

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 8th May, 2013

The House met at 2.30 p.m.

[Hon. Speaker (Mr. Muturi) in the Chair]

PRAYERS

PAPERS LAID

The following Papers were laid on the Table:-

The Annual Report and Financial Statement of the Kenya Accountants and Secretaries National Examinations Board (KASNEB) for the year ending 30th June, 2012, and the certificate thereon by the Auditor-General.

The Report of the Auditor-General on the Financial Statement of School Equipment Production Unit for the year ending 30th June, 2012, and the certificate thereon by the Auditor-General

The Kenya Economic Report, 2011 from the Kenya Institute for Public Policy, Research and Analysis.

(By hon. A.B. Duale)

POINT OF ORDER

Hon. Ng'ongo: On a point of order, hon. Speaker, Sir. It is strictly not a statement. I can see the House is quiet. I had informed you that I would raise a matter of national importance regarding the Constitution. There is a ruling that was made in this House previously that if a matter is touching on or is likely to interfere with the implementation of the Constitution, that matter can be raised at any time before it goes very far. I rise in line with your previous ruling that when a matter is about to be transacted by this House and it touches on the Constitution a Member can rise and raise it.

Article 1(3) of our Constitution is explicit that the sovereign power under this Constitution is delegated to State organs and this Parliament is such a state organ. Article 94(4) says: "Parliament shall protect this Constitution and promote the democratic governance of the Republic."

Further, Article 2(1) binds all persons and all State organs to the Constitution which is the supreme law of the Republic.

Finally, Article 3(1) of the Constitution says that every person has an obligation to respect, uphold and defend the Constitution. What is this matter that I feel needs to be addressed, and which I urge the Speaker to make a ruling on?

Article 130 of our Constitution talks about the National Executive. Article 130(2) makes it mandatory that the composition of the National Executive shall reflect the regional and ethnic diversity of the people of Kenya. The word “shall” means “mandatory”. What is the National Executive? The National Executive is clearly defined in Article 152 which says that it consists of the President, the Deputy President, at least 14 Cabinet Secretaries and the Attorney-General. I urge the Secretary to the Cabinet who is actually the Secretary--- The National Executive is required by the Constitution of Kenya to show ethnic diversity.

This House is about to vet 16 nominees into the Cabinet. If you look at the likely composition, if this House continues to address this matter---

Hon. A.B. Duale: On a point of order, hon. Speaker, Sir. I do not want to cut short my very good friend. However, the hon. Member is discussing a matter that is before a Committee of this House and that report will be brought to this House. At that stage, hon. Ng’ongo will have the opportunity to raise the issues of constitutionality. The hon. Member is anticipating debate. We cannot allow hon. Ng’ongo, just for the sake of it, to run this House with impunity. The matter is before a Committee of this House and that Committee is an extension of this House. It will bring its final report to the House within a certain constitutional deadline which will be on Tuesday, 14th. That will be next week. Hon. Ng’ongo should not anticipate the report of that Committee, unless he has no confidence in the membership from the CORD Coalition in that Committee---

Hon. Speaker, Sir, you must rule that hon. Ng’ongo is out of order.

Hon. Ng’ongo: Hon. Speaker, Sir, although hon. Duale is talking about---

Hon. Speaker: The Leader of the Majority Party is right. Communication came to the Chair and the Chair referred the matter of that Communication to a Committee of this House. That Committee has not brought a report to this House. It is, therefore, premature to anticipate debate because nobody knows what that Committee is going to do regarding those nominees. It is fair that Members of the plenary await the report from that Committee so that the issues hon. Mbadi would now want to canvass prematurely are then discussed when the report is tabled here in the House. Otherwise discussing it at this point would amount to, indeed, trying to participate in discussions in that Committee and in a way trying to influence what the Members of that Committee are likely to decide.

I, therefore, rule that hon. Mbadi is out of order. Proceed!

Hon. Ng’ongo: On a point of order, hon. Speaker, Sir.

Hon. Speaker: Not on that one!

Hon. Ng’ongo: Hon. Speaker, Sir, I really respect your ruling and I will go by it. However, I just wanted to mention for record purposes that when you talk of a matter being before the Committee that is an issue which is in our Standing Orders. However, the Constitution is supreme. The Chair---

Hon. Speaker: Hon. Mbadi, you are now trying to contradict what the Chair has ruled on. Since the Committee is going to make a report, you will have ample opportunity to canvass it here and try as much as possible to persuade as many Members as possible

to see it in the manner you are saying. I think to that extent, it will be premature. Let us just wait for the Committee to bring its report here on Tuesday, 14th May, 2013.

Next Order!

BILL

Second Reading

THE DIVISION OF REVENUE BILL

(Hon. A.B. Duale on 8.5.2013)

(Resumption of Debate interrupted on 8.5.2013)

Hon. Speaker: Who was on the Floor? Hon. Jonathan Lati you have nine minutes left.

Hon. Lati: I want to thank you, hon. Speaker for remembering my name. This is because I forgot to say my name when I stood here. I was very excited to speak and so I forgot to announce my name. So for the record, I am hon. Lati Lelelit from Samburu West.

I have been listening to Members from both sides of the House arguing on who should serve in which committee. We are here to represent the people who elected us. It would be very unfair for us to be branded that we can only be here to represent the interests of Jubilee or CORD. I would like to assure my friends on the other side of the Floor that they are safe with some of us. If some of us appear in those committees and something is genuinely Kenyan and affects the people of Kenya, then you can count on us. We will vote based on the needs of our people. We are not here just to represent the party.

I want to support this Bill because of a few things that I have seen that I think are good. I will make my reservations based on what I have seen. I think this Bill has done good to cut down on the administrative cost of running counties. That is a good idea because more money will now be relocated to development issues within the counties.

When you look at this Bill and that was reflected in the Jubilee manifesto, the Constitution gives us a minimum of 15 per cent when it comes to county allocations. If you look at what the Treasury has allocated, it is about 25 per cent and a conditional grant of about seven per cent. That takes us to about 32 per cent. I think that is a good way to start. We should applaud Jubilee even if they have not reached the 40 per cent that they promised during the campaign. Sometimes you say a lot of things during the campaigns, but sometimes you must be forgiven because you also need to be practical with regard to what is available in our national budget. So, I think 32 per cent is not badly off.

I have a few reservations about this Bill. First of all, I see a lot of disconnect between what the Treasury is saying and what the county revenue allocation is reflecting. In fact, that is a betrayal in the statements. You will realize that the Treasury is mentioning that they have consulted with the line Ministries and the Transition Authority. Some figures were not available from the CRA. I believe that the CRA is somewhere in

Nairobi – I do not know where their offices are. What is so hard for the Treasury to get those figures so that it can help us understand these things?

Some of us totally believe in devolution. This is manifested in what the CDF has done to our people. In places where I come from, the CDF is, probably, the first fund since Independence that the ASAL districts have benefited from. We think that the CDF has offered liberation in a place like Samburu. I am worried about where the Equalization Fund is placed in our national budget. It is put somewhere in the national revenue. There is something being played here. We are trying to refuse the idea that this Fund should get into the devolved funds that were supposed to go to the counties. I prefer that the Equalization Fund is given to the Governors with a free hand to do what they think will make them equal to the rest of the country.

In Samburu, for example, the Constitution allows the Governors to run nursery schools and technical schools. For us to be like other parts of this country, Governors should be given the Equalization Fund so that they build modern secondary schools and equip them.

The other thing is the emergency funding. It is still within the national mandate. The Governors are best placed to determine what an emergency is within their counties.

There is an hon. Member who asked me to donate part of my time, but I forgot his name. If you know yourself I have some time for you.

Hon. Waititu: Thank you, hon. Speaker, Sir. I am hon. Waititu from Juja Constituency. I had asked for that.

Hon. Speaker, Sir, I support this Motion. I come from Kiambu County and I have seen what the Kiambu County is supposed to achieve but because of shortage of funds--- If we give the counties more money to run on their own, we will have helped them. As you know, a county is large. A Governor with no money will make people feel that the Government is not trying to help them at the grassroots.

The Jomo Kenyatta University of Agriculture and Technology has been assembling computers. If we get more money, we could give it to that university because they are ready to manufacture laptops. The money devolved is not a blanket fund. It is money that will translate into development. Members of Parliament together with county representatives and Governors will have to get involved to determine where the money can be used to help the county. Our counties need to be uplifted.

Hon. Speaker, Sir, when I visited the hospitals in my county, I found out that there are so many things that are not right. The hospitals there have no drugs for the patients. If we, as Members of Parliament, sit down with the governors the hospitals there can be funded with that money and people can get drugs.

Hon. Speaker, Sir, with regard to education, when the money goes to the county, it is not for the governor. It is Government money. We can get involved so that we can check the education standards of our children in the county. There are more schools in the counties. I can see something good happening when money is allocated to the counties. We will all be involved so that we can uplift our country. Many things will happen when money is given to the counties and there are good governors. This is the first time we are having the administration of counties by governors in this country. They also need assistance from us as hon. Members and the Government. That way, the counties will be

uplifted. It is the duty of the governors, hon. Members and county representatives to develop the counties. All of us will be blamed if the counties do not develop.

With those remarks, I support.

Thank you.

Hon. Mati: Thank you, hon. Speaker, Sir. Let me join my colleagues in supporting the Bill.

My name is John Munuve Mati, Member of Parliament for Mwingi North. I would like to make a few observations. In the morning, I heard a few sentiments from hon. Members. Some counties are not able to generate resources. I would urge my colleagues to desist from that kind of attitude because why we voted for the Constitution was basically to make sure that the resources are decentralized from Nairobi to the rural areas. It is not just resources but also power.

I come from a constituency that does not have even one inch of tarmacked road. It is a constituency that has at most 0.5 per cent access to clean water and sanitary facilities. Speaking on the Floor of this House 50 years after Independence, I feel constrained. I would like to argue that my constituency, which falls within Kitui County, should have been accorded some additional resources through the Equalization Fund. This House has heard about the problems and the fame of Kitui County. It is the only place within the Republic of Kenya where people have eaten dogs because of famine. Kitui County is lucky because it borders the two biggest rivers in the Republic, Athi and Tana rivers.

Hon. Speaker, Sir, if Kitui County was irrigated, this Republic would not run short of any food for a long time. I had an opportunity to go to Wikithuki Irrigation Scheme; a scheme that was started and has only 100 acres. It has a capacity to take care of 5,000 acres because it runs along Tana River, which does not dry up at all. I can see we have Kshs5 billion for emergencies. I would like to argue that some of that money should be given to my constituents. It will do a very good job and avert an emergency in Tana River. People in Tana River are forced to use boats. Their property is being destroyed simply because Tana River has more water that can actually be stored. If some of that money was used to construct a dam in Tana River, it can irrigate my constituency. First, it will avert the disaster in Tana River and, secondly, farming activities will take place and the area will be food sufficient.

As I support this Bill, the other problem that I would like to point out in my constituency is armed conflicts. There is money that has been given to the security forces. This time round, our security forces should help us to do away with armed conflicts. Basically, there are thugs who come to steal livestock from my people. We have talked about small arms in this Republic for a long time. We do not know why the police and the armed forces have failed to mop up small arms in this Republic. There is proliferation of small arms in this country. My people continue to suffer in the hands of armed people. They are really tempted to look for black markets where those small arms are obtained, so that they can protect themselves and their property.

Hon. Speaker, Sir, I would like to talk about the investments that are going to the counties. I think there is a mechanism by this House to monitor what the governors are doing in the counties. We should not glorify the governors as saints who have come to save people. Those governors are human beings and, as it is, there are conflicts that are brewing between the governors and central Government as represented in the county

level by the County Commissioners. We need to work on mechanisms to resolve those conflicts. Power is not easily given; power is taken. That power needs to devolve and trickle down to the Kenyan people at the county level. If we decentralize power to the people called County Commissioners and we create monsters called governors, our people will forever be observers in a development process that they should be part of.

Hon. Speaker, Sir, having said that, I think a lot of effort is being made to bring semblance of participation in budget-making at the local level. I had a misfortune of participating in one last week and all that my people got after travelling for very many miles was a list of things that the governor wanted to do. He said: "This is what we are going to do." We need to make people participate with figures. Having a wish list of the things that should be done including tourism, which is not applicable to my constituency, is not useful.

I also want to commend the Jubilee Government for coming up with a bright idea which, I am sure, is going to be funded through the same Budget Estimates. That is the issue of computers. One of the reasons why I am for the Equalization Fund is because I have not less than 15 primary schools which do not boast of any permanent structure. Giving those schools computers will mean that they will be rained on the first day when it rains. We need to first of all equalize all primary schools and bring them to the same standards in this country. So, I would urge that before we go to the issue of computers, we think in terms of making uniform structures for our primary and secondary schools.

There are schools - and I can name many - that do not boast of even grass-thatched structures. Children study under trees and when it rains, they go home. So, we need to make investments. I know there has not been much emphasis in construction of physical structures for primary and secondary schools. However, if you want that facility to benefit all uniformly in this Republic, we need to make the facilities in those places uniform. Otherwise, we will be denying some the rights and opportunity of going to "Canaan" simply because they do not have the shoes and the feet to walk there.

Thank you and I wish to support the Bill.

Hon. Speaker: Let us hear from hon. Nyokabi

Hon. (Ms.) Kanyua: Thank you, hon. Speaker, Sir. I also want to support this Bill but even as I support it, I want to lament the use of language. There is an introduction of a concept around "making the counties harmless" that is attracting Kshs17 billion. I would urge that this House seeks to understand what that means and any failure to understand some of the concepts in this Bill, we should not pass laws that we do not understand. A lot of sharing has been done well but there is that introduction of "harmless". Somebody had lamented earlier about the definitions. There is very little in terms of explanation of the concept used in this Bill. A lot of these concepts need to be explained further, especially that particular one. If we do not understand what it means, then the advice would be that we delete it and have the money for any other purposes that we have in the Bill.

It is also important to note that as we pass new laws, the constitutional language has been reduced to such a level that anybody can read the Constitution and understand, including the Devolution Chapter. So, any other laws that this House passes must follow that kind of language, language that we can all understand. I also regret, with many of the Members, the lack of committees. We have a disparity in the figures given by the CRA

and those given by the Treasury. We do not have the benefit of hearing both sides so that we can make a decision on one or the other. Looking at the salaries provided by the SRC, which the Treasury is going by and knowing that those salaries are rather low to allow devolution to work, I would be minded to go with the CRA figures. The Commission on Revenue Allocation had a task to go through inter-county and intra-county allocations. If we have dispute between the figures supplied by the Treasury and those supplied by the Commission on Revenue Allocation and we do not have the benefit of hearing the two sides, I would urge that if we make an error, we err going with the CRA figures. This is because those figures will better support devolution in terms of the salaries and remunerations at the level at which we want to set the counties, allow talents and the assemblies to work.

In terms of the independence of the assemblies, I would also urge that the figures given to the county executives and assemblies should not be merged, so that the county assemblies can continue to have their own independence even at the county level. I support the Bill with those amendments.

Hon. Speaker: One second, Members, you will recall that I indicated that any Member who has intentions to move amendments to this Bill, you have up to 5.00 p.m. today, so as to facilitate the staff also to prepare the Order Paper for tomorrow. As you may be aware, amendments may be many and quite technical. So, please, anybody who proposes to move amendments to this Bill, try as much as possible now to enable the Clerk to prepare the Order Paper.

Hon. Elmi: Thank you, hon. Speaker, Sir. I wish to also support this Bill, but hopefully, I intend to bring some amendments. I have reservations on what has been mentioned by others, but I want to expand on it.

In 1965, through the Sessional Paper No.10, somebody decided that there are areas with potential and defined what that is; if I remember correctly, it was areas with tarmac roads, good rainfall and people who accept development. From that statement that was passed in this august House, the people of the ASAL areas and northern Kenya suffered for over 50 years. In this Bill, somebody is introducing something called "harmless" and basically the explanation given is that you do not have the capacity. These others have this capacity and have been having it and so, your money will be chopped off, they will continue having it and you will not have it.

The Commission on Revenue Allocation is the constitutionally mandated Commission that recommends what budget each of the Government institutions should get. For the executive, which is the National Treasury, to decide and introduce other columns into the way the revenue should be divided, namely, introducing referral, provincial and Level 5 hospitals, is not in the formula for dividing revenue. Also introducing leather money is not in the formula. With those three things alone, they remove Kshs31 billion which was to be shared by the counties.

The other thing that this Bill seems to do is to hold the tradition where the Treasury decides what goes to the counties. This will kill devolution. We need to amend those issues.

The Bill also says that those people who try to challenge the different levels, because there is inter-government dispute resolution mechanism and go to court and the court finds that they should go back to the mechanism, that individual governor or county

will be penalized and somebody has to pay. Again, that is another thing for which we should be alert, so that we do not, at this early stage in our development under the new Constitution, stop people from challenging issues. People are still stuck in the old where Nairobi is the place where all the decisions are done and where the Treasury knows everything. That is why they are introducing these new terminologies like “harmless”. Where does that come in? The formula is very clear. The CRA has set the formula. They have brought the revenue to be shared. It has been passed in this Parliament and we know what each county should get. So, if you bring in a lot of other things and you remove Kshs31 billion that, in my opinion, is not acceptable.

If for some reason a county is not able to utilize that money, knowing how long it takes to release this money, should this money be lost? I am of the view that once money is allocated to a county, like the CDF, it should remain allocated until such time that they use it. It is very easy for the bureaucrats to kill devolution by not releasing the money because of one excuse or another. Once the financial year is over, the money is lost for that year. So, the other thing that we should add here is that once we pass this Bill and the money is allocated to a certain county, even if it takes two years for them to spend the money, that money remains for that county.

Hon. Dawood: Thank you, hon. Speaker, Sir. My name is Abdul Rahim Dawood, the Member for Imenti North. I want to support this Motion, but with a caution as well. We need to check all the money which goes to the county governors. We have to be very careful on how the governors will use the money. They may get the money and think that they are on top of the world. They need to consult the members of the county assembly and not just inform them. They may be using that money where it is not needed, for example, doing big projects which are not viable. We need to have a defining line in terms of where the Member of Parliament gets involved in the county functions if at all, he or she will. A lot of functions of the county governments will be in the constituencies and that is the more reason why the governors should consult Members of Parliament. Otherwise, I believe that this year the paper says 30 per cent but we should be increasing every year the money that goes to county governments up to about 50 per cent, like what was said earlier in the morning. However, there should be a rider that the Member of Parliament should be involved in many of the projects which will not be duplicated with the CDF and it should be in tandem with the aspirations of the constituencies.

Hon. Speaker, Sir, with those few remarks, I beg to support.

Hon. A.T. Anyanga: Hon. Speaker, Sir, I rise to support the Motion. We must realize as Parliament that the 47 counties we have in this country should not merely be looked at as administrative units but as economic units. It is the first time that we are now looking at what formula is being used to allocate resources so that our counties can take off. It is also clear that looking at the two institutions that have come up with this resource allocation system, both the Treasury and the Commission on Revenue Allocation have used two different formulas but I think they were both based on assumptions because it is just the other day that we saw the operationalization of the county governments. We have governors coming up with the budgets and reading those budget estimates. So, what is coming out clearly is that reality is now dawning on us that indeed the cost of running county governments may be so much higher than what the Treasury had estimated. Therefore, I tend to look at the formula which the CRA used and

find that it is far much reasonable than what the Treasury is proposing in this Bill. If you go to the Constitution, the Fourth Schedule, we have 14 critical roles and functions of county governments. The Fourth Schedule also outlines the different roles and functions of the National Government but if you look at the main role of the National Government, it is to develop policy whereas the county governments have been given a critical role of implementing development agenda at the devolved level. If you looked at what the Transition Authority put up recently in terms of what devolved services should now be taken up by the county governments, then you realize that, indeed, the county governments have a far much higher socio-economic responsibility which require far much more funding than is being proposed in this Bill. Therefore, if we look at the immediate challenges which most of the counties are now facing, you will realize that most county governments had imagined that they would start off by saving some money through occupation of existing Provincial Administration infrastructure; that they would start off working from the former offices of County Commissioners or Provincial Commissioners. But what is coming out is that many of them have to budget to build their own county headquarters and that is going to be a huge cost to be borne by these counties. Therefore, I also want to support what some of my colleagues have said that the Kshs31 billion which the county governments may easily lose should ideally be factored into their allocation so that their taking off is far much faster and they are able to put in the necessary infrastructure to enable them deliver their various services, as spelt out in the Fourth Schedule of the Constitution, to *wananchi* of this country at the grassroots level.

I also want to make one or two other comments regarding the very said Division of Revenue Bill in terms of what I consider to be exaggerated allocations to other institutions, which I feel require to be rationalized in light of the spirit of the day in this country, which is trying to see how we can trim the national wage bill. I think the allocation given to the constitutional commissions and independent offices, in the Financial Year 2012/2013, is close to Kshs6 billion. That figure is now rising to close to Kshs9 billion yet in my view I think the independent offices and constitutional commissions, I imagine that their work should be lessening and not increasing. Therefore, I see an opportunity where again part of that money can be saved and taken back to the county governments so that when you talk about proper financial rationalization, then we are putting money where we feel that it going to affect the quality of the life of Kenyans. In the same breath, looking at what has been allocated to defence and the National Security Intelligence Service (NSIS), this comes in light of the recent state of insecurity in this country where time and again Members of this House have asked where exactly the money allocated to the intelligence services goes. This is because we seem to be caught flat-footed all the time. We tend to react only when Kenyans have been killed, maimed and hurt by marauding thugs and we would be expecting that the kind of allocation we are giving to the NSIS in terms of billions of shillings is properly used to make Kenyans feel secure so that they can participate in productive economic activities.

So as I support this Motion, I want to urge the institutions being allocated this money and more particularly the devolved units of governments which are the counties to realize that Kenyans have given them a huge responsibility to improve the services being

delivered to them and to be totally accountable to the money that they are going to receive through this Bill.

Hon. (Dr). Shaban: Asante sana, Mhe. Spika. Na mimi pia nasimama kuunga mkono wenzangu na kukubaliana kuwa kuna umuhumu wa sisi kijadiliana kuhusu sheria hii ambayo tunaenda kupitisha ya ugawaji wa pesa kulingana na Katiba ambayo ilipitishwa 2010. Katiba hii imetupatia nafasi ya kuwa na serikali za ugatuzi na vile vile serikali ya juu. Bila shaka Wakenya sasa hivi watakuwa na hali ya wasiwasi na hali ya kuhangaika mpaka tuzoe kuwa kuna serikali za aina mbili; serikali ya kitaifa na serikali ya ugatuzi ambayo iko mashinani.

Kitu ambacho kinanifurahisha zaidi ni kuwa pia katika maeneo yale ambayo yamebaki nyuma, yaliyo duni kimaendeleo, kuna pesa ambazo ni za kusawazisha hazina ambayo imewekwa ya kuweza kusawazisha maeneo yale kimaendeleo ili tuweze kukimbizana na maeneo yale ambayo yako mbele kimaendeleo.

Kwa sasa hivi, pesa ambazo watu walikuwa wamezitarajia, ni nyingi lakini yote hayo ni kwa sababu hakuna mtu anayefikiria kuwa hesabu itakayotumika itakuwa ya mwaka gani. Tuko mwaka wa 2012/2013 na zile pesa zinazotumika ni zile zilikuwa zimetafutwa Serikalini mwaka wa 2011/2012. Wote wanaangalia kuona vile tutaanza shughuli hizi. Ninakubaliana na wenzangu kwamba tukianza shughuli hizi za kuhakikisha kwamba ugawaji wa pesa unatekelezwa sawa sawa kutakuwa na migongano na malalamishi kati ya tume ambayo inasimamia ugavi wa pesa, Serikali ya Kitaifa na serikali za ugatuzi.

Tume hii ambayo inashughulikia masuala hayo lazima itagongana kidogo na Wizara ya Fedha kwa sababu hawajafanya kazi pamoja. Hii ndio sababu kipengele cha 199 cha Katiba kinasema watu wajadiliane na wazungumze ili wasikosane. Kulitalajiwa kwamba wakati wa kuanzisha masuala haya ni lazima kutakuwa na hali ya wasiwasi.

Mheshimiwa Spika, kazi na majukumu ya Serikali ya Kitaifa yamewekwa katika Fourth Schedule ya Katiba. Pia, kazi na majukumu ya serikali za ugatuzi yameonyeshwa. Inafaa magavana waelewe majukumu yao na yale ya Serikali ya Kitaifa.

Haya ni maswala mapya ambayo yameanza wakati huu. Kwa hivyo, ningependa kuomba Wabunge wa Bunge la Kumi na Moja tukae pamoja, tujadiliane na tuwaruhusu wananchi watuelezee mambo ambayo wanataka tuyatekeleze katika Bunge hili.

Jambo la kusikitisha sana ni kwamba katika serikali ya ugatuzi kuna bunge la kauti. Hili bunge linaweza kupatiwa makadirio yao ili kila atakayeangalia ajue kwamba bunge lile lina uhuru na haki ya kufanya shughuli zake bila kusumbuliwa na wale wanaosimamia serikali ya ugatuzi.

Sisi ambao tuko katika upande wa Serikali tungependelea kufanya kazi na wenzetu ambao wako katika upande mwingine. Sisi wote ni Wabunge. Wale walio wengi na wale walio wachache ni wanachama wa Bunge hili la Kumi na Moja. Kuna umuhimu wa sisi kufanya kazi pamoja. Tumechelewa sasa hivi kwa sababu Kamati ambayo ingeangalia masuala haya bado haijaundwa. Ningependa kuwaomba wenzangu tuungane ili tuangalie masuala haya yanayohusu shughuli hizi ambazo zitawezesha si tu Serikali ya Kitaifa bali serikali za ugatuzi kutekeleza majukumu yao bila shida yoyote. Mwanzo huwa mgumu lakini watu wakifanya kazi pamoja inakuwa rahisi. Hii ni kwa sababu hili ni jambo geni. Ni hivi majuzi magavana, Wabunge na wawakilishi wa kauti walichaguliwa kwa mara ya kwanza katika nchi yetu. Hili si jambo la kawaida.

Mheshimiwa Spika, mimi sina budi kuunga mkono na kuwaomba wenzangu kwamba kuna umuhimu wa sisi kufanya kazi pamoja. Bunge la Kumi na Moja ni tofauti na mabunge mengine ambayo yamepita kwa sababu hapo awali tulikuwa na Rais na Makamu wa Rais hapa wakiwakilisha maeneo yao ya uwakilishi bungeni.

Kwa hivyo, Bunge hili lina jukumu kubwa kushinda mabunge ambayo yalitangulia kuhakikisha kwamba Wakenya hawana wasiwasi. Inafaa tutekeleze majukumu yetu bila kuachilia Wakenya kujiuliza serikali za ugatuzi zinawaletea wananchi nini na Serikali ya Kitaifa inaitea wananchi nini.

Mhe. Spika, ninaunga mkono na ahsante sana kwa fursa hii.

Hon. Ogolla: Thank you, hon. Speaker, Sir. I am Gideon Ochanda. I am the Member for Bondo. I want to support the Bill. I also want to indicate that there are a number of things we need to look at as we move towards amending this Bill before it becomes law.

As a country, there is one or two things we have not taken care of properly. We went into allocating resources before allocating functions. I think this is one thing that we really need to look at. The whole of last year or immediately we got the new Constitution, we came up with the Commission on Allocation of Revenue before coming up with a formula or clearly indicating exactly where the functions will lie. Now we are in a stage where functions are many and the resources are few or little.

If at all our commitment to devolution is to be realised, the resources must be sent to the counties. However, as we talk about more resources going to the counties, we are also burdened with the idea that the National Government also has functions to perform. If you critically look at the functions that we are devolving, you will realise that the Government departments as currently constituted are 40 in a district. Out of the 40 departments, there are six constituencies or districts in a county. That gives a big volume of personnel that will move to the counties. Therefore, this means that there is a huge implication that the personnel will have on the resources that we want to send to the counties. I am trying to say that the Bill fell short of indicating to us that out of the Kshs154 billion that we are talking about, what portion is for Recurrent Expenditure and what portion is for Development Expenditure? If we do not do that, chances are that the entire amount of money that we are allocating the counties will basically go to Recurrent Expenditure and we will end up with very little or almost nothing for purposes of development. If that were to be the case, we will have the counties servicing wages rather than providing services. I think this is clear. This is more so when we have not properly allocated functions. There is no hold on functions. However, with close scrutiny, you will realise that there are many functions that are still held.

If you look at the Estimates, you will find that the regional authorities' functions are not devolved and yet the Bill indicates to us that the functions that were performed by those authorities are not extended to the counties. So, that is one area we are not very sure when it will be done. The Bill is indicating to us that a big percentage of functions that were for purposes of counties will be transferred by 1st July. Regional authorities will still duplicate their functions and if you look at this critically, you will find that what they do is close to what the counties will be doing. In that case, we will either do a double allocation or deny counties funds that need to have gone to them by still retaining what we call "regional authorities".

The Bill is trying to let Parliament be an arbiter between the CRA and the Treasury. I think this is something that we need to resolve. A closer reading of the Bill indicates that definitely there was a formula that was arrived at by the Tenth Parliament. If that is the case, then the Treasury ought not to have come up with a different suggestion in terms of how we are supposed to do the division. If at all that is what the Tenth Parliament did, and we have to go by it, then it means that some contributions to the Bill might not be very necessary. These are the items that have been introduced including areas where the Treasury says we need to cross-check with what Parliament had passed last year.

There are some breakdowns that I feel are very necessary. Some of these breakdowns, particularly when we are talking about allocations to hold counties harmless--- While many Members have a problem with the definitions, what this thing basically implies is that there are certain programmes running currently that we do not injure when we allocate monies for the next financial year. What the Bill needed to have done is to give us a list or indicate to us what these projects are in whatever counties so that we have clear indications in terms of figures. For sure, the idea is fine but we also need to ask ourselves whether or not this is something the CRA did not foresee. We only hope it is not something that is not going to be open to Parliament.

There are quite a bit of inconsistencies in the Bill. There are also repetitions. There are inconsistencies, for example, where it has been indicated that all the functions have been transferred and yet on the other hand the Bill is giving exemptions in terms of things that are not yet transferred. In Table 4, there are repetitions. Look at B(8) we have "Other Constitutional Commissions" and in C we have "Pensions, constitutional salaries and other". In my view these are things that we could streamline so that we avoid the duplication and inconsistencies.

Finally, if we went ahead and came up with the development portfolio for the Kshs154 billion for the counties, we would be doing much more good. If you look at the Estimates there are two Ministries, one dealing with national co-ordination and the other one on devolution. These two take close to Kshs190 billion. They are getting more than the total allocation we are giving to 47 counties. If you look at those two Ministries critically, you will realize that they have functions that are transferable to the counties and if that is done we would have more money going to the counties than what is allocated in this Bill.

The Member for Kiambu (Hon. Njomo): My name is Jude Njomo. I am the Member for the new Kiambu Constituency which has been carved out of Kiambaa Constituency. Hon. Speaker, Sir, how I have longed to say those words! The people of Kiambu have also longed to hear those words. They have not been represented by very vocal Members. They have wished that they hear their Member of Parliament speak in Parliament.

This being my maiden speech, I would like to thank God and the people of Kiambu for finding me worthy to represent them in this august House. At the same time, I would like to congratulate you and your Deputy and all the Members of this House for being elected to be here.

Kiambu is an area that is suitable for accommodation and it is very welcoming. I know we have many Members of Parliament from far and wide. I want to welcome them

to buy houses in the upcoming estates in Kiambu or even to rent houses there. Traffic jam is a thing of the past. Security has really improved. I, therefore, welcome you to live there for the time you are in this House.

An hon. Member: Insecurity!

The Member for Kiambu (Hon. Njomo): Security is now improved.

Before I support this Bill, I would like to mention one or two things now that this is my maiden speech. When the name “Kiambu” is mentioned, many people think of one of the richest counties in the country. On the contrary, many people in Kiambu live in abject poverty. There are many people in Kiambu who use jerry cans and *mitungi* to fetch water. People in Ting’ang’a, Kagongo, Ngaita, Ngegu and so on are suffering from serious lack of water. I have the heavy task of ensuring that these areas are provided with water either through CDF or any other means available.

We come from a district with very well educated people yet our public primary schools perform dismally. The reason is that a lot of academies have come up in the neighbourhood and many of the bright children in the public schools easily find their way into the academies. The public schools are thus left with a few students. Those students are also enticed by manual work in the neighbouring farms and the city. We have a heavy task of ensuring that we eradicate child labor and also improve the standards of education.

An hon. Member: On a point of order, hon. Speaker, Sir.

Hon. Speaker: The hon. Member is on maiden speech. I thought you were in the House when we said so. Please, resume your seat.

The Member for Kiambu (Hon. Njomo): Thank you for your protection, hon. Speaker, Sir. Poor education is a sign of desperation in our people. Most of the youth are yet to get employment. Those who are left behind feel desperate and they do not want to continue with education.

We are also suffering from poor road network. The state of roads, for example, Ting’ang’a-Mbo-i-Kamiti Road and the Ndumberi-Githunguri Road are in a deplorable state and need serious repair.

[Hon. Speaker left the Chair]

[Hon. Deputy Speaker took the Chair]

With regard to the Bill, I support it. Devolution cannot take place unless we give money to the devolved governments. When we do that, we shall be putting to shame the prophets of doom who thought that the Jubilee Government is not willing to devolve power and resources. The Jubilee Government has done better than that. It has proposed to give more than the 15 per cent threshold required by the Constitution. If we do this, our county governments will run their affairs.

Hon. Deputy Speaker, we need to ensure that we have checks and balances in our counties so that this money is not misappropriated or misused. When the President was here, he emphasized on prudent management of public resources. I think we should make sure that this money is spent properly. I know you are aware that the people of Kiambu decided that they want to have their county headquarters based in Kiambu Town.

However, in total disregard of the will of the people of Kiambu, the county headquarters have been moved to Thika. What used to be the municipal offices, and those were the offices that were supposed to house the county government, have been vandalized and have been earmarked for demolition to accommodate a new county headquarters, in what we are being made to believe will be in three months.

Hon. Deputy Speaker, I am a contractor and I have never seen a serious building constructed in three months. I would urge the Transitional Authority to ensure that the will of the Kiambu people is done and that the county headquarters is based in Kiambu Town. This is a sign that if our county governments are not checked they can work at the detriment of the citizens of those particular areas.

On the same breath, I remember watching the TV news when the leader of CORD Coalition was talking about the governors who come from the CORD Coalition and he assured the public that his work will be to ensure that CORD Manifesto is implemented by the governors who are in the CORD Coalition. There can be conflict while the Jubilee Government is trying to implement its manifesto and at the same time the CORD Governors are trying to implement the CORD manifesto.

Hon. Member: It cannot happen!

The Member for Kiambu (Hon. Njomo): Hon. Deputy Speaker, I would urge the Government to retain the established structures of Government including the sub-chiefs, chiefs and the County Commissioners to ensure that the CORD Government is able to implement its manifesto and to offer services to the *wananchi* effectively.

Hon. Member: It is the Jubilee Government not CORD!

The Member for Kiambu (Hon. Njomo): Sorry, it is Jubilee Government not CORD, hon. Deputy Speaker! To make sure that the Jubilee Government's manifesto is well implemented.

(Laughter)

With those remarks, I beg to support the Motion.

Hon. (Ms.) Otucho: Thank you, Deputy Speaker for the opportunity to contribute. This is not my first time but for record purposes, I am a Member of Parliament for Teso South.

I would like to comment in support of the Bill. One, for obvious reasons, the object and purpose of this Bill is to divide the revenue between the National and County governments. I want to believe that the drafters of this Bill took into consideration a number of factors one amongst them being the functions of the National Government *vis-a-vis* the county governments. That takes me to my second observation. Hon. Members will agree with me that it is the first time that we are devolving resources. This is new and it is more of an experimental venture and my appeal is that let us approve the Bill and the figures as provided. Let us exercise our oversight role to see how the county governments are going to appropriate and utilize these resources effectively and efficiently. By the end of the financial year, I am sure we are going to see a very big variation in the figures that will be presented to this House. We will be able to build weaknesses and also our strengths and improve on these figures.

However, I also want to say that in the absence of the appendices that should have been annexed, containing schedules that could have explained further the summary provided, it becomes difficult to understand these issues. If you look at Table 4, it becomes very difficult for us to conclusively scrutinize the allocations as given. But I note with concern and I believe most hon. Members are happy about this one, there is the item on police services. There is a 37 per cent increase in that figure. Of concern are the incidents that we witnessed recently with regard to security across the country. If we had those appendices annexed, I would have wanted to look at this increase and see where that money is going to. If that money is going to provide those additional patrol vehicles or equipping and strengthening security along our frontiers so that our people can live and work in peace, that can be very good. If people can work without fear and without sleeping outside their homes, that can be wonderful.

I support this Bill and urge hon. Members to also support. We should be patient and allow this implementation. Thank you.

Hon. Onyura: Thank you very much Deputy Speaker. I rise to support this Bill. I am supporting this Bill in principle because the time that was available for some of us to look at it was not enough. The time was not enough for us to scrutinize it a bit more thoroughly and even involve our constituents. There was no time to even involve Kenyans who have expertise in this area.

Hon. Deputy Speaker, as it is normally said, the devil is in the details. However, I have said that I support it in principle because looking at the reasons and objects of the Bill; it is addressing one of the very fundamental aspects of our Constitution, namely devolution. Even in his address to this House, His Excellency the President did mention devolution as one of the pillars which he was going to base his development on to move this country forward. So, this particular Bill is in support of realization of that particular objective of devolution.

Hon. Deputy Speaker, my encouragement in this Bill also arises from what I have observed; the role that Constituency Development Fund (CDF) has played in development, particularly in rural areas and other hitherto rather neglected areas. If we can base our model on what I have seen, the role that I have observed CDF play, then I think devolution is the way to go in development of this country. I would like to agree with some of the hon. Members here who said that this devolution should actually be carried all the way to the grassroots. We should not just devolve up to county level, and then county headquarters become another central area. It should be able to devolve right up to the ward, through the constituency right up to the ward.

Hon. Deputy Speaker, I hinted that if we had a bit more time, we would have looked at this Bill in more depth. I also learnt that if this Bill had come through the Committees, then there would have been deeper scrutiny. It is unfortunate and regrettable that we have not succeeded in forming these Committees. I want to reflect on what one of the Members pointed out, that it is not a complicated matter. In fact, our House Leaders can sit down, have a cup of tea or coffee and resolve the issue. I want to appeal that you use your skill and charm to get these gentlemen and their deputies to sit down for a cup of tea. You can invite them even in your office and keep them there until they shake hands and come here with a solution on the issue of Committees. It is embarrassing that something that, perhaps, on the surface, does not look complicated, can deny the

Members the full participation in the business of the House. It also denies members of the public their right to participate in the business of the House.

Before I conclude, I hope that after allocating funds to the county governments, the salaries for country representatives will be reviewed. Paying the country representatives a gross salary of Kshs79,000 is very inadequate. If we want our elected leaders to be effective, then we have to pay them a decent wage that will enable them to concentrate on their work and live a reasonable life that meets the expectations of their constituents and those of their families. As we address the issue of our salaries, we also need to focus on the salaries of the county representatives.

With those remarks, I support the Bill.

Hon. Gichigi: On a point of order, hon. Deputy Speaker. I wish to seek your direction in respect of an issue that crops up from the provisions of Article 205 of the Constitution, which provides that:-

“(1). When a Bill that includes provisions dealing with the sharing of revenue, or any financial matter concerning county governments is published, the Commission on Revenue Allocation shall consider those provisions and may make recommendations to the National Assembly and the Senate.

(2) Any recommendations made by the Commission shall be tabled in Parliament, and each House shall consider the recommendations before voting on the Bill”.

We are likely to conclude debate on this Bill tomorrow. I am, therefore, seeking directions that the House be informed if the Commission has, one, been informed of this Bill and two, whether it has made any recommendations in respect of this Bill and given them to the National Assembly and the Senate and, three, whether the recommendations can be represented or tabled before this House so that we can deal with them.

The reason I am raising this issue is that looking at the Bill before us, the Treasury is making submissions explaining why it does not necessarily follow the recommendations of CRA. It is, therefore, necessary that we make sure that this law is complied with by both the CRA and the National Assembly. I need directions.

Hon. Deputy Speaker: Thank you. Yes, it is true that those are the provisions of the Constitution. Unfortunately, up to this point, the National Assembly has not received any communication or any recommendations from CRA. We are going with what we have received as the National Assembly up to this point. If after today or before the conclusion of the Bill tomorrow when we go the Committee of the whole House, we will have received anything, then we can look at it. We can only deal with what is before us and what has been tabled in the House. So, in the same spirit as to what the Speaker said this morning, in the spirit of moving forward and ensuring that we do our duty as a National Assembly, we will proceed and hope that they are the ones that are required to bring us those recommendations and that we will play our part in the National Assembly.

The Member for Ainamoi (Hon. Langat): Thank you, hon. Deputy Speaker, for giving me the opportunity to make a maiden speech in this Eleventh Parliament. The Division of Revenue Bill is the first one after---

Hon. Deputy Speaker: Hon. Langat, you are an old Member, yours cannot be a maiden speech.

Hon. Langat: Hon. Deputy Speaker, I said in the Eleventh Parliament.

Hon. Deputy Speaker: So, it is not a maiden speech; but it is a speech nonetheless.

Hon. Langat: Thank you, hon. Deputy Speaker. This is the first Division of Revenue Bill that we are considering as a House after we have gone fully into devolution. Therefore, this is a very historic Bill which will give our county governments an opportunity to implement their programmes.

The Jubilee Coalition promised to give 40 per cent of the revenue to county governments. I congratulate the Coalition because they have provided 32 per cent and this is the first allocation. Many county governments are yet to set up their structures. Therefore, the 32 per cent will be helpful, so that they can set up the structures in order to serve the people of Kenya. Devolution is a very important concept. I was among the people who were opposed to the new Constitution, but devolution is a very important provision. My mathematics works out to an average of almost Kshs6 billion per county. This is money that most of our areas have never seen since Independence. For the first time, many areas in Kenya will attain development that has never been realized before because of this devolution concept. I only hope that those who are in charge of county governments will do their job and put in place proper structures. We will not accept a situation where money is sent to a county and the structures are not there, so that we remain with a job in future of investigating where the money went to.

Therefore, I encourage the governors, the county executives and the county assemblies to ensure that before they undertake any function, they put in place structures to make sure that the funds that have been given are utilized in the right manner. Kenyans expect a lot of development. The roads are impassable and in areas where we come from, there is no water. Therefore, the counties assemblies must move with speed to ensure that the structures are in place, so that the money is sent to them.

Somebody has mentioned about members of the county assemblies. This is an area which needs to be looked into. We cannot give Kshs9 billion and the people who are supposed to take care of that money are not properly taken care of. Somebody is saying that they are taking care of the wage bill. You can take care of the wage bill, but in the end, you lose ten times what you are trying to save. Therefore, we must protect the county assemblies. I have seen a write up from your county where somebody was asking whether members of the county assemblies are members of the Parliamentary Service Commission or with another employer. Therefore, we need to protect the county assemblies and the county executive committees so that they can provide the services that they are supposed to provide. Many Kenyans now expect development. Where we come from, the roads are very bad and there is no water. Therefore, they must move with speed to ensure that structures are put in place so that the money can be disbursed to the County governments.

Looking at this Bill, we are spending almost Kshs120 billion on interest payments. If the National Government could reduce the loans it takes, that money could be taken back to the counties. I agree that the Government needs money for development but Kshs120 billion is on the higher side. It is even affecting the performance of the economy. Therefore, I urge the Government to address the issue of public debt with a view to reducing the cost of financing our development programmes. We are going to

demand development from our county governments once this money is disbursed. We want to see real change.

Hon. Deputy Speaker, as somebody said, we will not accept a situation where we have devolution from Nairobi to, say, Kericho, and then have centralisation in Kericho. We expect that the money that will be disbursed to the counties will be devolved further to the division-level. There must be money for development at that level of the county governments. We risk devolving resources from Nairobi to the county-level and having centralisation at the county headquarters. I hope that our friends in the Senate will look into the matter to ensure that money disbursed to the counties is devolved further, so that it can reach *wananchi*. The Constituencies Development Fund (CDF) is a success story because the funds are devolved to *wananchi*, who decide what to do with them.

With those remarks, I beg to support.

Hon. Deputy Speaker: Yes, the Majority Party Whip!

Hon. Katoo: Hon. Deputy Speaker, I rise to support this Bill, which is very simple since it only explains what goes to the National Government and to the county governments. The details that my colleagues have been talking about are in the Revenue Allocation Bill, which is yet to come to this House.

Just to emphasise what my colleagues have said before, it is important to note the importance of counties in the new constitutional dispensation. It is true that the Constitution created 47 counties with specific mandates and responsibilities. I believe that counties were created because of three main issues:- First, the Central Government, in previous regimes, had perfected the art of being out of touch with the needs of the citizens in the country. The national policies then failed to tackle problems affecting the local people. Therefore, counties are supposed to facilitate decentralisation of certain functions and operations of the Central Government and empowering of Kenyans at the grassroots level to determine their development priorities. That is what my colleague, hon. Benjamin Lang'at, was talking about – that we may decentralise from the national-level to the county-level and then have centralisation at the county level, which may lead to marginalisation of some areas within the county. That is why oversight is required even at the county-level.

Secondly, counties are supposed to promote social and economic development in all parts of the country by making services easily accessible to *wananchi* throughout Kenya. Thirdly, the devolved units are supposed to guarantee equity amongst all Kenyans by protecting and promoting the interests of minority and marginalised groups. Those are groups who have historically, by omission or commission, been marginalised since Independence. That is why we must take a keen interest on what amount of revenue goes to the counties, through this Bill, to enable them perform these functions properly. The success or failure of the counties largely depends on the resources that will be availed to them for provision of services to *wananchi*.

Hon. Deputy Speaker, Clause 231(b) requires that in sharing resources, we must ensure that counties are able to perform the functions allocated to them. The counties cannot perform without being given adequate resources. Therefore, through this Bill, resources are being apportioned between the National Government and the county governments. It is, therefore, important that this House facilitates the process of establishing the counties on the right foundation in this year of their inception. I want to

remind this House that if we get it right now, all of us will reap the benefits of the devolution that we have been yarning for.

I support this Bill because the Constitution provides that in the process of sharing of resources between the two levels of government, a minimum of 15 per cent of the national revenue should go to the counties. Although the National Treasury has not agreed with Commission on Allocation of Revenue (CRA), they have adhered to the constitutional provision. The National Treasury has even allocated a little more than the minimum requirement of 15 per cent to counties. The National Treasury has also allocated 25 per cent of the national revenue to counties. Allocation to the Equalisation Fund, which should be a minimum of 0.5 per cent of national revenue, currently stands at 0.6 per cent. There is also a conditional grant of 7 per cent.

The grant of 7 per cent brings what goes directly to the county to about 32 per cent instead of 15 per cent. Those of us who were in the last Parliament had been fighting for the CDF to be given above the 2.5 per cent that is required by the law. The law just talks about the minimum. It has been so difficult previously to have it above the 2.5 per cent. In some instances, it has gone slightly above the 2.5 per cent that is required, but that was after a spirited effort by this House to ensure that more devolved funds and resources go to the grassroots.

My colleagues have talked about the issue of having Committees. This House, while debating this Bill, does not benefit from an in depth assessment of the Bill by the relevant Committee. If this Bill had gone through the relevant Committee, I am sure this House would have been informed by the report of that Committee. My quick assessment shows that an estimation of resources going to each county based on approved formula by this House, at least, Kshs236 billion should have been allocated to counties. When you look at this Bill, about Kshs198 billion - and I am being informed that it might have been revised to Kshs204 billion - if we had a Committee of this House going through this Bill, it would have negotiated with the National Treasury and CRA to ensure that that a maximum of Kshs236 billion goes to our counties. We would have given our counties better than what they are getting now.

Hon. Deputy Speaker, I want to support this Bill. Although the Allocation of Revenue Bill is not here, it is good that when we get it. The Senate will have given its recommendation. This House is allowed by the law to add more resources to counties that may need to get more. That should not be pegged on the conditional grant that will go to the counties. They should not be part of the county government funding or share. I plead with this House that when we get that Bill, without anticipating debate, we go through it clause by clause to ensure that the right amounts go to the counties. I am more concerned with the Equalization Fund. In this Bill, it is indicated that 0.6 per cent will go to the Equalization Fund. The issue of the Equalization Fund is not meant to benefit all the counties, but it is meant to benefit those regions that have lagged behind in terms of resource allocation and development. If you look at the proposal which is there now on which counties are to benefit from the Equalization Fund, you will be surprised. Previously, we used to have the Ministry of State for Development of Northern Kenya and other Arid Lands which dealt with the ASAL areas which were seen to have been marginalized either by omission or commission in resource allocation. But when CRA listed the counties that are supposed to benefit from the Equalization Fund, counties listed

under ASALs have not been put in the category of the areas that should benefit from the Fund. This may defeat the sole purpose which the Fund is meant for. This brings the issue that my colleague, hon. Elmi has talked about of having money for harmless, donor funded projects, provincial and Level 5 hospitals.

The Member for Narok East (Hon. Aramat): Thank you, hon. Deputy Speaker. This being my maiden speech, my name is hon. Lemanken Aramat, Member for Narok East. I want to contribute to the debate on the Bill before the House. Before I do that, it is my first time to stand before this House and I want to thank the people of Narok East for electing me to this House.

As much as we support devolution, I want to encourage that Bills be brought to this House early enough, so that we have ample time to look at them and verify them properly. As much as the Jubilee Government has tried to give 32 per cent of its Estimates to the counties, there are some areas that are key to our constituencies, particularly my constituency, especially in terms of road network within Narok East Constituency. The road to Nairregia Enkare has been earmarked for repair for many years, but it has never been done. The Mosiro Road and the Eorr Ekule road network need to be looked at. This is a priority to us as the people of Narok East Constituency rather than having laptops as a priority. If you look at the rural set up, the people are in dire need of infrastructure. If you look at our needs as a community, we need roads and proper schools rather than the free laptops. In the rural set up, a Standard VI pupil cannot read or write properly. This means that even those laptops will not assist our people.

In Mosiro, our people are very insecure. The district security team seems outnumbered by the criminals and you wonder whether our priorities are set properly. Security should first be enforced and then we can talk about laptops as a secondary and not a primary objective to some areas. As much as we talk about salary increment, as one Member has said, the salaries for the members of county assemblies also need to be looked into. Those people have a huge task to serve the people at that level. I want to encourage the Senate to enact legislation to make sure that we are not devolving corruption to the county level. We need checks and balances. The funds that have been devolved to the county level should be checked, so that corruption will be devolved to the county where it will thrive because we have imperial governors.

In my constituency, we have a problem with Kedong Ranch where a major resource, namely, Ol Karia, is being drilled by KenGen. We generate a lot of geothermal power. There are some cases in court. The company is trying to displace people without due respect to the court processes and without respect to the other arms of the Government. That should be stopped. I support devolution because for many years, as other Members have said, some people have never seen development. If you go to Mosiro or some areas within my constituency, you will meet people who have never seen the importance of going to school. They have never had the privilege of enjoying the free primary education. I wonder whether that is free primary education or what we should call it. With devolution, we want to empower our people, so that instead of people driving animals from Suswa, Mosiro or Nturere all the way to Ngong, they will have slaughter houses across Narok East. When cases have been taken to court, companies go straight on to displace people without due respect to court orders. They do not respect the other arms of Government. Such behavior should be stopped.

I support devolution because for so many years, some parts of this country have not seen development. In an area called Mosiro in my constituency you will meet people who have never gone to school. Those people have never had the privilege of enjoying Free Primary Education. With devolution in place, we will be able to empower people. For example, we will build slaughterhouses so that people do not drive their animals for long distances, say, from Mosiro, or Ntulele to Ngong. We need slaughterhouses near the pastoralists in the county.

Much has been said about devolution. We need to create employment for our people. The President said that water is essential and we, therefore, need to harvest it. I agree entirely. We should have a dam unit at county levels so that it helps in irrigation.

[Hon. Deputy Speaker left the Chair]

*[The Temporary Deputy Speaker
(Ms.) Shebesh took the Chair]*

Finally, I support this Bill. I wish that hon. Members agree very fast and we form committees because this country needs to move forward.

Hon. (Ms.) Chidzuga: Ahsante sana Naibu Spika wa Muda. Naunga mkono huu Mswada japo kwa shingo upande. Tunazungumzia majimbo kuendelea. Majimbo ni mtoto tuliyemzaa hivi karibuni. Ukimlea mtoto vyema, atakuwa na afya nzuri. Kwa hivyo, ni muhimu na lazima serikali za majimbo zipate mgao ambao unastahili kuendesha miradi.

Upande mmoja wa Jimbo la Kwale lina ukame. Upande huo mwingine unaweza kujimudu kidogo. Hakuna maji ya kutosha. Hakuna barabara. Tuna barabara moja tu inayosimamiwa na Serikali; nayo ni barabara ya Kinango-Kwale. Mama anapopatikana na uchungu ndiposa umfikishe hospitalini Kinango, sharti utumie wheelbarrow kilomita zaidi ya 40. Ikiwa hatutapata pesa za kutosha, basi hizo barabara hazitapatikana.

Maji yanatoka kwetu lakini hatuwezi kuyanywa. Maji hayo yanapelekwa Mombasa. Gavana asipokuwa na pesa za kutosha, yale maji hatutayanywa. Hilo limechangia maradhi tofauti tofauti yanayotoakana na maji machafu.

Imeibuka kuwa sisi tunakunywa maji pamoja na wanyama. Wakati huu wa mvua, hata yale machache ambayo yalikuwa safi huchafuka. Gavana asipokuwa na pesa za kutosha, tutajimudu vipi kimaisha?

Viwanda vya Kwale vingi vilifungwa kwa sababu ya uufisadi. Gavana anahitajika kufufua hivyo viwanda na pia kuanzisha viwanda vingine vidogo vidogo. Bila pesa, hataweza kufanya hayo. Hii imechangia ukosefu wa kazi na ndiyo maana hata hali ya usalama hatuna kwetu.

Hii bajeti ambayo tunaizungumzia kwa sasa ina uonevu mkubwa sana. Sisi watu wa Pwani tulilia majimbo na tukayapata. Lakini kama hatutapata pesa ambazo zilikadiriwa na Bunge la Kumi, ni kumaanisha tuko katika hali ya kuu majimbo. Magavana lazima wapewe pesa za kutosha; siyo hizi zilizotajwa hapa.

Serikali za majimbo haziangalii tu mambo ya barabara. Tunahitaji mambo mengi kujimudu kimaisha hasa sisi akina mama. Sisi hatuna vyeti vya ardhi. Hatuna raslimali zozote zile. Tunahitaji pesa ili tuweze kuanzisha biashara ndogo ndogo. Lazima

tumwezeshe mama apate mikopo nafuu ambayo haina riba kubwa. Je, ikiwa Gavana hana pesa, hao akina mama watajimudu vipi kimaisha?

Tunaangazia pia vijana. Sharti vijana watafutiwe njia za kujimudu kimaisha. Wengi wao ni wazazi. Hawana njia za kulea jamii zao. Niyo maana wao huenda kona kutukaba koo na kuchukua mapanga kutukatakata.

Serikali za majimbo zinahitaji pesa. Naomba Wabunge wenzangu wachukulie ya kwamba hiki kiwango kilichotolewa na Treasury si kiwango kinachofaa. Sioni kwa nini wamebadilisha. Ama wanataka kuturejesha huko tulikotoka? Walikuwa wanaunda bajeti zao kisha wanatutakaza tuzifuate. Ikizidi, hizo pesa haziteremshwi huko mashinani kwa wakati unaofaa. Wanangojea mwezi mmoja kabla mwaka uishe ndipo wanaleta pesa na ufisadi unaingizwa ndani.

Tunaomba Bunge hili likubaliane katika hili jambo. Kama kweli tunataka kutambulika kule mashinani, sharti tuhakikishe kwamba majimbo yamepata pesa. Tuhakikishe kwamba wale Ward Representatives wamepata mishahara inayostahili. Wale ndio macho yetu kule mashinani.

Ahsanteni sana. Naunga mkono.

Hon. (Dr.) Pukose: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. When I looked at the preparations for the allocations to the commissions, I realized that those allocations have gone high. At the end of the day, what CRA has recommended is not being implemented. So, I wonder whether we are paying them just to do the job, but we are unable to implement.

CRA came up with some formulas and apparently when a question was raised in this House as to whether CRA has presented its estimates for discussion, it was noted that it has not. This makes us ask whether they really deserve to be paid for a job that they have not done.

Hon. Temporary Deputy Speaker, the other issue that I looked at is the issue of devolution. In this Division of Revenue Bill, we are talking about devolving funds to the county level. But in the morning, hon. Angwenyi was trying to say something which he was not able to finish. He said that we might be devolving power from the President to the governor and from the governor, it does not devolve down to *mwananchi*. We want the governors to be held accountable to the citizens of this country and, more so, to the citizens within their counties so that whatever they want to do, they should be able to be held accountable by having devolution that is able to reach to the people. In this devolution, you will find that the money that is actually being discussed, part of it is on recurrent expenditure. Then we wonder how much we are giving in terms of development. If we are going to send money to the counties just to pay employees working there, then we are not going to make roads, deliver services in the hospitals and all that.

Hon. Temporary Deputy Speaker, this afternoon, hon. Njomo talked about 24 governors implementing a manifesto of one of the competing coalitions in the last elections. When you look at the way this Bill has been formulated, it is in line with the Jubilee Manifesto, which is the governing coalition now. We hope that in counties that we have governors who are coming from the minority party - that is the CORD Coalition - it will not be in order for them to implement a manifesto that is not in line with the governing coalition.

Hon. Temporary Deputy Speaker, I looked at the allocation to the Ministry of Health. In Article F (6), we are talking of allocations to regional referral hospitals which were also excluded from the county governments' equitable share in order to arrive at a base that does not include the cost of operating institutions that provide services to a cluster of counties. When you look at the continuation in Table 2, where we are talking about the cost of county functions, we are talking of provisional and referral hospitals. In devolution, the word "provisional" where we are talking of provisional hospitals, does not exist. Those are supposed to be county referral hospitals and we also have the national referral hospitals.

When we talk of referral hospitals, we are only talking of Kenyatta National Hospital and Moi Teaching and Referral Hospital. How are the high volume hospitals - Mathare Mental Hospital and the Spinal Hospital - going to get their funds and where are the specialized units falling? For this, I intend to bring an amendment to this House so that we delete the 'provisional hospital' and have it replaced with the county referral hospitals and also the national referral hospitals where we are able to define them clearly. We need to know which are the referral hospitals and county hospitals. What is going to happen is that when we devolve funds to various counties and we do not do it well, it will mean that the county hospitals, which are high volume hospitals, are going to suffer because they will expect to get money from the counties and the money that has been allocated is not adequate. If you say that you are only giving money to the referral hospital and the provisional hospitals, who is going to take care of the high volume hospitals? Hospitals with a bed capacity of 250 and above and those serving 500,000 people are hospitals that are also acting as training institutions for our young professionals in the medical field. So, this House needs to look at it very critically so that those hospitals, and by extension, the Kenya public, do not suffer because we have not devolved funds to cater for them.

Hon. Temporary Deputy Speaker, the disease burden in this country is a critical issue. Health is also critical and we must look into it. With regard to health, the two Ministries of Health - that is Medical Services and Public Health and Sanitation - have not been very quick in devolving their services because many members of the staff who have been at the national level have been held up in their cocoons and are trying to protect their jobs. I think it would be in order for this House to bring a comprehensive Bill to discuss the Ministry of Health and how it should devolve.

Hon. Temporary Deputy Speaker, I intend to bring a Motion before this House regarding the Pharmacy and Poisons Board. Recently, we found out that there are members of staff who have been posted in disguise to empower the county governments when the postings are demotions of senior staff who are involved in the provision of health services in this country.

With those remarks, I beg to support the Bill.

Hon. Anami: Thank you hon. Temporary Deputy Speaker. I stand to support this Bill and specially underline the importance that the President outlined in his Speech with relation to education and, especially, focusing on retention of children in schools in rural Kenya. It is important that we see the need for teachers in schools. This Bill does not quite indicate that. It looks like we are going to remain in the same situation where schools are suffocating because of lack of teachers. It is very important that this Bill

focuses on other programmes that will enable the children to remain in schools. I have in mind the school feeding programme, subsidies and levies like examination and activity funds.

The Government has the responsibility to comprehensively implement the fundamental aspects of the Millennium Development Goals (MDG). It looks like we are losing momentum on these very important goals. When you look at the way we distribute our resources, we are not focusing on our fundamentals; the basic needs of people and communities. We would like to see this Bill focusing on the most vulnerable groups in society, especially when we are talking about the old members of the society.

The President talked about cash transfers to aged people and I think that is a service that should be undertaken by devolved governance and it has not been addressed at all. This country is essentially a multi-cultural society which is endowed with a vast diversity of communities and, indeed, heritage. Indeed, if we would like to achieve the principles of national unity; if we want to achieve unity in diversity, then we should invest in innovation. We should invest in all opportunities that will enhance our productivity, especially on our human creativity and cultural diversity. Nothing has been shown in this Bill that indicates that we would like to seize the opportunity to invest in our cultural heritage. That is a function which will be played very well in the new arrangement.

Hon. Temporary Deputy Speaker, we would like to invest in all opportunities that will enhance our productivity, especially on our human creativity and cultural diversity. Nothing in this Bill indicates that we would like to seize this opportunity to invest in our cultural heritage. This is a function that will do well in the new arrangement. Time for this has come. So, we should not waste this first opportunity to invest in our cultural heritage. We are all clamouring for integration and cohesiveness, but nothing is indicated here that we will initiate programmes to lead us to that unity in diversity. Investment in the cultural industry is the in thing. It is accepted at the international level. Here I have concerns like copyright. Our copyright systems are not being subsidized especially in the management of the same. I would like to see a situation where the management of copyright is devolved to the extent that communities, as provided by the Constitution, benefit from the exploitation of their cultural heritage. I wish to suggest here that time is ripe for us to exploit our heritage. This can best be done by the devolved governments.

There is the issue of poverty reduction. There is a concern that if we do not address it now, then we will not have another opportunity in the near future because the gap between the haves and have-nots is getting wider and wider. This comes with the growing vices like insecurity and crime. The time for us to address these issues and to be mindful of our brothers in the grassroots is now. We cannot be talking about improving service delivery in urban Kenya and forget about rural Kenya. We should not continue with the disconnect that seems to exist between the development agencies and the communities. Kenyans live in communities and they know how to help each other and themselves through community arrangements. It is high time we celebrated these arrangements. We cannot celebrate community arrangements if we do not invest in programmes that will enhance cohesiveness, integration and communal approach to socio-economic development.

I would like to focus on the issue of orphans in Kenya, specifically those who are orphaned because of HIV-AIDS. Many children in the country side do not have parents. They live with their grandparents. The grandparents should be subsidized through a cash transfer or a stipend. This has been recommended severally, but has always remained as lip service to the people. The time is now. Let us actualize this spirit of cash transfer to poor grandparents who are taking care of orphans of their late sons and daughters. We should be mindful of this. We have a lot of challenges in the countryside. On the issue of health care, some of these old people are stressed and we lose them every now and then because of poor health care. Some wards and locations do not have health facilities. It is important, just to follow up with the spirit that was highlighted by the President in his Speech, to show indication of interest to improve these services, so that at every locational and sub-locational level, we have health facilities with the necessary equipment and personnel to provide basic health care to Kenyans in the countryside. Coupled with the challenges of poverty, Kenyans die from simple ailments like Malaria and depression.

With those remarks, I beg to support.

Eng. Mahamud: Thank you very much, hon. Temporary Deputy Speaker, for giving me a chance to contribute to the debate on this important Bill. From the onset, this is a historic Bill because devolution---

An Hon. Member: On a point of order, Hon. Temporary Deputy Speaker. I wish to seek your indulgence as to whether the Member is supposed to contribute twice while some of us have not even made our maiden speeches?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Who has contributed twice?

An Hon. Member: The Member on the Floor.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Let me consult the Clerk and see whether he has contributed before. He has not contributed. Go on, Eng. Mahamud!

Eng. Mahamud: Hon. Temporary Deputy Speaker, maybe, we have different caps. I am sorry. This is a historic Bill because it is the first Bill which will operationalize our devolved governments. Devolution is the key element of our current Constitution. This is the first time we are going to operationalize the county governments and we should get it right. For that reason, it is important for us to understand how this Bill is structured and what funding we are going to give to our county governments.

Article 216 of the Constitution gives CRA the mandate to advise and give recommendations on issues relating to how revenues are going to be shared. It is unfortunate that this Bill did not benefit from that advice because of the current situation in the House where we do not have Committees. The Bill has not benefited from the input of the public, the Treasury and also CRA. It is, therefore, incumbent upon this House to make the best out of what is before us, so that we can get proper revenue sharing between the two levels of Government, of course, without the advice and the input from CRA. I also want to thank the Treasury for having tried their best to come up with a Bill that shows the revenues that are going to be allocated to the two levels of Government.

Since this is the first time that this is going to be undertaken, I urge that we approach this with sobriety, so that the county governments can take off and also the National Government is left to perform the functions that it is given under Schedule 4 of the Constitution. Work that is not going to be done by the county governments will be done by the National Government. We should not think that by giving adequate amounts to the county governments, we will relieve the National Government of the responsibility to undertake the major projects that are listed under Schedule 4 of the Constitution.

Many issues have been raised by Members. They have alluded to amendments that they are going to bring forward. I support the amendments that have been alluded to, to raise this amount from the current level to Kshs230 billion. You cannot start with less amount of money than what was recommended by CRA initially. Otherwise, you will start on the wrong footing and our county governments will not function. In some parts of this country, this is the beginning of hope that we are going to have development in our region. If we do not succeed this time, we will just have ourselves, we who are in leadership today, to blame.

With those few remarks, I support. I look forward to the amendments which have been alluded to.

The Member for Kibra (Hon. Okoth): Hon. Temporary Deputy Speaker, it is an honour to make my maiden speech after a technical contribution in the early day of this Eleventh Parliament. I rise to support this Motion with reservations particularly on the amount of funds that are being allocated, as many Members have said, to the county governments. We cannot shortchange them and set a culture of shortchanging our county governments, if we are serious about devolution right from the start. As someone from Nairobi County which requires a minimum of Kshs17 billion to run per year, when we are talking about averages, it does not make sense because the averages will come to about Kshs6 billion. Where will Nairobi County which needs Kshs17 billion get adequate funds if we do not make a full basket of funding for full devolution for all the counties? So, while I support the Bill, I really want to urge that we make amendments tomorrow that will compel the Government to provide full funding of at least Kshs230 billion to our county governments. Our county governments are independent and separate from the national Government and there is no equivocation there and there should not be any confusion whatsoever. They should be given the full respect they deserve just as we deserve full respect and independence for this House.

As we look at the conditional allocations of Kshs43 billion that has been spoken about numerous times, I would love to reiterate that a breakdown of how this conditional allocations will be spent is very critical. We need an itemization of needs for the different counties that will benefit or, at least, a plan, so that we are not just grappling in the dark granting away a huge sum of money which we do not know will be controlled by who and distributed on what basis. As someone from Nairobi, I want to, once again, point out that there is a need to recognize the special nature of Nairobi as a county that produces 60 per cent of the national GDP of Kenya. So, even as we go into the itemization of this Kshs43 billion of conditional grants to our county governments, we must make sure that Nairobi is a great special county among all the other 47 great counties that we have in our nation, including the home of this great Parliament where we serve today. May we make sure that we do not make mistakes when we talk about Articles 201, 202 and 203 of our

Constitution which talk about the principles of public finance and revenue sharing and emphasize carefully there as referred to in this Bill what considerations were given in the sharing of the money to the counties. One of those issues is the equalization of marginalized areas among counties and within counties. That is very important to stress: Amongst counties and within counties, the regional disparities and marginalization of sections of counties. If you consider major counties which also have urban populations, not just Nairobi but Nakuru, Mombasa and Kisumu, I think we really need to look at this carefully and make an effort--- While this Bill proposes to say that it will be the responsibility of the county governments to find out and provide information and advice on how those issues will be addressed going into the future, I want to emphasize that the central Government must also make sure that, as we wait for a year to get information from the county governments on future budgets, the regional distribution and disparities within counties matters a lot. For example, Kibra Constituency as one of the 17 constituencies in Nairobi has, for instance, amazing and shameful disparities. When you have people living with the famous flying toilets, I tell you my brothers and sisters, wake up and smell not the coffee, but the flying toilets. It is not pleasant! It is a huge shame and indignity yet we have in this same town of ours a lot of opulence and success. Unless we begin to address these issues, we will never have one great united successful Kenya where everyone feels fully Kenyan. We will always have first and second class citizens of our country and the consequences thereof are indignity, crime, disease and poverty.

Our President did a great job in his inaugural Speech to this House where he addressed issues such as his vision for the youth and the women fund. As I anticipate the Bill that will be coming here on revenue allocation specifically and the vote items, I am very concerned that the Kshs6 billion that was not used in the re-run of the elections and promised to our mothers, women, brothers and sisters has not been allocated. It is not clear. So we want to know why those empty promises were given. We want to send a message clearly to the Government and the leaders of the Majority Party representing the Government in this House that we will not sit back and watch you shortchange our women. We will not sit back and let the youth be shortchanged. He talked a lot about skills and development for our young people. But our young people need capital. They have skills and while we can invest in more skills to Ministries such as education; and while we have seen a trend that is very dangerous amongst past governments to take away village polytechnics and colleges and turn them into universities and other things, we must go back to a system where we are investing in a place for our youth to get skills. But I will remind and emphasize for the record that our women and our young people need capital and access to capital so desperately like yesterday, so that they can start doing something for themselves. So once again, the promises and ideals presented in the Presidential Speech - of about Kshs7 billion for immediate infusion of cash to be managed through the constituencies with the leadership of the able Members of this House will provide immediate and starting relief to our people and start making a change in the lives of our people because our Parliament here is only four years long and we do not have time to wait another year before we have a crack at this.

I will wrap up my comments with the question of laptops in schools. I do not begrudge the President the ability to dream big and I wish we had more visionary leaders to dream big. But we also have to think realistically as has been mentioned here as to

what is the affordable and responsible use of our funding. My biggest concern is that an inappropriate rush to roll out a national laptop scheme will lead to a situation where teachers are not prepared, the curriculum is not available and the equipment cannot be deployed and used appropriately at the level in which it is being deployed. Even as we all remain committed to Vision 2030 and know that technology and entering the technological age is what will guarantee a quick move of Kenya to Vision 2030 amongst other things, I say let us not sacrifice that Vision and dream. Let us approach it with sense and common sense. Let us come to Kibra, for example, and see where we have rolled out a programme called Kibra Online in the same fashion but without granting every little child a laptop, but insisting on creating computer labs within schools where we can employ our young unemployed teachers who have the skills to part time jobs to teach in those schools, train other teachers and introduce computers and skills to children from nursery schools to high schools within the slums.

I will wrap up by saying that I look forward to the success of this Bill tomorrow with amendments and for a quick move of our Government even if we are still looking at a Parliament that is going to operate in large Committees of the Whole House. Let us find soberness and respect for each other; willing to listen and come up with solutions that will serve Kenyans. One of those great things to point out to you is that the regional disparity within counties and amongst counties is a huge shame. The gap between those who have and the gap between the poorest in our society is a threat to our national security. It is no wonder that people are being slaughtered all over the place with impunity - from Tana River to Bungoma to Nairobi and other places. This is part of the reason for our national insecurity; the gap between the rich and poor and we keep sinking our heads in the sand and not addressing it, will catch up to us very soon. So I hope we will fix these things as we go forward. I look forward to being productive in this House and co-operating and congratulating---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Your time is up!

Hon. Sakaja: Thank you, Hon. Temporary Deputy Speaker. I think it is clear that if anybody had any doubt or question on the commitment of the Government of His Excellency Uhuru Kenyatta towards devolution, then all those doubts, if we want to be honest, need to be cleared. It is very obvious that he has exceeded that 15 per cent threshold. This is a simple Bill. It is just telling us about the share between the national Government and the county governments.

At the first year when we are rolling out fiscal decentralization and devolution where the President could as well have put aside 15 per cent, he has doubled that by allocating 32 per cent to the counties. I think we must applaud the Jubilee Government for their commitment towards devolution.

The tone of the discussion that is going on really shows us that one side of this House is doing a great disservice to us by the absence of a Committee to go through this Bill. This Bill is very important to this country. Kenyans voted overwhelmingly for a new Constitution whose highlight was devolution. This being the first Division of Revenue Bill, really, it ought to have gone through a Committee and through a fine toothcomb before it is brought to the House, but because of grandstanding and because certain Members are used to getting things, we do not have a Committee in place.

Hearing the contributions of some of the Members, it is obvious that some are mistaking this for the Budget. This is not a budget policy statement where you will find issues such like how much money you schools, say, in Kibra, will get and so on. This is simply the Division of Revenue Bill and the Government has stated that 32 per cent will go to our counties. We must applaud them for that.

Devolution has the potential of turning our economy round. Devolution must be supported. As Parliament, we must ensure that we safeguard fiscal decentralization and devolution to the greatest extent possible. Devolution can turn our economy around and provide jobs for the millions of Kenyans out there who do not have jobs. We, therefore, must support it. The disheartening thing that we must mention here is that three years after the promulgation of our Constitution, many Kenyans still do not understand what devolution is about. A few months ago, we had a debate on whether Kenya is unitary or not – that is three years after the promulgation of our Constitution. We must urge the relevant agencies to conduct enough civic education down to the lowest level that can let Kenyans understand. Let our governors and Members of Parliament understand the essence of devolution. As much as we are within one State, there are two levels of Government. Those two levels have different roles as outlined in the Fourth Schedule of the Constitution.

Hon. Temporary Deputy Speaker, inter-governmental transfers are just one route of devolution. Remember there are other things that are supposed to be looked at. The first thing is the revenue responsibilities that the counties have. How can we encourage counties to be more productive? How can we encourage the Governors to be more creative? How do we give them incentives so that they produce more so that we do not just talk about revenue allocation, but also revenue generation?

The second thing is about expenditure responsibilities. In the course of the campaigns, we heard Governors make promises of doing certain which are not within their roles. The same passed for Members of Parliament. We must understand the roles of a governor so that we are clear about devolution.

Finally, the issue of borrowing must be clear. The Constitution stipulates that a county must get a guarantee from the national Government. However, the parameters have not been verified. I would like to call upon the Transitional Authority and other agencies of Government to conduct further civic education to ensure that our governors and others follow the real principles of devolution as espoused by Article 174 of our Constitution.

If you look at the promise made by the national Government that it would ensure that 30 per cent of all contracts go to young people, that is a promise that must also go down to our counties. Even within the counties, 30 per cent of all contracts and business should be given to young people. If you did that in all our counties at the same time, the issue of unemployment amongst our youth will be dealt with.

I must also applaud the Treasury for giving us this Bill so that we follow step by step what Article 218 states. I have heard some hon. Members say that the Treasury has ignored the recommendations of the Commission on Revenue Allocation (CRA). If you look clearly at the law, there is, indeed, a process that has to be followed. CRA is supposed to do recommendations which are then brought to this House. They are also taken by the Treasury which then produces the Division of Revenue Bill, but giving

reasons as to why they may have deviated from the recommendations of CRA. You must realize that CRA as an institution has in many cases more capacity and ability to know what is going on around the country. The recommendations or the simulation by CRA is misleading hon. Members. They think that the Treasury has reduced the allocation to counties. It must be clear that what the Constitution stipulates is this: The shares that go to the counties will be based on---

Hon. Kajwang’: On a point of order hon. Temporary Deputy Speaker. I rise on a point of order based on the Constitution and in particular the authority of the functions of commissions like CRA. In Article 216(5) the Constitution reads: “The Commission shall submit its recommendation to the Senate, the National Assembly, the National Executive, County Assembly and County Executives.”

Is the hon. Member in order to suggest that by hon. Members pointing out that there are no recommendations by the Commission before the Assembly is not a deficit by the Treasury rather by the Commission? Is he in order to suggest that the default is something that we can gloss over?

Hon. Sakaja: Hon. Temporary Deputy Speaker, I think what the hon. Member is alluding to is the issue of Article 206 where once the Division of Revenue Bill is tabled in Parliament--- When the CRA also needs to give their considerations.

However, what I was pointing out is the process that is in the Constitution. I think Articles 216, 217, and 218 give the process that must be followed by the CRA and the Treasury such that by the time the Division of Revenue Bill gets to the House, Treasury has already received recommendations by CRA. In the Schedule of this Bill, we are told why they may have deviated. They give reasons. That is as per Article 218(2)(c) which states that there should be a summary of any significant deviation from CRA recommendations with explanation for such deviations. That is what I was explaining.

I think that is what I was explaining. The amounts given by the CRA were estimates. The Treasury allocates the percentage that goes to the counties based on the last audited revenue. At the time the CRA was making recommendations they were using audited revenue for a different year. So, this is the most recent audited revenue, and really 32 per cent is much higher than the 15 per cent we were all expecting. When we started proceedings in this House we said that we would not oppose for the sake of opposing and support for the sake of supporting. However, in the first year of devolution going beyond 15 per cent is acceptable, I think the Government must really be applauded.

Hon. Temporary Deputy Speaker, devolution is anchored on the principle of subsidiarity. The subsidiarity principle is very simple. It states that if a matter can be handled by a lower level of Government it then should be handled by the lowest level possible. If there is something that the national Government wants to handle but it can be handled by the county Government, the county government should take charge of it. The Fourth Schedule of our Constitution is clear on this. We must, however, insist that the principle of subsidiarity be followed even at the county. We know that the basic unit of devolution is the ward. We must ensure that even at the county level there is public participation for Governors to put in their budgets and conduct public hearings; that is really the essence of devolution. Unless we insist on that we will not get the full benefits of devolution. This is something that the hopes of millions of Kenya are pegged on.

With those remarks, I beg to support the Bill.

Hon. (Ms.) F.M. Mutua: Thank you, hon. Temporary Deputy Speaker. As I stand to support this Bill, I would like to seek clarification why we refer to the Government as the Jubilee Government. Are we not in the same Government?

Through the devolution funds, the Government now seems to be serious with regard to efficient provision of services to people in the counties. The Division of Revenue Bill needs to be looked at keenly. We do not have a Committee in place yet, and not all of us are good in finance. It is unfortunate that we do not have a committee in place, which should have looked at this Bill properly. It is very unfortunate that we do not have a committee in place that should have really looked at this Bill properly. We will, however, try and give it the best. We hope that our opinions will be taken into account, so that we can, at least, have a body that is accountable in future.

It has been said that the counties have not been given enough funds. We have seen this in the Bill. As my colleagues have said, we need to ensure that the counties have the right structures in place. We then need to do the monitoring so that by the next financial year we will have learnt our lessons. That way, we will be able to say whether or not these funds were enough.

I also appreciate that our police has got some funds. We have been experiencing insecurity in Busia, Bungoma and other parts of the country. This will ensure that security services are better. Police need to be trained well and they also need to be properly equipped to increase effectiveness and rapid response. It is very sad that 30 people, or so, can have the guts to attack a home for one hour without any response from the police. That is very unfortunate. I do not know whether it is the police who are not equipped. I, however, appreciate that the Bill seems to be catering for police services.

The Bill has also set aside funds for emergencies. I hope that the relevant authorities will be able in future to act quickly when disaster strikes. Our people have drowned. Our people have been displaced. I hope the emergency fund that has been set aside will be managed by people who will be ready to act quickly to avert such incidents in future.

Women economic empowerment is crucial. The same goes for the youth. We are kindly asking for the funds to be released as quickly as possible. We are ready to move and so are the youth. We should stop blaming youth for the criminal activities that take place. It is not the youth who attack people all the time. We should stop giving our youth a bad name. Some of them really want to do something useful. Now that the President has said that he will give us funds, we should move quickly and give them the money, so that they embark on their projects.

I beg to support the Bill.

Hon. J.K. Chege: Hon. Temporary Deputy Speaker, I rise to support this Motion. It is true that the Jubilee Government promised that they would give more resources to the counties. In actual fact they have allocated more than the requisite 15 per cent, that is 32 per cent. It is important for us to ask ourselves some questions: Are the counties ready in terms of human capacity to enable them execute their obligations to *mwananchi*? My view is that it is important for the devolved governments to be supported, so that they have the right capacity to do what they must do. We are looking at the situation we are in, where the entire infrastructure is gone. The county governments will have a major responsibility to rehabilitate the infrastructure. I do not think there is a county that can

claim to have enough technical people to deal with the burden of the work that we have. Look at Kiambu, there is encroachment from Nairobi. There is development coming from the Ruaka side and the dual carriageway towards Limuru. This development is not planned. My view is that these counties require master plans. We know of areas where industries are now inside residential areas. We need a lot of support for the county governments so that we can progress in a logical manner.

The other thing is that we are allocating quite a bit of funds. If I may just point out, we have seen recently the construction of the super highway, the airport and you can quote many other roads that are being done in this country.

Hon. Deputy Speaker, the companies that are doing these works are foreign companies, and they are the ones to take the big share of what we are allocating. I have heard hon. Members in this House say that we will give the young people 30 per cent of the allocation. I do not know which young person can do a governor's house. I do not know which young person is ready to go and do a water pipe or a road, for that matter. I think what we need to do, as a nation, is to be serious. The companies that are doing this work, particularly the Chinese ones, are state-owned companies; our Government is giving another Government an opportunity to come and do business in this country. I think it is high time this Government, or the county governments themselves, considered getting involved in the business of constructing roads, dams, *et cetera*, so that some of the money can remain in this country.

How else can we develop our local capacity? We have universities and I believe that the level of research and development funds allocated to our universities is not even adequate. I support the President's vision when he said that we need to undertake industrialization in this country. I think to undertake industrialization we should come up with very serious decisions to enable us to move to another level. I believe various county governments can even start polytechnics - we have said these will be established in each county. But we do not need to duplicate them; if one county creates one college another county should create a similar college. We should have some advice that in Nyanza, for example, they do something to do with marine or rice growing. When you come to Nairobi, they will point out what they need to do, so that, as a nation, we can all move forward.

My concern, and this is really deep in my heart is that, if we really want to save our youth and reduce unemployment, we should not talk about allocations. We should go further and say this money is going down there. But if we are going to tell Governors and other State officers that they must sit on Italian chairs and, perhaps, the staff come from outside, we know for sure that this country will remain poor. This can best be done by devolved governments.

Hon. Deputy Speaker, there is the issue of poverty reduction which is a big concern; if we do not address it now, we will not have another opportunity in the near future, because the gap between the haves and the have-nots is always getting wider and wider. This comes with the increasing vices like insecurity, crime and so on.

Hon. Deputy Speaker, the time for us to address these issues and to be mindful of our brothers in the grassroots is now. We cannot be talking about improving services in urban areas, forget about rural Kenya and continue with the disconnect that seems to exist between development agencies and communities. Kenyans live in communities and they

know how to help one another and themselves through co-operation of communities. It is high time we celebrated this arrangement. We cannot celebrate the arrangements in communities if we do not invest in programmes that will enhance cohesiveness, integration, communal approach and socio-economic development.

Hon. Deputy Speaker, I would like to focus more specifically on the issues of the Kenyan children, who are orphaned because of the of HIV/AIDS. Many children in the countryside have never seen their mothers and fathers, and they live with their grandmothers and grandfathers. There is the issue of cash-transfer through which these grandmothers and grandfathers are subsidized; a stipend has been recommended every now and again, but has remained a kind of a lip service to the people. The time is now; let us actualize this spirit of cash-transfer to poor grandmothers and grandfathers, who take care of their grandchildren and. It is very important that we be mindful of this because we have a lot of challenges in the countryside.

On the issue of the health of some of these old people, they are stressed and we lose them every now and again because of the poor state of healthcare. Some wards and locations do not have health facilities and it is important to follow up with the spirit that was highlighted by the President in his Address to show indication of interest to improve services; In every location or sub-location, we should have health facilities with the necessary equipment and personnel to provide basic healthcare to Kenyans. This is because due to poverty, Kenyans die of simple ailments like malaria and, indeed, depression.

Hon. Deputy Speaker, I beg to support.

Hon. (Bishop) Mutua: Thank hon. Deputy Speaker, for giving me the chance to contribute to this important Bill. On the outset, I would like to say that this is a historic Bill because devolution---

Hon. Muluvi: On a point of order, hon. Deputy Speaker. I would like to have your indulgence on this. Is an hon. Member supposed to contribute twice when some of us have not even made our maiden speeches?

Hon. Deputy Speaker: Who has contributed twice?

Hon. Muluvi: The hon. Member on the Floor.

Hon. (Bishop) Mutua: Do you know me?

Hon. Deputy Speaker: The two of you cannot engage in an argument! Let me just consult the Clerk and see whether he has contributed before. He has not contributed before. He can continue.

Hon. (Bishop) Mutua: Hon. Deputy Speaker, this is a historic Bill because it is the first time that we have which will operationalize our devolved government. Devolution is a key element in our Constitution; it is the first time we are going to operationalize county governments. Therefore, we should get it right. For that reason it is important to know how this Bill is structured and understand it as we are going to use it in our devolved county governments.

Article 216 of our Constitution gives the Commission on Revenue Allocation (CRA) the mandate to advise and give recommendations on issues relating to how revenues will be shared. It is unfortunate that this Bill did not benefit from that advice because of the manner in which we have actually tried to introduce it before this House;

we did not have a Committee to receive the input from both the public, Treasury and the CRA.

Hon. Deputy Speaker, it is, therefore, upon this House to make the best out of what we have before us, so that we get the right revenue sharing formula between the two levels of Government. Of course, without the input from CRA--- I must congratulate the National Treasury for having tried their best to come up with this Bill that shows the revenues to be allocated between the two levels of Government. Since this is the first time that this is going to be undertaken, I urge that we approach the issue with sobriety, so that we know how county governments will take off, and also how the National Government will be left to do the job as is given to it in Schedule Four of the Constitution.

Hon. Deputy Speaker, a lot of the work that will be done by the county government will also be done by the National Government. We should not think that after giving adequate amounts to county governments, we will leave the National Government with the responsibility to develop major projects that are listed in Schedule Four of the Constitution.

Hon. Deputy Speaker, a lot of issues have been raised by hon. Members who have alluded to amendments that are going to be put forward. Personally, I will support the amendments that are actually alluded to raise the level of money to county governments from the current level to Kshs230 billion. This is because we cannot start with less money than is recommended by the CRA, otherwise, we will start on a wrong footing and our county governments will fail to function.

When the President talked about laptops, I thought it was about a whole package of ICT, or a package for transforming technology in this country, beginning with the children all the way to school principals. This is what we are looking for. We are looking for total transformation. That is what Vision 2030 is all about. It is not about a piece of laptop, but about technology, empowerment and making Kenyans competitive in the world. It is about making this nation, a nation with a difference.

We need to start with the county governments, which should act responsibly. One of the things that I am worried about is how we will put mechanisms in place to ensure that there is no corruption at the county governments. If there will be corruption at the county governments, then we shall be in trouble. We can only succeed if there is no corruption at the national Government. That can only happen if you and I agree that we are going to be straight forward, do what we are supposed to do and remunerate our workers sufficiently, so that nobody can give an excuse for corruption. This is why we need to defend and fight for the rights of the workers at the county governments as well.

My desire is that we look at this Bill as a beginning of a transformation process. It is not just a Bill about money. It is a Bill about transforming the lives of our people at the county level. If you look at it that way, then there will be no amount of money that you will not allocate to the counties.

The final idea that I want to share with this House and Kenyans at large is that it is about time we became honest in terms of assessing our capacities. This should be in terms of how much we can generate at the county level, so that we can bridge the gap between the allocation by the national Government and what the county governments

require to use in a year. We are missing an accurate assessment of how much the county governments can raise.

Hon. Sambu: Thank you, hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to the debate on this Bill. First and foremost, it is a pity that because of the differences that we have on the formation of the committees of Parliament, this Bill has come to the House before going through a committee of Parliament. The Committee would have analyzed various issues, come up with recommendations to this House that would have formed the basis of debate. Because of the lack of this committee, we now have a very important Bill before this august House, which is being debated without the input of a committee of Parliament.

Be that as it may, I would like to make a few observations which I consider very important. The first observation is that contrary to what the Bill proposes, conditional allocations should not be part of the county revenue share as per Article 202(2) of the Constitution. In fact, this is so important that I want to read it, for purposes of clarity, to the Members. It reads that:-

“(2) County governments may be given additional allocations from the national Government’s share of the revenue, either conditionally or unconditionally”.

So, you cannot, in the first place, give the counties Kshs198 billion and at the same time, tell them that out of that, they have Kshs43 billion as conditional allocation. That should be separate according to the Constitution. Secondly, when you say that the revenue “shortfall” below the threshold set by the Cabinet Secretary will be shared between the national and the county governments, the term “shortfall”, should be explained. When we were making the Constitution and coming up with a formula, we wanted to ensure that we can predict accurately the revenue to accrue to the counties. But when you subject the revenue to the counties to variation from one point in time to another, a governor may not be sure what to do. He might think that he does not know that maybe he will receive less. As far as we are concerned, the amount is based on measurable figures. One measurable figure is that it is based on the actual audited accounts of the previous year. In this particular case, the amount is based on the 2010/2011 audited accounts. That is where the figure comes from. So, you cannot come up with something which cannot be predicted. The governors in the various counties may not be sure what to do with their plans. We must give them an element of comfort in that they are sure that the amounts going to them can be predicted.

The third point is that we have talked a bit about allocations to hold counties harmless. This particular statement is coined by the Executive arm of the Government that amounts to saying that they want to compensate counties which receive lower resources on application of the approved formula by Parliament. Parliament approved a formula on how to allocate resources, taking into account the fact that in the past we had some counties that were historically aggrieved. They were unjustly catered for in the past. The formula tries to cater for those counties which, in our view, were not catered for well in the past. That is how the formula came about. When you apply that formula, you may find that some counties which were privileged at one time may receive less money than those other counties that were not as favoured. The formula is intended to correct that situation. So, if you apply the formula and find that the counties that were receiving more

are now receiving less, then you apply what is called “allocation to hold counties harmless”. It is not their fault that they are now getting less, but it is a fault that they were getting more at the expense of other counties that were getting less. So, we should adhere to the formula that was proposed by the CRA and approved by Parliament. This is to the extent that we have two figures, one from the national Government of Kshs198 billion to the counties, and the CRA formula giving us a figure of Kshs231 billion to the counties.

So, hon. Temporary Deputy Speaker, on the basis of the formula, my recommendation is that we totally agree and follow what the CRA has recommended to this House. The CRA cannot come to this House to speak; it can only speak to this House through a committee of the House. Unfortunately, the committee of the House is not in place and the recommendations are there. That is why I am saying that it is unfortunate that we are discussing an issue before the committees of the House are put in place; so, hon. Members may not have the privilege of seeing what the CRA has recommended.

The fourth observation is that the provincial referral hospitals are, under the Constitution, the Fourth Schedule, and also Article 187 part and parcel of the national Government. So whatever you do, their money should not be part of this conditional amount of money to the counties and be allocated as part of the contribution to the referral hospitals. The referral hospitals should get their share through the national Government.

The last point I would like to make is on donor funding. They have allocated about Kshs16.8 billion but this is a mix up between sources of finances and revenue. We are just dealing with revenue but not with sources of financing. So it is wrong to mix up donor funds, which is a purely a source of financing, and revenue allocation of the sharable amount. If we want to do that, it should actually be part and parcel of central Government but not the county governments.

With those few remarks, I beg to support.

Hon. Ogalo: Hon. Temporary Deputy Speaker, I rise to support the Bill with very significant comments. First of all, is the allocations made through the constitutional provisions as outlined in Article 203 of the Constitution. I find it difficult to do the comparisons between the national Treasury and the CRA Estimates. This is because we are treated to a table where the CRA Estimates for 2013/2014 are indicated as not available while the 2012/2013 is available. Even though we are saying the explanatory notes from the CRA have not reached the House, I tend to agree with what the national Treasury has explained; if you look at those figures and you upload 14 per cent of each of the items on the cost, it comes to Kshs231.1 billion. This means that either the CRA was incompetent or it did not have the capability to do its own estimates and give us the cost of the functions. The national Treasury has consulted the line Ministries and the Transitional Authority (TA) in arriving at the cost of the items listed, while the CRA, if you go by what they have indicated as Kshs231.1 billion, merely took their estimates for last financial year, Kshs148 billion, and increased it by 14 per cent to get Kshs168.7 billion as the cost of devolved functions. On that score alone, the national Treasury disagrees with TA and agrees more with the governors that they need more money. So, the national Treasury believes the governors believe more money as cost of devolved functions is required. It says that either the CRA did not do any research, or study, to determine what were the devolved functions and the cost of those devolved functions.

This takes me to the amount of money allocated to the Commissions. Are we paying for nothing, or are we paying these people to do jobs? They have refused to bring their explanatory notes here; we have not received them yet; we are debating the Division of Revenue Bill without their contribution, and we are seeing clearly from the explanation from the national Treasury that they intend to allocate Kshs21 billion to the Contingency Fund. Even a lazy person can take money and push for things they do not know to gain capacity, and see what county governments are going to do.

I also take exception with the Equalization Fund (EF). The counties are at varied levels of development; they are very different. In some counties, people are comfortable talking about laptops for kids, while in some other counties, classrooms are non-existent. In some counties, all schools are wired to electricity, but in some other counties, children have never seen electricity. So, when you take Kshs3.4 billion and allocate it to the EF, merely 0.1 per cent above the threshold, it means that you are not willing--- You are not motivated towards equalization, but you are motivated towards continuing with the variations in development standards in the country. I would have wished that the EF was increased a little bit to make those counties which will still be doing very poorly during the 20 years prescribed in the Constitution be able to catch up with the rest of the country.

Hon. Temporary Deputy Speaker, I also note that in case the revenues estimated in this Bill fall short of the set target--- In case we collect less revenue than proposed in this Division of Revenue Bill, then the national Government will uptake the deficit up to a particular threshold. This threshold is not indicated in this Bill. It is a threshold that the Cabinet Secretary will specify at some time - I do not know at what stage. If at all the revenue falls short of this threshold, then the county governments will take a hit. We need to be aware of what this threshold is, and what is anticipated if the county governments will take a hit when we do not realize the projected revenues.

I would like to look at what our Jubilee people have been saying. It is a bigger gesture over and above the specification of the Constitution. For this allocated figures, look at the unconditional allocation to counties; the letter of the Constitution says that you look at the last audited accounts. On that score it is correct; it is actually 25.5 per cent, but if you look at the spirit of devolution, the letter is correct; we have to base our budgeting on audited accounts. But if you look at the spirit of the Constitution and devolution, it is 15 per cent of audited revenues and we should base this specifically on sharable revenue for this year. So, on that score politically, and in the spirit of the Constitution, you only manage to give unconditional discretionary revenue to the counties at 16 per cent. Indeed, you even failed to meet the threshold on the EF because on sharable revenue for this year, you only managed to give 0.3 per cent. So, politically, do not gloat over being pro-devolution. You are not servicing devolution as much as you claim to be doing it.

I will use my last few minutes to talk about committees. I know we have a stalemate. I am glad that this is the first Bill we are doing, and I hope it is the last one we are doing without it having gone through the committees; it is merely a statement of how revenue will be shared. But I would like the Leader of the Majority Party to save the numbers of the Jubilee Coalition. If you take these people to the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) and they are the majority, those two committees will be discussing unethical practices in the Government.

They will either have to choose to crucify their man, the President, or Coalition Leader, or let public funds get looted.

The Leader of the Majority Party, on the PAC and PIC raw, let the Minority Party take the leadership. The Leader of the Majority Party should negotiate with the Leader of the Minority Party, even if it means leaving for them two slots in other departmental committees. We know that the Majority Party is also doing oversight. All the departmental committees of this House are doing oversight over Government departments. We are only saying that the two watchdog committees' functions are beyond oversight. There is active and reactive oversight. We are engaged in that kind of oversight. They should lead all those committees. We want to lead only these two watchdog Committees. If the President calls a Jubilee Parliamentary Group (PG) meeting and says that he does not want discussion of the Reports of the Auditor-General and Controller of Budget and immediately thereafter there is whipping generated from the meeting, what will PAC and PIC Members do? They will block all watchdog committee reports.

Hon. Temporary Deputy Speaker, we would like you to intervene. Get the Leader of the Majority Party, who is now in the House, to see sense and let the chairmanship of the two watchdog Committees to go to CORD. We will then form the committees tomorrow, and will not have to discuss such an important matter again.

An hon. Member: On a point of order, hon. Temporary Deputy Speaker. Is the hon. Member in order to discuss the matter of the PAC and the PIC yet the matter has been assigned to a team of this House to look into it? We should only discuss it when it comes back. A ruling has already been made on it. Is he in order to continue talking about it now?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Member for Rangwe, the Chair has ruled on the outcome of those two committees. So, just complete your comments. You were doing very well.

Hon. Ogalo: Hon. Temporary Deputy Speaker, I will conclude by saying that I looked at the allocation given to---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, I now call upon the Leader of the Majority Party to respond. We want to have his response and move to the next Motion.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, first of all, I want to thank all the hon. Members who have contributed to this Bill since morning. I want to make several clarifications, as we approach the Committee of the House Stage tomorrow.

First, I want to urge my colleagues that we represent both the county governments and the national Government. That point must be very clear. The functions of both the national Government and the county governments will benefit our people. Devolution is not a choice. The Jubilee Government, and specifically the President, in his Address to this House, and in many forums, has said that devolution is not a choice. It is in the Constitution for prosperity. Irrespective of which regime implements it, devolution is a choice of the people of Kenya and we have to live with it.

An hon. Member: On a point of order, hon. Temporary Deputy Speaker. I would like to bring to the attention of hon. Duale the fact that this has actually been happening since Independence. I see the Jubilee Government just as an extension---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Member, what is out of order?

An hon. Member: Hon. Temporary Deputy Speaker, I was trying to come to the point. I see the Jubilee Government as an extension of the KANU regime. They give promises to---

The Temporary Deputy Speaker (Ms.) Shebesh): Hon. Member, let the Leader of the Majority Party continue. That is not a point of order.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, between the Jubilee Government and the KANU government there were several other governments. I would like the hon. Member to know that we want to move forward. As the Member for Rangwe said on the committees, we need to move forward. Some of us do not even want to remember the Grand Coalition Government. The KANU regime is very far away.

Coming back to my point, the Commission on Revenue Allocation (CRA) is a creation of this House. It is an independent Commission. The CRA is a neutral arbiter between the national Government and the county governments. The leadership of this House has a role to perform in development, be it through the Constituencies Development Fund (CDF), the County Governments or the national Government. We must see the difference between the governors, who want more money, and Members of Parliament, who will need more money for the CDF. This same House expects the national Government to develop the various constituencies.

Hon. Ganya: On a point of order, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Ms.) Shebesh): Hon. Chachu, what is out of order?

Hon. Ganya: Hon. Temporary Deputy Speaker, is the Leader of the Majority Party in order to state that the governors of our counties want more money when the Jubilee Government has devolved functions to the counties without allocation of adequate resources to enable the governors to perform? Is he in order?

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, if you look at Section 201(2) (b) of the Public Financial Management Act and read it together with Section 203, you will---

Hon. Abongotum: On a point of information, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Abongotum, who do you want to inform? Is it the Leader of the Majority Party?

Hon. Abongotum: Yes, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Ms.) Shebesh): Leader of the Majority Party, do you want information from hon. Abongotum?

Hon. A.B. Duale: No, hon. Temporary Deputy Speaker. I want to rush through my response, so that we can proceed to the next business.

Hon. Temporary Deputy Speaker, the Sections I have referred to are clear that it is for this House, through its committees, to determine what revenue the county governments will receive. It is this House which determines the percentage of revenue that should go to the CDF---

Hon. Abongotum: On a point of order, hon. Temporary Deputy Speaker. Now that the Leader of the Majority Party does not want information---

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Abongotum, what is out of order?

Hon. Abongotum: Hon. Temporary Deputy Speaker, you heard my good friend, hon. Ganya of North Horr, say that the Jubilee Government is not willing to disburse funds to the county governments. Is it in order for him to say so when, to the best of my recollection, we have rolled out a programme through the Transition Authority, which is constitutionally sanctioned?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Abongotum, who was out of order? Was it hon. Ganya or the Leader of the Majority Party?

Hon. Abongotum: Hon. Temporary Deputy Speaker, hon. Ganya said that the Jubilee Government is not---

The Temporary Deputy Speaker (Hon.(Ms.) Shebesh): Hon. Abongotum, the Leader of the Majority Party was on the Floor. Hon. Ganya's point had been dealt with. So, let the Leader of the Majority Party continue because your point of order is directed to the wrong person, the person who is currently on the Floor.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, I said that the CRA is a creation of this House, and that it is up to the Members of this House to make sure that the formula developed by the CRA complies with both the letter and the spirit of the Constitution. Having said so, I want to confirm to the House that what the national Government will bring to this House today and tomorrow will be subjected to the formula developed by the CRA. Secondly, the CRA is a natural arbiter mandated to make sure that resources are provided in order for the national Government and the county governments to function.

In this Bill, there are special provisions for some counties, mainly urban counties. For example, service delivery in the County of Kisumu cannot be, in terms of size, the same as service delivery in the County of Marsabit, where hon. Ganya comes from. In terms of service delivery, there is some particular allocation of Kshs14 billion for counties with huge service delivery mandate. These include Nairobi, Mombasa, Kisumu et cetera. We should look at the Bill in the context of the goodwill expressed by the Treasury and the CRA. Likewise, it is because some counties have been marginalised for a long time that the Constitution provides for the Equalisation Fund for about 14 counties. In order for these counties to develop to the level of other counties, the drafters of the Constitution created the Equalisation Fund. Those provisions are in this Bill.

Thirdly, there is something hon. Members were discussing this morning. I said that Article 203 of our Constitution sets the parameters and principles of sharing these resources between the national Government and the counties. One of the principles is national interest. That is why you see NIS and the Department of Defence. That is why you see the office of the DPP. That is why you see some allocations for Parliament, Judiciary and the National Police Service. These allocations are as a result of national interest.

We need to equip our police force under the police service reform. We must create an extra budget under the line of national interest. We will even provide more funds under the Item for public debt and national obligations. As a country, we have obligations to other financial institutions and other governments. Such obligations must

be fulfilled by any Government, whether they are a carryover or not from the previous governments.

There is also the aspect of development and other needs of counties. Now that counties are coming up, do we need to put up the infrastructure for the start of the counties? I want to agree with my colleagues that we need to ensure that our national resources are distributed equally, according to Article 201. The public finance system shall promote an equitable society and in particular revenue raised nationally shall be shared equitably. That is the law in the Public Finance Act and the Constitution that we must, as a House, observe.

My colleague said that the Leader of Majority must see sense. I saw sense and I believe in offering solutions. As of right, 349 Members of Parliament must offer leadership. However, the Leader of the Majority Party is the leader of the majority caucus. It must be very clear that I am not the leader of the House. I am the leader of the majority caucus in Parliament. I can offer leadership when it comes to that caucus. That is what we did! I expect the minority caucus leadership to offer leadership.

In essence, there is no opposition under a presidential system of government. Today, out of the 47 counties 24 of them are run by the CORD. The Jubilee Coalition forms the minority in those 24 counties. However, if you read Article 95 of the Constitution, it says that Parliament will oversee. Our function in this House is threefold. We represent our people – their interests and desires. Two, we legislate. Lastly, we oversee from the Floor and in our respective committees. The committees are an extension of this House. So, if they fail for one or two reasons because of leadership issues the other alternative is what we are doing. The business of the Kenya National Assembly will be transacted on the Floor.

We decided out of good will that we would not follow the Standing Orders, which, in our opinion, were not reviewed in the right way, looking at the Eighth, Ninth, and Tenth parliaments. It ought to have been clear that the leader of the Public Accounts Committee and the Public Investments Committee should be from the minority coalition. Now we are asking for one majority.

This morning Members said that this Bill has not been subjected to committee scrutiny. The national Estimates were to go to various committees for scrutiny. The relevant departmental committee could have said that the money allocated to the education sector is not enough. Those departmental committees are not in place. If we do not form the committees in the next 15 days, then the whole Budget will come to the Floor and we will be forced to debate it without committee scrutiny. It will go back to the national Government without the scrutiny for the benefit of our people.

An hon. Member: On a point of order, hon. Deputy Speaker. I fear that there is no quorum. Could you, please, confirm whether or not this is the case?

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Yes, the Clerk has confirmed that there is no quorum. I order that the Division Bell be rung.

(The Division Bell was rung)

The Temporary Deputy Speaker (Hon. (Ms.)): Hon. Members I think we now have a quorum. Therefore, the Leader of Majority Party can conclude his remarks. Proceed hon. A.B. Duale. You have two minutes.

Hon. A.B. Duale: Yes, hon. Deputy Speaker. I am very happy that serious Members, who have not earned their salary, and who want to serve the nation have come to save us.

Finally, I want to say that Article 203 of the Constitution has put a ceiling and it says: Not less than 15 per cent of the national revenue will go to the county. I want to confirm to this nation that tomorrow we will do it. Under this Bill the Jubilee Government has done 25.8 per cent. If you add the conditional grant, it will come to 34.5. I want to tell my colleagues that the Jubilee Government will implement the 40 per cent on a progressive scale. Watch us next year; we will reach 40 per cent. The other year, before the next general election, I am sure those hon. Members on the other side will join our coalition, not because of anything, but because of the way in which we are going to deliver.

Hon. Temporary Deputy Speaker, finally, I want to say, let us sit and serve both the national Government, the county governments, by use of the Constitution and the Public Finance Act, because this is law we have created. We formed the Commission on Revenue Allocation (CRA), and we are the ones who asked for devolution. Therefore, devolution is not a choice because it is in the Constitution; we want to make sure that county governments take off because they are the necessary infrastructure.

With those many remarks, I beg to move.

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, before we proceed to make a decision on the Second Reading, and having confirmed that there is Quorum, I can now put the Question.

(Question put and agreed to)

MOTION

ESTABLISHMENT OF FREE NURSING UNITS IN COUNTIES

Hon. Mustafa: Hon. Temporary Deputy Speaker, I beg to move the following Motion:-

THAT, aware that according to the statistics released by the National Council for Population and Development (NCPD) in Policy Brief No. 25 of June 2012, Kenya's population, as that of all other Sub-Saharan African countries, is rapidly ageing and the population of persons aged 60 years and above increased steadily from 1 million in 1989 to 1.9 million by 2009, and is projected to reach about 3 million people by year 2030; concerned that there is an increase in the number of neglected and/or abandoned elderly members of the society as a result of the financial inability of their immediate kin or lack of capacity to handle the health conditions of such senior citizens; noting that despite the legislation enacted to cater for the elderly, little further comprehensive action to enhance their well-being and specifically the health of older Kenyans has ensued, this House urges the Government to establish a free nursing unit for the aged in every hospital in all the counties.

Hon. Temporary Deputy Speaker, this is a very important Motion because it seeks to enhance the well being and the health of elderly Kenyans; it will help reduce the numerous financial challenges facing their immediate kin. Just as the free primary education programme, establishing a free nursing unit for the aged in every hospital in all the counties will help to remove the burden from young Kenyans who are tasked with the burden of looking after their old and sick parents.

It is sad for young Kenyans who are trying to settle down in life to be burdened by looking after their old and sick parents. It is clearly an understood phenomenon that all old and sick Kenyans live in the rural areas while their care takers in the name of their children work in the urban areas. This takes away from the old and sick Kenya the opportunity of being taken care by the young Kenyans. Due to harsh economic conditions, it is becoming difficult for the children working in the urban establishments to take with them their old and sick parents.

Owing to the urban housing situation where most of the young working Kenyans live in the slums, it is difficult for them to come to urban areas with their old and sick parents to where they work.

In various parts of the country, we have many aged persons who are living in rented houses after their retirement. But most of them can no longer afford house rent because they do not have any income generating activities to see them through. It is becoming even worse when these senior citizens fall sick because of the high cost of medication.

Hon. Temporary Deputy Speaker, some traditional factors and customs do not allow parents to stay with their daughters who are married. Even though they are financially stable and responsible, to take their old and sick parents to their matrimonial homes is against traditions and customs of some communities. Due to this, we have many old and sick parents who are living miserable life.

Hon. Temporary Deputy Speaker, unlike in the developed countries, where we have homes for the elderly, in Kenya we hardly have these kind of homes, where the old and sick can be taken care of.

Hon. Temporary Deputy Speaker, in other cases, we have found that the would-be caretakers of the elderly members of the society, in the name of children, have become drug and alcohol addicts. This has rendered them incapable of taking care of themselves and their aged parents. Whereas the Government has a programme in which it has been giving some money to the aged on a monthly basis, it is necessary to conduct a comprehensive census of the numbers and the level of effectiveness of this programme. It will help a lot if the Government increases this amount of money, and a fraction of it goes directly to the NHIF to cater for medical costs for our senior citizens. I, therefore, urge the Members to support this Motion, so that our senior citizens can access free medical care to avoid suffering.

Finally, I call upon the Member of Parliament for Kisauni, hon. Bedzimba, to second this Motion.

Hon. Bedzimba: Asante sana, Bi Naibu Spika wa Muda. Kwa majina ninaitwa hon. Rashid Juma Bedzimba, Mbunge wa Kisauni. Nimesimama kuunga mkono Mjadala huu kwa sababu wazee wengi wenye umri wa miaka sitini na zaidi hawana ajira. Wengi wao huwategemea vijana wao ambao pia wengi wao hawana ajira. Hii imefanya hata sasa

kuwe na uadui baina ya vijana na wazee, na sasa vijana wameanza kuwaita wazee wao wachawi. Sio kwamba wanawaroga lakini ni kwa sababu ya hali ya maisha ilivyo. Vijana wanakimbizana kulisha jamii zao lakini sasa imewabidi wawaangalie wazee. Ikiwa Serikali itaweza kuwapatia wazee matibabu ya bure na huduma nyingine ambazo zinahitajika wakiwa umri huo, itawapunguzia uzito vijana na hii italeta undugu na urafiki katika jamii.

Nimesimama kuunga mkono Mjadala huu ili vijana wetu wapate afueni wakati wazee wanaangaliwa. Tunakubali kweli Serikali ina mfumo wa kuwalipa wazee kila mwezi lakini pesa zenyewe ni kidogo sana na wazee wanaolipwa ni wachache sana. Ningeomba kwamba waongezewe fedha na wazee wengi waweze kufaidika.

Nimeshukuru kupata nafasi hii ya kuunga mkono mjadala huu.

Hon. Mohamed Abass: Hon. Temporary Deputy Speaker, my name is Abass Mohamed, Member for Wajir East. I rise to support the Motion. As you are aware, as a result of improved health services, this country's lifespan is increasing to above 60 years. Many of our people are getting old, but there is no help for them. Besides that, due to the economic constraints and housing problems, the old people are neglected especially in urban areas. There is also westernization that has come to our country, and most of us are not taking care of our parents.

In addition to that, the people who served this nation all those years and fought hard for our Independence are today neglected. The Government is paying them peanuts, and they cannot even house themselves. The pensioners are not paid on time, nor are they paid enough. When everybody else's salaries are increased, pensions are not increased; if it is increased, the increment is too small. Therefore, I support the Motion that we need to start nursing homes to take care of those who served this country, namely our fathers and mothers.

Hon. Mwaura: Thank you, hon. Temporary Deputy Speaker. If you look at our country in general, there is a break up of our traditional social welfare systems. Old people are being left to live in very deplorable conditions in farmlands that are no longer arable or viable because of our land tenure system. Even when many grand children would want to take care of the old members of the family, it is becoming increasingly hard because of the high unemployment rate. This House has been informed that up to 70 per cent of our young people are unemployed. Therefore, some of our older people do not even have enough food to eat. The media has highlighted some situations where civil society organizations have donated items like blankets to the old people. The old people scramble for the items, and this is a clear indication that the senior members of our society are suffering.

This country has not had a proper regime when it comes to pensions. Until recently, pensions were meagre. They were contributory for a very small proportion of our population that had gainful employment. Most of our people are in the informal economy and, therefore, have not had opportunity to benefit from organized pension schemes. Therefore, most of our people end up suffering even when they have pensions, because they can barely sustain the basic needs as prescribed by the Maslow's hierarchy of needs.

Even when the Government institutionalized a very proper social protection safety net under the former Ministry of Gender, Children and Social Development, this was

only on a pilot basis, and it was only for selected districts. The age criteria were not properly defined. In fact, over the two years that this programme was implemented, the threshold was moved from 60 to 65 because of the realization that there was a beggar population that would, otherwise, not have been catered for. Even then, the criteria were that the senior citizens would only access the programme if none of their sons and daughters were working in cities. This was not proper because even where the off-springs were working, it did not necessarily mean that they were supporting their parents.

In the reciprocal culture that we have in this country, it is becoming untenable for communities to shoulder the burden of taking care of the old members of the society, either in terms of feeding them or medication as this Motion seeks, which is very expensive. I, therefore, wish to support this Motion. This is the only way in which we can ensure that the dividend that we have in form of many young Kenyans, who can contribute to national development, because they are young--- The will also be dependent on the younger people, who may not necessarily be able to take care of them. Therefore, we need to put in place social welfare to take care of the economic needs of our senior citizens. We need to have nursing homes, so that the older members of the society will not only see their grandchildren, but also their great grand children.

I support.

Hon. (Ms.) Mitaru: Hon. Temporary Deputy Speaker, I rise to support the Motion. In our culture, particularly in mine, we are supposed to take care of our elderly persons, feed them, take them to hospital and make sure that they are comfortable. Times have changed and many people have moved from their rural areas to towns and abandoned the elderly in the rural areas. Sometimes, the old people get very sick, but they have no money to go to hospital. They may have land and nice houses that were built for them by their children, but they are abandoned.

I want to tell this nation that it is not the culture any more, but it is the reality of life that these are our people. We do not want to deny them the opportunity to feel that they are wanted and loved by the nation. Therefore, let us support the Motion. I know that every time we are in the rural areas, we look for the senior citizens and leave them with small handouts. How far can that take them? Some of them do not even want to go to hospital because they fear being given the bill. So, they die silently in their homes. Some of them wait for the mercies of the neighbours and friends. So, I support the Motion that we not only have nursing homes or hospital wards for the old people, but the Government should support them with money, so that they can feel wanted and loved in this nation.

I support the Motion.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Shebesh): Hon. Members, we have come to the end of the business of today. The House stands adjourned until tomorrow Thursday, 9th May, 2013, at 2.30 a.m.

The House rose at 6.30 p.m.