this, Mr. Deputy Speaker, Sir. That is why I said that this House should have the power to order the Minister to do that because this Standing Order does not say much. Even if we sit here and the Minister continues doing what he has been doing, we will not have solved the problem. However, let us hope that now we have a Minister who is more understanding than his predecessors. If he is just like the other ones, then we are getting nowhere. I want to be quite brief and straight to the point.

When the land was taken by the church and the German Government and they improved those houses, they did not build any new houses as such. They only improved, a little bit, those houses which were owned by the same people who were living there. When they improved the houses, they asked people to leave them to be run by the Catholic Church.

Mr. Deputy Speaker, Sir, all Kenyans want to own their houses, be they good or bad. Even if your mother is ugly, she is still your mother. Even if these houses are in bad condition, the owners would still like to retain ownership.

We want to request the Minister that if there is any money that was involved which has to be refunded, let these people be made tenant-purchasers. If they are required to pay for the improvement of these houses, then they can pay for them and the Catholic Church can be given some of it. If the money has to go back to the German Government, that is fine. Some of that money was actually voted in this House and so it is public funds. How then does somebody come and take a house which was built by money voted by this House in addition to the money donated by the German Government? You then take a house from him and you make him a tenant instead of making him a tenant-purchaser. That is not right. This is killing. You cannot take something that I have and then you make it belong to somebody else. It is now the job of the Minister to make sure that those who own that land, now own those houses. If there is any money which has been spent, they can be made to refund it.

Mr. Deputy Speaker, Sir, the other bad part of it is that those people have been arrested and taken to court. They came and slept outside Holy Family Minor Basilica and they were harassed, arrested and taken to a court of law.

That was not fair. How do you come and remove me from my house and then charge me just because you want to take what I have? Is this not taking my position by force? That is exactly what it was. We have gone to the Minister with hon. Muchiri. We have gone to see the three Ministers who were there before, including the then Minister for Public Works and Housing, and yet no solution has been found up to now. This is only because the Ministers are either negligent and they do not want to do it or they are getting instructions from somewhere else. We have a good Minister for Lands and Settlement. We hope he will not behave like his predecessors; by refusing to allow these people to own these houses. The matter went to court but the Ministers said they were willing to solve that problem. Up to now, that problem has not been solved. These people are crying. They have gone even to see the Catholic Archbishop. They have gone everywhere.

Mr. Kihoro: On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the speaker on the Floor to say the Minister is good when he has issued title deeds to 165,000 acres of land held by individuals who belong to KANU? Is he in order to say that he is a good Minister?

Mr. Deputy Speaker: Well, the Member can express his opinion about the Minister. Proceed!

Mr. Mwenje: Mr. Deputy Speaker, Sir, I was hoping that this Minister, on humanitarian grounds, will allow these people to own these houses. If he has hived forest land there and turned it into public land, I hope he will rectify that before we catch him. I hope he will agree to give in and let these people own this land.

The Minister for Lands and Settlement (Mr. J. Nyagah): On a point of information, Mr. Deputy Speaker, Sir. When answering this Question a couple of days ago, we made it quite clear that our Ministry was responsible for allocating these parcels of land that belong to the Government to this trusteeship under the Catholic Church for purposes of upgrading the slum area. We further stated that once we had given and allocated the land to that organisation, the arrangement that followed was how these people would develop that programme. That was left to the developers, in this case, the Catholic Archdiocese of Nairobi. Our understanding is that, in such cases and other cases, where we have slum upgrading programmes, the majority of the people will benefit. To some extent, therefore, in this case, we are addressing the wrong people. When land is allocated to a non-governmental organisation (NGO), a church or a trusteeship, the organisation is expected to develop it for the purpose it requested the land for, so as to improve the quality of property on that land. So, that is the background on this particular project, for which we issued a title deed to the trusteeship.

Mr. Deputy Speaker, Sir, as development took place on the said land, there arose the need to find funding for the particular project. Subsequently, the German financial institution became involved directly, as I understand, with the church. Once my Ministry issued a piece of land for development with a view to improving the quality of life by putting up residential houses for the people, we did not get involved further. When a project like this one is funded with money from a foreign Government through an NGO such as the church in question, the Ministry of Roads and Public Works supervises it. The Ministry played the supervisory role over the project in the sense of overseeing the works. In this case, the diocese was supposed to undertake the project and provide the people it found there with the facilities.

We understand that part of the problem was the fact that at the time when the project started, the tenants were not necessarily the owners of the existing structures. The people who were developing the structures and the tenants were not necessarily the same people. So, when the development was completed, the bulk of the units were given to the people who were found on the ground, and were called "tenants". Part of the problem appeared to come from the group that originally owned structures on the Government land that we allocated to the diocese. So, that is where the dispute has been. The original landlords would like to be compensated. But, as far as we are concerned, the Ministry has done its bit.

Mr. Deputy Speaker, Sir, development on the said land is taking place. It is now up to the church and the local leadership to sit down and agree on the modalities of allocating the finished units. Once we issue land to an organisation, it is difficult for us to go and administer it for them, particularly where---

Mr. Mwenje: On a point of order, Mr. Deputy Speaker, Sir. Is the Minister in order to imply that the Ministry can abdicate its responsibility after allocating land that was originally owned by certain people to a different person?

Mr. Deputy Speaker: Mr. Mwenje, that is not a point of order. You are arguing.

Mr. Mwenje: I am not arguing, Mr. Deputy Speaker, Sir.

Mr. Deputy Speaker: You are arguing! Sorry!

Mr. Minister, if I got you correctly, the point is: Were there no conditions attached to this grant?

The Minister for Lands and Settlement (Mr. J. Nyagah): Mr. Deputy Speaker, Sir, the next set of documents which the hon. Member has tabled has to do with the ownership of the land. Once the land belonged to the Church, under what terms was that money coming to the Church? I am saying that, that was an arrangement between the Church and the financier of the project. That is the understanding that we have in the Ministry. Ours was simply to allocate the piece of land for the purpose of putting up a housing estate that would be given to the local wananchi,

primarily the ones who lived there.

As I said, it appears that the people who owned the structures were different from the tenants. We encounter the same problem today when we try to upgrade Kibera Slums. The people who own the structures in Kibera Slums are not the ones who live there. As we understand the matter, when the Catholic Church tried to give the new housing units to the people whom they found there, the people who owned the structures started creating problems. This has reached the point where I am told that from time to time, meetings have been held there and security has been beefed up to try and resolve the problems that arise as a result of the disagreements that take place in that particular place.

Mr. Deputy Speaker, Sir, to conclude, as a Government, we are trying our level best. There is need for discussions between the local leadership and the Catholic Church. They should sit down and stop being confrontational. It is the responsibility also of the hon. Member of Parliament of the area to resolve this dispute. He has tried his best and I know part of the problem he has encountered in this issue. I also know some of the tribal aspects which are involved in this particular situation, where one group is with the landlords and another with the tenants. These issues need to be dealt with very calmly, but the owner of the piece of land is the Church.

Therefore, it is very difficult for me to cancel a title deed that was issued to the Church. I will be quite happy, with the information that has been provided by my colleagues, to go and consult further with my colleague in the Ministry of Roads and Public Works, which has been involved in the supervision of this particular project, and make a Ministerial Statement, if necessary, at a later stage. But as of now, that is the position of my Ministry.

Mr. Kihoro: Mr. Deputy Speaker, Sir, I would want to add to what has been said relating to this housing project by the Catholic Church and the German Government. This is something that is, indeed, rampant in a number of towns in Kenya. In Nyeri Town, we have got a housing development project called "Kiawara/Majengo/Shauri Yako", which is supposed to be a development by the World Bank. You will find that there were people who owned the land initially and had their own shanties. An arrangement was entered into behind their backs whereby the World Bank and the Nyeri Municipal Council agreed that they would initiate a development project which would install street lighting, roads, the sewerage system and terracing in an area that is a bit steep. Indeed, these people have been crying for the last five to six years. Some of them have got accumulated debts amounting to over Kshs50,000. Every month, they have to pay more than Kshs600. This is a disgrace. We would rather have people living in shanties than making them vessels of a foreign state, however rich it is. They have become so impoverished that they cannot have their own food to eat every month, but they have to pay Kshs600 to a foreign master, whether by the name of a church, I do not care! I thought the Kingdom should be in Heaven for them. But these people are being impoverished and it is very important for this matter to be investigated in a way that justice is done to the original owners of this land. They have been there since 1920, and they had title deeds under the Customary Law. It is good that the Minister told us today that he can actually cancel a title deed. Let him cancel many title deeds in this country, and he needs to do so.

Thank you.

ADJOURNMENT

Mr. Deputy Speaker: Order! Order! Hon. Members, it now is time for the interruption of business. This House, therefore, stands adjourned until tomorrow, Wednesday, 31st, October, 2001, at 9.000 a.m.

The House rose at 7.05 p.m.