

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 22<sup>nd</sup> April, 2014

The House met at 2.30 p.m.

*[The Speaker (Hon. Muturi) in the Chair]*

### PRAYERS

*(Hon. Members walked into the Chamber)*

### COMMUNICATION FROM THE CHAIR

#### RULING ON CONSIDERATION OF MONEY BILLS

**Hon. Speaker:** Hon. Members making your way into the Chamber, please, do so quickly. You can greet each other later.

Hon. Members, I have a Communication to make on consideration of Money Bills and application of the provisions of Article 114 of the Constitution.

Hon. Members---

**Hon. Members:** You are not audible!

**Hon. Speaker:** Am I not audible? I thought I am audible unless the operators have also decided to be on recess. Can you hear me now?

**Hon. Members:** Yes.

**Hon. Speaker:** I think they had taken some leave.

Hon. Members, this Communication relates to the manner of considering Money Bills and proposed amendments to Money Bills in the Committee of the whole House. The Communication arises from an undertaking made by the Deputy Speaker on 3<sup>rd</sup> April, 2014 during the consideration of the Value Added Tax (Amendment) Bill, 2013 sponsored by the Member for Suba, hon. John Mbadi.

You will recall that on that day the said Bill was scheduled to be considered in the Committee of the whole House. However, the Committee did report progress and was granted leave to sit again. This was necessitated by the fact that most of you attempted to challenge the ruling of the Deputy Speaker on the fate of most of the proposed amendments to the Bill at the time. From the outset, I must say that even though the ensuing debate set off insightful discourse on the application of Article 114 of the Constitution, an attempt to challenge the ruling made from the Chair on a matter of application of a provision of the Constitution in parliamentary practice is unprecedented in our legislative history and ought to be discouraged at all times. Hon. Members, I have since been seized of the matter and wish to make the following observations:

Firstly, most of the Members who spoke sought guidance on the following three issues:-

(i) The extent of application of Article 114 of the Constitution and whether its strict application in our legislative process would amount to gate keeping for the Executive and limiting the legislative role of the House.

(ii) Whether after a Bill has been proposed, proposed amendments should also be subjected to the requirements of the provisions of Article 114 of the Constitution or should be subjected to the collective decision of the House in the exercise of its legislative action.

(iii) Whether in the event the relevant Committee envisaged under Article 114 of the Constitution, having consulted the Cabinet Secretary responsible for finance, recommends that a specific proposed amendment should not be considered, such amendment ought to be included in the Order Paper for the day.

Hon. Members, these matters are not new to us. Indeed, some of these issues were largely canvassed in this very House during the consideration of the Finance Bill, 2013. I will, therefore, offer summary guidance. The first and second questions relate to the extent of application of Article 114 of the Constitution. For avoidance of doubt, Sub Article 2 thereof states as follows and I quote:

“If, in the opinion of the Speaker of the National Assembly, a motion makes provision for a matter mentioned in the definition of “a Money Bill”, the Assembly may proceed only in accordance with the recommendation of the relevant Committee of the Assembly after taking into account the views of the Cabinet Secretary responsible for finance.”

Hon. Members, Article 114(3) lists the items that constitute a Money Bill. First on that list is a Bill containing provisions dealing with taxes. It, therefore, follows that the Bill sponsored by the Member for Suba is a Money Bill. How then is the Assembly supposed to proceed when faced with amendments to a Money Bill? Again, the provisions are very clear and I quote:

“The Assembly may proceed only in accordance with the recommendation of the relevant Committee of the Assembly after taking into account the views of the Cabinet Secretary responsible for finance.”

This provision, in my view, is clear and absolute.

Hon. Members, in construing this Article, we are guided by Article 259 of the Constitution which requires us to interpret the Constitution in a manner that promotes its purposes, values and principles and further permits the development of the law. The same Article 259 also requires every provision of the Constitution to be construed in the doctrine of interpretation that the law is always speaking. One notable observation is that our Standing Orders fail to make sufficient enabling provisions to give effect to Article 114. This is one clear area for development of law and I challenge my Committee on Procedures and House Rules to carefully study and make recommendations.

However, if one would impartially apply his or her mind to provisions of Article 259 of the Constitution to address the first and second issues raised earlier on, the question of gate keeping would not arise at all. It is logical that an amendment to a Money Bill would itself amount to making a Money Bill. Since the substantive Bill would have been subjected to the requirements of that Article before publication as

provided for in our Standing Order No.114(3) and Standing Order No.231 it follows, therefore, that any proposed amendment to the Bill should also be subjected to the same standard. To imagine that such amendments would be brought to the House for a decision without the test of the provisions of Article 114 would amount to two things; either assuming that one Article does not exist or to attempt to introduce a process of circumventing the requirements of Article 114 to introduce items that have the effect of a Money Bill. I have no doubt that a House worth its salt would avoid that route at all costs.

As to whether the application of that Article would limit the legislative function of the House, it is my view that the legislative function of this particular House as laid out in Articles 94 and 95 of the Constitution is almost inexhaustible. However, the same Constitution in Article 114 and other provisions also sets certain standards and criteria for the exercise of that legislative function of the House. It is these criteria that this Assembly is today being asked to remain faithful to.

Hon. Members, whilst the makers of our Standing Orders may not have adequately provided enabling procedures for the application of Article 114 of the Constitution in the rules of procedure, the Article is almost replicated in Standing Order No.114(3)(a) and Standing Order No.231. As a matter of fact, Standing Order No.256 relating to exemption of business from the Standing Orders prohibits the moving of any Motion that would attempt to suspend or set aside the requirement of Standing Order No.231 on restrictions with regard to certain financial measures. This is the spirit for the application of Article 114 of the Constitution, that there cannot be an exemption to its application.

As regards publication of amendments in the Order Paper or amendments that have not been recommended by the Budget Committee for consideration by the Assembly, it is my view that such amendments ought not to be published in the Order Paper.

*(Applause)*

I so direct that this shall henceforth be the procedure; the Clerk should, therefore, communicate the recommendations of the Committee to the respective Members wishing to make amendments. However, to enable a coordinated and neat application of these processes, Members ought to give ample time to the Budget Committee to consult the Cabinet Secretary and make its report.

Hon. Members, having said that, I want to uphold the ruling made by the Deputy Speaker on 3<sup>rd</sup> April, 2014. The ruling was based on the written recommendation of the Budget and Appropriations Committee which is the relevant Committee for the purposes of the said paragraph 3 of Article 114 of the Constitution. In that ruling, the Deputy Speaker ruled that following the recommendations of the Committee, only the proposed amendments by the Member for Balambala would be considered in the Committee of the whole House. However, even those amendments can only be admitted if read in the manner recommended by the Committee and if moved by the sponsor of the Bill.

I also direct that this procedure shall apply today to the Division of Revenue Bill which is listed in today's Order Paper.

I thank you.

(Applause)

### PAPERS LAID

**Hon. A.B. Duale:** Hon. Speaker, I beg to lay the following Papers on the Table today, Tuesday, 22<sup>nd</sup> April, 2014:-

Performance Audit Report of the Auditor-General on the Waiting Time in the Registration of Land Titles in the Ministry of Lands, Housing and Urban Development prepared pursuant to Article 229(7) of the Constitution and Section 31(2) of the Public Audit Act, 2011.

The Report of the Auditor-General on the Financial Statements of the Golf Hotel Limited for the year ended 30<sup>th</sup> June, 2013.

The Report of the Auditor-General on the Financial Statements of the Technical University of Mombasa for the year ended 30<sup>th</sup> June, 2013.

The Annual Report and Financial Statement of the Kenya Tourism Board for the year ended 30<sup>th</sup> June, 2012.

The Annual Report and Financial Statements of the Geothermal Development Company Limited for the year ended 30<sup>th</sup> June, 2013.

Sessional Paper No.8 of 2013 on National Values and Principles of Governance.

I thank you, hon. Speaker.

**Hon. Speaker:** Hon. Members, and I think this is important, the first Report which is the Performance Audit Report of the Auditor-General on the Waiting Time in the Registration of Land Titles in the Ministry of Lands, Housing and Urban Development prepared pursuant to Article 229(7) of the Constitution and Section 31(2) of the Public Audit Act, 2011, is referred to the Public Accounts Committee. That is the appropriate Committee to deal with this matter.

With regard to the Sessional Paper No.8 of 2013 on National Values and Principles of Governance, that Report is referred to the Departmental Committee on Administration and National Security.

The other Reports will be referred to the Public Investments Committee because they relate to the financial statements relating to public investments.

That is just for avoidance of doubt and to remove any cobwebs that may still exist in our minds. It is in keeping with the last ruling that I made before we went on recess.

### REQUESTS FOR STATEMENTS

#### TARMACKING OF RUIRII-KIRUA-KIBIRICHIA-KISIMA ROAD

**Hon. Kinoti:** Thank you, hon. Speaker. Pursuant to the Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding the status of tarmacking of Ruirii-Kirua-Kibirichia-Kisima Road in Buuri Constituency, Meru County. The road has a total length of 20 kilometers and links two of the busiest roads in Kenya, namely B6 and A2. Ten years ago, eight kilometers of this road were tarmacked from Highway B6 through Kirua Market up to Kibirichia Market. This was supposed to continue up to A2

Highway in Kisima, but to date, this has not been done. Ten years later, even the eight kilometers tarmac that was done has got worn out. This road is key to linking socio-economic development of the region, notably the constituency where a long section of this road passes.

The Chairperson of the Committee should inquire into and report on the following:-

(i) why Ruirii-Kirua-Kisima Road was tarmacked halfway instead of doing the entire 20 kilometres linking B6 Highway to A2 Highway;

(ii) the tarmac which was used in the eight-kilometre section ten years ago is currently worn out; and

(iii) any plans in place to tarmack the entire 20 kilometres of the Ruirii-Kirua-Kibirichia-Kisima Road.

**Hon. Speaker:** The Chair of the Committee on Transport, Public Works and Housing, hon. Kamanda.

**Hon. Kamanda:** Hon. Speaker, one week will be enough. On that note, I would like to extend my invitation to the Member to a meeting we have scheduled for Tuesday, 29<sup>th</sup>. I would also like to extend the same invitation to hon. Mbadi on another Statement that he raised. He should also appear in the Committee on 29<sup>th</sup> April, which will be on Tuesday.

**Hon. Kinoti:** Hon. Speaker. One week is okay with me. I also want to thank the Chairperson.

**Hon. Speaker:** Do not give thanks now. Not yet. You do not know what the Committee will come up with.

**Hon. Kinoti:** I promise to attend the Committee meeting when the Cabinet Secretary will be discussing the same on Tuesday, 29<sup>th</sup> April.

**Hon. Speaker:** Hon. Gideon Irea, you appear to be excited about that Statement.

**Hon. Irea:** Hon. Speaker, yes. The Statement that has been sought should include matters relating to Mati Road. Roads in Meru are completely forgotten.

**Hon. Speaker:** Just sit down. It is not yet time for debate. We need to get the report. In fact, hon. Irea, I would advise you to make yourself available on the dates of the Committee meeting that the Chairman has stated. There you can make all those pleas about the deplorable or other conditions of roads in Meru and other parts of the Republic also.

Hon. Omondi Anyanga.

#### ESTABLISHMENT/ EQUIPPING OF FISH PROCESSING PLANTS

**Hon. P.E.O. Anyanga:** Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Agriculture, Livestock and Cooperatives regarding Government programmes for establishing and equipping fish processing plants throughout the country, particularly in Nyatike District and other districts along the shore of Lake Victoria.

In the Statement, the Chairperson should inquire into and report on the following:-

(i) the measures the Government is taking to provide fish farmers with facilities, stating the budgetary allocation for this activity in the 2013/2014 Financial Year;

(ii) the number of fish processing plants set up in the country since the inception of the programme and in particular in Nyatike Constituency; and

(iii) the measures the Government is taking to ensure that fish farmers are not exploited by middlemen who have over the years bought their produce at throw away prices and then take billions of shillings in profits.

**Hon. Speaker:** The Chairperson, Agriculture, Livestock and Cooperatives, hon. Nooru, you are still without a card? Surely, you cannot have Chairpersons of Committees who cannot come with their cards. We appreciate that we are people of different backgrounds and persuasions, but, hon. Nooru, I am noticing that this is the second time that again you are without your card, and you want to benefit from the magnanimity of hon. Kamama.

**Hon. Nooru:** Hon. Speaker, as you have said, some of us have three, four or five wives. So, we leave one in one place and may forget. The Marriage Act has allowed us this.

*(Laughter)*

**Hon. Speaker:** Hon. Nooru, what is happening to the microphone? The microphone is going off yet hon. Kamama has graciously allowed you to use it.

**Hon. Member:** On a point of order, hon. Speaker;

**Hon. Speaker:** There is nothing out of order as yet.

**Hon. Nooru:** Hon. Speaker, I do not know what is wrong with it. With a light touch, some of us are married to four women and are waiting for the fifth one. So, I I have forgotten my card in the coats.

*(Laughter)*

**Hon. Speaker:** Hon. Nooru, I do not know the cause of the mirth. What is the cause of the laughter?

**Hon. Nooru:** Hon. Speaker, this is a problem of the new marriage law. So, you can excuse me for that. The Member very well knows that the functions of the Department of Fisheries have been devolved to the counties despite the fact that the Ministry was just trying to complete some plants, which were tendered for before devolution came into being. They were just trying to complete the few plants and hand them over to the counties.

**Hon. Speaker:** Can anybody hear what you are attempting to say? When are you going to give the Statement? Please, not a long story.

**Hon. Nooru:** Hon. Speaker, it is not really a story; I was just saying that the functions relating to fish have been devolved to the counties.

**Hon. Speaker:** Functions of fish?

**Hon. Nooru:** The functions of the Fisheries Department. The production, processing and everything have been devolved. Nevertheless, I will give the answer in the next two weeks.

**Hon. Speaker:** Hon. Anyanga, what is it that has been said?

**Hon. P.E.O. Anyanga:** Hon. Speaker, even you did not hear what the Member was trying to communicate. I want him to come out very clearly, so that I can hear what he is talking about.

**Hon. Nooru:** Hon. Speaker, I was just saying that the functions of the Fisheries Department, like the production and processing of fish, have been devolved to the counties. Nevertheless, I have said I will give the answer within the next two weeks.

**Hon. Speaker:** In two weeks. Hon. Anyanga.

**Hon. P.E.O. Anyanga:** Hon. Speaker, I am comfortable with two weeks.

**Hon. Speaker:** Hon. Francis Kigo Njenga. Is he present? Member for Gatundu North! Absent and not desiring to be present. The request is dropped.

*(Request for Statement dropped)*

Hon. Timothy Wanyonyi, Member for Westlands!

OPERATIONS OF NATIONAL COUNCIL  
FOR PERSONS WITH DISABILITIES

**Hon. Wetangula:** Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Labour and Social Welfare regarding the operations of the National Council for Persons with Disabilities and the National Fund for Persons with Disabilities.

The Persons with Disabilities Act, No.14 of 2003, mandates the Cabinet Secretary to appoint persons to the Council and boards, an obligation that the Secretary has negated thus crippling operations since October, 2013, when the two bodies were disbanded. In the Statement, the Chairman should inquire and report on the following:-

- (i) why it has taken long for the Secretary to reconstitute these boards;
- (ii) whether the safety of the funds held by the Fund has been compromised; and
- (iii) when the Secretary will form the boards in accordance with the statutory provisions.

**Hon. Speaker:** Hon. Were David!

**Hon. Were:** Hon. Speaker, I should be able to give the Statement in the next two weeks.

**Hon. Wetangula:** I hope he means two weeks because there are other two Statements which I had requested, and which have not been given so far and it is four weeks. I hope he means two weeks.

**Hon. Speaker:** Very well. This should be a straightforward matter because the law requires that the Minister appoints those people. It is very clear. There are various categories and this should not take long.

Hon. Francis Mwangangi!

POLLUTION OF THIKA RIVER BY FRUIT CANNERS

**Hon. Kilonzo:** Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources regarding pollution of Thika River by fruit canners along the stretch between Thika and Yatta.

The canners spray their fruit farms with a spray whose content is unknown. The drainage system in place in those farms leads to Thika River, which passes through Yatta Constituency. The residents of Yatta and its environs then draw water from Thika River for domestic use and irrigation purposes. In the Statement, the Chairperson should inquire and report on the following:-

(i) the content of the spray used and the potential harm it may cause to the public using the river's water downstream;

(ii) whether there are any plans by these fruit canners to treat this affluent, which is released into the river for the safety of the users and the environment downstream; and

(iii) the plans in place by the relevant Government bodies to prevent such occurrences in future.

**Hon. Speaker:** The Chairperson, Environment and Natural Resources, hon. Amina Abdalla or the Vice-Chair. Are they out on official business?

**Hon. Members:** A Member is here.

**Hon. Speaker:** A Member of the Committee? No, no. I will not allow that. The question will be referred to the Committee through the Clerk's office. We do not want any commitment by any Member. The Committee will receive this request and it is directed to table a report within two weeks from the date of today. We must begin to do things differently; if we allow Members to give undertakings, then we will be complicating matters for them because the Committee on Implementation is likely to ask them why they committed themselves to doing this or the other when they fail to do what they will have undertaken to do. Let it be a direction from the Chair that the Committee tables a report; we can follow it up within two weeks from now.

Hon. Kombe, Member for Magarini! Absent and not desiring to be present?

**Hon. Kombe:** I am here, hon. Speaker.

**Hon. Speaker:** Today you are at an unusual corner. I think it is reserved for Members who do not want to sit in the Chamber for many hours.

#### OPERATIONS OF MOMBASA SALT WORKS COMPANY

**Hon. Kombe:** Hon. Speaker, I thought all seats were equal.

Pursuant to Standing Order No.44(2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources on the operations of a salt processing factory. Mombasa Salt Works Company Limited management at Ngongoni Town in Magarini Constituency is using firewood for the processing of salt. This exercise is harmful to the environment, flora and fauna. In the Statement, the Chairperson should inquire into and report on the following:-

(i) any measures put in place by the Ministry to safeguard indigenous trees plus the mango and cashewnut trees, which are in danger; as I speak, the area is almost a desert as all the cashewnut and mango trees have fallen down;



(ii) the action taken against the company for polluting the environment; as a result, many people have respiratory problems resulting to medical expenses that have not been planned for; and

(iii) whether there are any plans to compensate the people who are suffering from the respiratory diseases.

**Hon. Speaker:** The Chairperson, you have finally found your way?

**Hon. (Ms.) Abdalla:** Thank you hon. Speaker; you know there are no roads where I come from; so, it has been hard getting here.

**Hon. Speaker:** What did you say? There are road blocks?

**Hon. (Ms.) Abdalla:** Hon. Speaker, I apologise for coming in late, that is what I said.

*(Laughter)*

**Hon. Speaker:** Hon. Amina, the Chair wanted to remind you that the House resumes at 2.30 on Tuesday.

**Hon. (Ms.) Abdalla:** Yes, hon. Speaker I apologize for coming in late. Having said that, the request for Statement from the hon. Kombe was in the last Session and we have done most of the work; so, we will be able to give him the Statement in ten days.

**Hon. Speaker:** Hon. Amina, there is also the request from hon. Mwangangi. The direction from the Chair is that you give a report to his request in two weeks from the date of today.

Yes, hon. Kombe.

**Hon. Kombe:** Thank you, hon. Speaker. Let ten days be ten days.

**Hon. Speaker:** Hon. Gakuya James.

#### STATUS OF AGREEMENTS BETWEEN WATER COMPANIES AND DEFUNCT LOCAL AUTHORITIES

**Hon. Gakuya:** Thank you, hon. Speaker. Pursuant to Standing Order No 44(2)(c), I wish to request a Statement from the Chairperson of Departmental Committee of Environment and Natural Resources regarding the transition from Central Government to the devolved system of water services board. The Chairperson should inquire into and report to the House on the following:-

(i) whether in the transition from the Central Government to the devolved system of government, prior agreements between the defunct local authorities and water companies are still binding;

(ii) clarify the status of an agreement between the Nairobi Water and Sewerage Company, Athi Water Services Board and the former City Council of Nairobi that lapsed two years ago, and whether it has been renewed or renegotiated; and,

(iii) state whether the assets of the water services companies, including those of the Nairobi Water and Sewerage Company, have been transferred safely to the relevant county governments, including an update on the composition on the relevant boards.

Thank you.

**Hon. Speaker:** Hon. Amina

**Hon. (Ms.) Abdalla:** Thank you, hon. Speaker. We will be able to give this Statement in three weeks. The reason why I am asking for more time is that as you are aware, today one of the Bills that are coming for First Reading is the Water Bill and part of the amendments in that Bill is the devolving of the services board. So if you could give us three weeks we deal with the current situation, he will have the opportunity to amend and direct how the devolving of that sector should happen when the Bill comes to Second Reading.

**Hon. Speaker:** Hon. Gakuya.

**Hon. Gakuya:** Thank you, hon. Speaker. I would like to state that, in fact, this request was here in the last Session of Parliament and actually took more than a month to be responded to. This time round still we are without an answer. I would urge the Chairperson to, with all the seriousness, make sure that three weeks will be three weeks. Thank you.

**Hon. Speaker:** I thought you were the one who ought also to have considered what she said regarding the proposed law before the House.

Very well; hon. Huka of Mandera South Constituency.

#### OPENING OF REGISTRATION OFFICES IN MANDERA CENTRAL DISTRICT

**Hon. Huka:** Thank you, hon. Speaker. Pursuant to Standing Order No 44 (2)(c), I wish to request a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the opening of offices and and posting of Registration Officers for births and deaths to Mandera Central District. Mandera Central has been without the offices for registration of births and deaths since its establishment, and this has hampered service delivery in the region and people are forced to travel for more than 230 Kilometers to access such crucial services. In the Statement, the Chairperson should inquire into and report on:-

(i) the reasons for inordinate delay in opening of offices and posting of officers to the district; and,

(ii) when the offices will be opened and officers posted to the district.

Thank you, hon. Speaker.

**Hon. Speaker:** Hon. Kamama

**Hon. Abongotum:** It is very unfortunate that we do not have these officers, considering the fact that, that place is a border point, which some crooks can just cross over and cause problems. I think we will require ten days to expedite this matter, so that officers can be posted by the Minister as soon as possible. Ten days, hon. Speaker.

**Hon. Speaker:** Hon. Huka.

**Hon. Huka:** Thank you, hon. Speaker. I would not mind waiting for ten days, though it would be improper; the district has been without offices and officers for a long time. Let me hope that, since I had another request and I was expecting an answer from the hon. Chair, he will combine the two. I request that he invites me, so that I can attend his meetings since both questions fall under the same Ministry. Thank you.

**Hon. Speaker:** Very well; Yes hon. Mpuri.

**Hon. Aburi:** Jambo la nidhamu, Bw. Spika. Yangu ni machache. Tukiwa katika Bunge, watu wanauliza maswali na yanajibiwa. Hayo ni maswali yanayohusu nchi yetu ya

Kenya. Lakini mtu kama Mhe Duale alisema kwamba bomu sizilipuliwe kule Eastleigh lakini zilipuliwe kule Machakos; nataka kumuuliza kama Machakos haina watu? Nataka afahamu kwamba ina watu!

Ni lazima asimame atueleze ile bomu alisema igonge Machakos---

**Hon. Speaker:** You are totally out of order!

*(Laughter)*

Yes, hon. Duba

**Hon. Duba:** Thank you, hon. Speaker. On Wednesday 12<sup>th</sup> March, I did seek a Statement from the Chairperson of the Administration and National Security Committee, hon. Kamama, under Standing Order No. 44(2)(c) and up to now I have not gotten any indication that the Statement is forth coming. I just wanted to seek your indulgence to know what has happened and to have a precise---

**Hon. Speaker:** Hon. Kamama, do not take a long time; he is just asking for the status of his Statement.

**Hon. Abongotum:** Thank you, hon. Speaker. Indeed, I promised to expedite and give the Statement in good time, taking cognizance of the fact that Moyale has really been having quite a number of problems. I thank the Members of Parliament because they have done a lot to bring peace in that area. I will organize and liaise with the Ministry to ensure that at least we give this answer before Thursday this week.

Thank you, hon. Speaker.

**Hon. Speaker:** By Thursday this week, the Statement will be ready?

**Hon. Abongotum:** I will insist that this Statement comes before Thursday this week.

**Hon. Speaker:** Therefore, if it is before Thursday, then it must be here between today and tomorrow. Very well, hon. Duba, I think you can wait for one more day.

**Hon. Duba:** Thank you, hon. Speaker. That is quite expedited, I will accept it.

**Hon. Speaker:** There are too many interventions. Are they on Statements that have not been answered? Hon. Dawood.

**Hon. Dawood:** Thank you, hon. Speaker. Five weeks ago, you directed that the Chairman of the Committee on Lands should give me a Statement within two weeks. He is a good neighbour and a friend but I think he has forgotten about it. It is from the last Session.

**Hon. Speaker:** Hon. Members, I think the Chairs of Committees do not require directions from the Chair to give responses. When they give an undertaking that they will do something within a given period, it behooves them to come to the Floor of the House and say whether the Statement is ready or not and give reasons. But they cannot keep quiet and assume that the Member who sought the Statement has forgotten.

Hon. Alex Mwiru, I know that hon. Simba Arati also mentioned to me here that he sought a Statement from you. Maybe, you could give an indication to all those who have sought Statements from you, when you are going to respond.

**Hon. Mwiru:** Thank you, hon. Speaker. Indeed, hon. Simba Arati has also approached me on the same issue. We have already settled the matter and I will give the Statement on Thursday.

On the issue of hon. Dawood, his is a little bit technical. We were trying to give it within the stipulated time but I want to apologize because I did not approach him at that moment. If he gives me an extra one week, I will deal with the technical issues, so that we can give a concrete answer.

**Hon. Speaker:** Very well, it is directed that you do so in a week's time.

**Hon. Member:** Also mine.

**Hon. Speaker:** Hon. Members, everybody is saying "also mine" or "mine included". Members who have sought Statements from hon. Alex Mwiru, can you all kindly approach him and remind him when you sought them, so that he can remember and try to arrive at some consensus on when it is most suitable to get those Statements?

Hon. Members, remember some of the requests that you have placed do not even require the Committees to sit and deliberate, it is just a matter of the Chair of the Committee writing to the appropriate Government agency and getting a response. That is also a quicker way of trying to address hon. Members' concerns.

Hon. Jared Opiyo, you also have something which is burning.

**Hon. Opiyo:** Yes, hon. Speaker. About two months ago, I did seek a Statement from the Committee on Agriculture, Livestock and Cooperatives.

**Hon. Speaker:** Committee on?

**Hon. Opiyo:** The Committee on Agriculture, Livestock and Cooperatives, which is chaired by hon. Nooru and he actually gave a commitment that he would deliver the Statement in two weeks. When it finally came, they were not there in the House to read it and I raised this matter.

**Hon. Speaker:** What was the Statement about so that he can remember? You can see he is advancing---

**Hon. Opiyo:** Concerning illegal importation of sugar into the country.

**Hon. Speaker:** Hon. Nooru, it is the issue on illegal importation of sugar, a Statement sought two months ago by hon. Opiyo, which you promised to address in two weeks, but two months down the road there is no response. Are you able to respond?

**Hon. Nooru:** Thank you, hon. Speaker. Just this morning, I had a committee meeting and we have that answer---

**Hon. Speaker:** Just continue speaking, the microphone has got no problem, do not worry.

**Hon. Nooru:** This morning I had a committee meeting and we have received an answer from the Cabinet Secretary, Ministry of Agriculture, Livestock and Fisheries. However, we found that the answer was not satisfactory to us and we have referred it back to the Ministry so that the Cabinet Secretary can come next week and give us some details. They have just given general figures without facts and we require those facts for us to answer that question correctly.

**Hon. Speaker:** These are the kind of Statements I am saying you do not require a committee to sit. The Member has sought information which is not in your possession. You just refer the Statement to the appropriate Cabinet Secretary so that they give you a response, which you transmit to the Member. When the Member is not satisfied with it, then you can explore ways of further debating it. But, if you make it a point that you need to debate before even getting a response, then you will stay there forever.

So, just get the Statement which the Cabinet Secretary has issued and bring it to the Floor of the House. You read it and every Member here will be seized of the information or the message contained therein. Then if hon. Opiyo wants the matter to be further investigated, there will be basis. The best thing is first of all to get the response from the Ministry.

**Hon. Nooru:** Thank you, hon. Speaker. As you have directed, we can answer that question even tomorrow morning, if that is the case. We thought that we needed some facts and figures, which are detailed. We can give the answer even tomorrow morning.

**Hon. Speaker:** Indeed, in those matters we want letters accompanying the requests issued. The Clerk needs to give the Cabinet Secretary or whoever provides you with a response a timeframe within which to respond. That should be an easier way of getting responses so that Members' concerns do not remain in abeyance forever. You can get that in a week's time?

**Hon. Nooru:** Even this week we can get that answer.

Thank you, hon. Speaker.

**Hon. Speaker:** Very well, proceed. Hon. David Ochieng.

**Hon. Ochieng:** Thank you, hon. Speaker. I rise also on a very important matter. As you would know in this country, apart from accidents being caused by motor vehicles, the means of transport called *boda boda* has now become a cause of death for so many Kenyans. I sought a Statement here on 25<sup>th</sup> February, 2014 from the Leader of Majority Party. I have been following him in the corridors and everywhere and you know he is a big man. He tells me he will give me the answer and he does not. From 25<sup>th</sup> February, 2014 to date is almost three months.

**Hon. Speaker:** You sought a Statement from which committee?

**Hon. Ochieng:** The Leader of Majority Party.

**Hon. Speaker:** From which one?

**Hon. Ochieng:** From the Leader of Majority Party.

**Hon. Speaker:** Leader of Majority Party, about *boda boda* operators. Why do you think that matter falls under his docket? Since that is where you directed it, let him respond.

**Hon. Ochieng:** This is a very broad policy issue.

**Hon. Speaker:** Let him respond.

**Hon. A.B. Duale:** On the outset, let me say that I do not give answers on the corridors, in bars or lounge. I give answers on the Floor of the House. I got the answer from the Cabinet Secretary for Transport and Infrastructure, but I want to confess that the economic aspect of the *boda boda* operation in the country is missing. I have discussed with my colleague, who is a serious member of an amorphous political coalition, but I will deliver it on Tuesday next week.

**Hon. Ochieng:** But he did not discuss with me.

**Hon. A. B. Duale:** I will deliver it on Tuesday.

**Hon. Speaker:** Very well.

**Hon. Ochieng:** Like I said, hon. Speaker---

**Hon. Speaker:** No, is Tuesday Okay?

**Hon. Ochieng:** Hon. Duale is a big man, why is he talking about coalitions that are not there? I belong to ODM. Can he give the report next week?

Thank you, hon. Speaker.

**Hon. Speaker:** Hon. Kangongo.

**Hon. Bowen:** Thank you, hon. Speaker. At the beginning of February, I sought a Statement from the Chairperson of the Committee on Education, Research and Technology regarding school fees that is paid by students in national schools and all Government schools.

**Hon. Speaker:** You sought a Statement from the Chair of the Committee on Education?

**Hon. Bowen:** The Chair of the Committee on Education, Research and Technology.

**Hon. Speaker:** Chair of the Departmental Committee on Education, Research and Technology?

**An hon. Member:** Her handbag is around.

*(Laughter)*

**Hon. Speaker:** It is reported that her handbag is on her chair but she is physically not present to make a response, hon. Kangongo. So, I will advise that you pursue her personally because we surely cannot direct any responses to the handbag. Hon. Rose Nyamunga

*(Laughter)*

**Hon. (Ms.) Nyamunga:** Thank you, hon. Speaker. I also sought a Statement from the Departmental Committee on Education, Research and Technology concerning the number of school dropouts in this country and what the Government is doing about it because if we are not careful the number is getting out of hand. I did that four weeks ago.

**Hon. Speaker:** Well, similarly you can see the same applies, that we cannot get a response from the handbag. Is the Vice-Chair of the Committee present?

**Hon. Members:** No.

**Hon. Speaker:** Since the Chair is not present and the handbag is present, is the Vice-Chair, some handbag or some other objects present?

**Hon. (Ms.) Nyamunga:** Its members are present.

**Hon. Speaker:** You are neither the Chair nor the Vice-Chair. If you are just an ordinary member stay put. You are neither the handbag nor the Vice-Chair and so what will you tell the House? Hon. Rose Nyamunga, I would suggest that again you raise the matter with the Chair of the Committee but there will be a general direction being given in the course of this week. We cannot have Members raising issues and they are not being responded to. Chairpersons of Departmental Committees, you are put on notice. This is important including those of you who are standing. The hon. Member for Nyandarua.

Chairpersons of Departmental Committees, you are put on notice. We cannot be spending valuable parliamentary time where Members are lamenting that they have sought Statements and responses are not forthcoming. That cannot be a legitimate way of spending parliamentary time. So, Chairs of Committees you are put on notice. It reflects on your performance. When Members say that they raised issues two to three months ago

or four weeks ago and responses have not come, I think it is an indictment on your performance or indeed on yourselves.

Hon. Maina Kamanda, do you want to respond on behalf of the Chairs of Committees. You are the Chairperson General?

**Hon. Kamanda:** Hon. Speaker, it is not all Chairpersons of Committees. Be specific on the Chairpersons who have not done their work. This is because I cannot remember which Statement has been sought from the Departmental Committee on Transport, Public Works and Housing which we have not issued. For the ones which we have not issued, I have given a date on when those Members will appear before us and we will issue them.

**Hon. Speaker:** Therefore, the more reason why you should not feel agitated because you have done your work correctly but Chairs of Committees who have not responded to Statements requested by Members are letting the House down by not responding to those requests. If you are experiencing any difficulties in getting the responses, you have not brought that to the attention of the Speaker or at least to the administration of Parliament. So, there is no reason that can be advanced as to why you are not responding. It cannot just be that Members raised issues and they are not being responded to. There is no debate on this. Hon. Members, I want to keep reminding you of your own Standing Orders. There is nothing that the Speaker will say that there will be reason for debate. So, I do not need assistance from anybody. Not on these matters. Are all these requests about reminding Chairs? Now, this is not proper. Hon. Limo.

**Hon. Limo:** Thank you, hon. Speaker. I want also to remind the Chair of the Departmental Committee on Agriculture, Livestock and Cooperatives about the request which I made. It was the second time I was requesting this Statement about the lethal necrosis disease which has affected most parts of Rift Valley. Now farmers are really anxious about what the Government is doing because we have not seen the reply from the Chair.

**Hon. Speaker:** Again, Chair of the Departmental Committee on Agriculture, Livestock and Cooperatives address that issue. There is no need of you responding now. It is just important. Just respond to all the requests that have been addressed to you.

Hon. Ken Okoth.

**Hon. Okoth:** Thank you, hon. Speaker. A few weeks ago, and during the last Session, I requested a Statement from the Departmental Committee on Labour and Social Welfare about young people who get employed by the Government and go beyond the six months probation period as stipulated in the law. I have not got a response and that is what I am waiting for. I was promised, the last time this Statement was asked, that I would get a response within two weeks.

**Hon. Speaker:** Hon. Were, please respond to his Statement. Can we put a blanket undertaking that all these responses which have gone beyond the time that Members were promised will be responded to by the end of next week on Thursday?

Hon. Simiyu Eseli.

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

**Hon. Speaker:** Hon. Members, just look at your Standing Orders; this noise about points of order when you are sitting in your place is not the normal way of doing things. Just put in a request.

**Hon. (Dr.) Simiyu:** Hon. Speaker, you had already said that you are up to the task to handle this. I intended to suggest that perhaps the Leader of Majority Party should rein in his troops and make them work. I would suggest to him that maybe one of the things to make them work is for the ones who are consistently not bringing Statements, he can withdraw their parking space slots and give them to my deputy party leader and that way it might make them wake up and work.

**Hon. Speaker:** Well, remember that the Chairs of Committees are Chairs of Committees of the House. Membership is drawn from both sides of the House but hon. Eseli is making a useful proposal that maybe hon. Mwashetani can take it up.

Hon. James Gakuya.

**Hon. Gakuya:** Thank you, hon. Speaker. I sought a Statement from the Departmental Committee on Labour and Social Welfare regarding the menace of street families in the city and other towns within the country. We are now two months down the line and I have not got the Statement.

**Hon. Speaker:** The hon. David Were is just next to you. Walk close to him and remind him so that by next week, same date the response is made available.

Hon. Kathuri Murungi.

**Hon. Murungi:** Thank you hon. Speaker. Two months ago I read a Petition on behalf of the tea farmers in South Imenti Constituency and by extension the whole country because right now tea farmers have missed out on mini bonuses. I want him to be here so that---

**Hon. Speaker:** From which Committee?

**Hon. Murungi:** From the Departmental Committee on Agriculture, Livestock and Cooperatives.

**Hon. Speaker:** We must put an end to this! Hon. (Ms.) Nyamunga, do you still want to say something?

**Hon. (Ms.) Nyamunga:** Yes, I do not think that it is only the Chairpersons who are delaying most of the questions in the House. It is also taking too long for the questions to be brought to the House. I have asked several questions but it has taken more than two months, yet they have not even been listed. So, I do not know how long it will take. Every time I check, they tell me that there is a long list but I see so many questions coming up. There is a delay.

Secondly, there should be proper use of language. If somebody is speaking in Kiswahili, let it be proper Kiswahili. If it is English, let it also be proper English because we are in the glare of the whole public and the whole world. So, the use of language is very critical in this House.

**Hon. Speaker:** So, you wanted to draw my attention to the arrival of the Chairman of the Departmental Committee on Education, Research and Technology? That would have been more useful. Who is using which language that is foul?

**Hon. (Ms.) Nyamunga:** Grammar!

**Hon. Speaker:** Hon. (Ms.) Nyamunga, I am sure you were not in the Tenth Parliament when it enacted the Elections Act, No.11 of 2011. You should revisit the requirement in Section 22 thereof. The Parliament then debated the issue of qualifications for running for various offices. So, in the wisdom of that Parliament, they put some



standard and so we will live by that standard. This is because we cannot begin by conducting grammar classes now at this late period in the day.

*(Laughter)*

**Hon. (Ms.) Kiptui:** Hon. Speaker, my attention has been drawn to an action that is taking place and I would want to find out whether it is parliamentary. Across the Floor, I saw my friend, hon. Mati and the hon. Member behind him chewing. I do not know whether they are chewing gum or something else. Is it parliamentary to chew in the House?

**Hon. Speaker:** To chew?

**Hon. Members:** Chewing the cud!

**Hon. Speaker:** Hon. Members, how did hon. (Ms.) Kiptui notice hon. Mati chewing?

*(Laughter)*

Hon. Mati is opening his mouth so wide that if he is chewing, whatever he was chewing, he has either swallowed it or he has dropped it.

**An hon. Member:** He has swallowed it; it was *kamoti*.

**Hon. Speaker:** But remember there has been advice about all manner of things. Hon. (Ms.) Chege, I will give you a chance to make your point because several requests have been made.

**Hon. (Ms.) S.W. Chege:** Hon. Speaker, on the issue of Form One intake, we are going to have a meeting with the taskforce that was supposed to complete its work on 16<sup>th</sup>. So, this Thursday they are going to make a presentation to the Departmental Committee on Education, Research and Technology. So, all hon. Members who have questions about the Form One intake and fee structure should join the Committee at 10.00 a.m. so that they can listen to the Cabinet Secretary and interrogate submissions by the taskforce.

**Hon. Speaker:** We will now move to the next Order. We must transact business of the House. Hon. Members who wish to remind the Chairs of Committees about Statements, please approach them and remind them that you sought Statements from them and they have not been brought so that we can get those responses in the course of this week and next week. Let us proceed with the business.

## BILLS

### *First Readings*

THE WATER BILL

THE MINING BILL

*(Orders for First Readings read – Read the First Time)*

*and ordered to be referred to the relevant Departmental Committees)*

*Second Reading*

THE DIVISION OF REVENUE BILL

**Hon. Ngong'o:** On a point of order, hon. Speaker.

**Hon. Speaker:** Hon. Ngong'o, before the Leader of Majority Party moves, let us hear your point of order.

**Hon. Ngong'o:** Hon. Speaker, I do not want to interrupt the Leader of Majority Party as he prepares to move this very important Bill but before this Bill is moved, I wanted some clarity from the Chair. When I read the Public Finance Management (PFM) Act, Cap.191, it says that each year when the Budget Policy Statement is introduced, the Cabinet Secretary shall submit a Division of Revenue Bill. The key words here are “a Division of Revenue Bill” and my understanding is that it should be one Bill; and County Allocation Revenue Bill. Our Standing Order No.233 spells out how we should transact or consider the Division of Revenue Bill. It is very clear that once we are done with it and following the Supreme Court's ruling, we are supposed to refer it to the Senate for concurrence under our Standing Order No.42. My concern is that this Bill was introduced in the House and went through First Reading and at the same time, it is in the public knowledge that the Senate has also introduced a Division of Revenue Bill in the Senate for First Reading. My concern is: Are we transacting two different Bills? If that is the case, which Bill originated from the Treasury because the Public Finance Management Act spells out – and that is also in the Constitution – that the Division of Revenue Bill must come from the Treasury and introduced in Parliament. We will have two Bills running concurrently; one introduced in the National Assembly, gone through First Reading and we want to consider it for Second Reading and another one in the Senate. This leaves me confused as to which Bill is authentic because you can only have one Division of Revenue Act in a financial year. So, I am a bit concerned and I wanted the Chair to make communication on this so that we are sure that we are transacting a legitimate Bill, so to speak.

**Hon. Speaker:** Hon. Ngong'o, I think the point you are making is valid and quite legitimate. Indeed, without even going to the PFM Act, the Constitution contemplates in Article 217 that there will be a Division of Revenue Bill and the County Allocation of Revenue Bill originating from the Treasury submitted to Parliament. So, maybe the Leader of Majority Party in moving this will confirm whether or not what he is moving is what was submitted to Parliament from the National Treasury so that other Bills which--- Kenyans are at liberty to even propose all manner of legislation but it may not enjoy the title “Division of Revenue Bill”. So, other people are at liberty to do what they want to do but we want to hear from the Leader of Majority Party whether the Bill he is introducing debate on is the one submitted, in terms of the Constitution under the PFM Act and indeed our own Standing Orders, from the National Treasury.

**Hon. A.B. Duale:** Hon. Speaker, on the outset, I want to confirm that the Division of Revenue Bill 2014 was submitted by the National Treasury to Parliament and more specifically to the National Assembly. It went through the First Reading. It went to the

Budget and Appropriations Committee of the National Assembly of which hon. Ngong'o is a Member led by the able Chairman, hon. Musyimi.

But last week, we heard of a Division of Revenue Bill which was presented to the Senate. I got a copy of it and the only difference between that Bill and this Bill is only the signature of the person signing. I do not want to speak for the Senate. The County Revenue Bill, ideally, starts from the Senate and then it comes here. I am sure that when this House, in its wisdom, deals with this Division of Revenue Bill, it will go to the Senate in a form of a Message and the Senate will deal with it. That Message is this Bill. Now that the Bill has gone through the First Reading, in my opinion as hon. Duale and as the Leader of Majority Party, it will not be dealt with. Procedurally, the Senate will only deal with the Message that will be sent from the National Assembly. So, as to what they will do with the Bill that they have published, then that is a question that can be put to the Senate. But I think for us, we will deal with this Bill that went through all the processes, including the Budget and Appropriations Committee. The Speaker, in his wisdom, will send it as a Message to the Senate. The Senate will use that, just as the Treasury has used it, to prepare the County Allocation Revenue Bill, which originally would start from the Senate and then come to the National Assembly.

I beg to move that the Division of Revenue Bill, 2014 (National Assembly Bill No 13 of 2014) be read a Second Time.

The objective of this Bill is to provide an equitable division of revenue raised nationally between the two levels of Government; the national and the county governments, for the specific Financial Year, 2014/2015. This is pursuant to Article 201(b) of the Constitution which states:-

“The public finance system shall promote an equitable society, and in particular-

(i) the burden of taxation shall be shared fairly;

(ii) revenue raised nationally shall be shared equitably among national and county governments; and,

(iii) expenditure shall promote the equitable development of the country, including by making special provision for marginalized groups and areas---

It should also be noted that the revenues allocated even to the national government--- This must come out clearly, even the money that we are going to allocate to the national Government, shall be ultimately spent either directly or indirectly at the county level, either as conditional or unconditional grants to the county governments.

Secondly, Article, 203 of the Constitution provides the criteria that shall be taken into account. That is provided for in Article 202 of the Constitution. One of the criteria provided for under Article 202 is national interest. We must look at our interests in terms of even security. We must look at the public debt provisions. We must look at the national Government and also the county governments so that they can perform their assigned functions, both in terms of development at the county and at the national level. How do we create a stable and predictable allocation of revenues? There is a provision in the Constitution on Article 203 that the county governments shall not get less than 15 per cent of revenue collected by the national Government. That is the basic threshold. A memorandum has been attached to this Bill. It explains how the national Government has taken into account the criteria used in Article 203 of the Constitution. In this Division of Revenue Bill, the county government's allocation for the Financial Year 2014/2015 is 43

per cent of the most recently audited accounts of revenue that have been received and approved by Parliament – that is for the Financial Year 2009/2010. Those allocations are far way above the minimum requirement of 15 per cent.

At this juncture, I want to urge the Public Accounts Committee of the National Assembly to fast-track the audited accounts of the other financial years 2010, 2011, 2012 and 2013, so that next year, we adhere to the law. We will share the revenue based on the audited accounts as approved by Parliament.

Article 205 of the Constitution provides that 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 (CRA) is consulted. That was done by a Committee of Parliament. The House has received presentations from CRA and has taken into account its recommendations. Article 218(1)(a) of the Constitution provides that, at least, two months before the end of each financial year, there shall be introduced in Parliament a Division of Revenue Bill, which shall divide the revenue raised between the two levels of Government. This is a matter that hon. Ng'ongo has raised. Of course, where the Constitution talks of Parliament, then a number of issues come on board between us and our colleagues in the Senate. I think the Division of Revenue Bill starts in the National Assembly and goes to the Senate, just as County Allocation of Revenue Bill starts at the Senate. This time, this Bill should have been in this House by 15<sup>th</sup> of February. It is coming late and we have missed the deadline as provided for in the Public Finance Management (PFM) Act, 2012 and, therefore, I would ask my colleagues that we fast-track the approval of this Bill in order to meet the deadlines. It is after we deal with this Bill and the County Allocation of Revenue Bill that the county governments will have the opportunity to prepare their budgets for approval, both by the assemblies and the Controller of Budget.

Article 218(2) of the Constitution further provides that the Division of Revenue Bill shall be accompanied by a memorandum explaining the revenue as provided by the Bill. If you compare this Bill with last year's, you will see a difference. Last year, the element of the explanatory memorandum was missing. This year, this Bill has all the explanations. There is a deviation from CRA and the Budget and Appropriation Committee. The Bill is very elaborate in terms of explanations. Article 203(1) also gives a summary of significant deviations from CRA. For Members to know why CRA is asking for 53 per cent and the Bill is giving 43 per cent to the counties, Clauses 1, 2 and 3 of this Bill relate to the preliminary provisions of the Bill. It is about the short title, definition of words, expressions, statements, objects and purpose of the Bill. Clause 4 of the Bill provides for the division of revenue raised by the national Government in respect of the Financial Year 2014/2015 between the two levels of Government. Clause 5 of the Bill provides for the mechanism for adjusting variations in revenue raised by the national Government. Clause 6 of the Bill, again, provides for a dispute resolution mechanism that should apply before instituting court proceedings as far as this Bill is concerned. The Clause includes the provision of personal liability on public officers who cause any State organ to incur cost because of referring disputes relating to division of revenue to courts prior to exhausting the available alternative resolution mechanisms.

Hon. Speaker, the First Schedule provides for the equitable share of the revenue raised nationally between the national Government and the county governments.

Hon. Speaker, this financial year, the National Treasury, after consultation with all the stakeholders; that is the Commission on Revenue Allocation (CRA) and the Budget and Appropriations Committee has allocated Kshs226.6 billion. This is an equivalent of 43 per cent as per Article 203(2) of the Constitution which talks about the threshold of 15 per cent.

The Kshs226 billion that will go to our counties is huge resources. If I speak for my county, a couple of months ago I witnessed a function where the county government of Garissa leased eight ambulances and recruited 245 paramedic officers from clinical officers, nurses, laboratory technicians to pharmacists. Those are the fruits of devolution. Never before have we seen in some counties 240 health workers. So, we expect the Kshs226 billion that will go to our counties to be used efficiently and accountably so that five years down the line the people of Kenya in the 47 counties will say that what they have seen from the devolved resources and power in these five years is what has never happened in 50 years since Independence.

Hon. Speaker, I request hon. Members to support this Bill. I beg to move and request hon. Katoo ole Metito, the Majority Whip to second the Division of Revenue Bill, 2014.

Thank you.

**Hon. Katoo:** Thank you, hon. Speaker. I rise to second the Division of Revenue Bill, 2014. First of all, let me appreciate and applaud the national Government and specifically the National Treasury for making an increment of 19.3 per cent of the money that will go to county governments from the Kshs190 billion we had in the last financial year to the proposed Kshs226 billion for the 2014/2015 Financial Year. That is in good spirit of supporting devolution. As the Mover has said, this money should bear a lot of developmental fruits at the county level instead of it being used for expenditure purposes or recurrent expenditure.

If you look at Clause 5 of the Bill, you will find that these are some of the signs that the national Government is supporting devolution. Clause 5(1)(2)(3) says that should there be any shortfall, it will be borne by the national Government and not the county government. This tells us that the county governments are more or less assured of receiving the proposed Kshs226.6 billion in the next financial year.

Hon. Speaker, this also calls on the Kenya Revenue Authority (KRA) that collects revenue on behalf of the Government to work very hard and ensure that it achieves or surpasses its target. On excess revenue, Clause 5(3) says that the surplus will be apportioned between the national Government and the county government on a prorata basis. So, it will be good news for devolution should the KRA work hard and collect more than what is anticipated.

Clause 6 of this Bill encourages both levels of Government and all State organs to embrace the spirit of co-operation, consultation, negotiation, mediation and arbitration as ways of resolving dispute rather than rushing to court now and then. This is in case there is a disagreement between State organs. This calls not only on State organs but also on counties, elected leaders and other offices. What we have been witnessing in the past few days between the county assemblies, the Executive, the Judiciary and National Government--- I think we should encourage more civil ways of dispute resolution mechanisms rather than just moving to courts.

I want to appreciate the National Treasury for allocating the Economic Stimulus Package II Kshs1.45 billion. This money will go to all the constituencies. If you divide the money by 290 constituencies, each constituency will get Kshs5 million. This money is meant to complete the centres of excellence which were initiated in the Economic Stimulus Package I.

I appeal to this House to ensure that this money is channeled through the Constituencies Development Fund (CDF) committees in all the 290 constituencies because these projects were started by these committees. So, they are the ones which know where they have reached.

Hon. Speaker, still on the Bill, the explanation accompanying the memorandum, as the Mover has said, is that 43 per cent of the latest audited and approved revenue by the National Assembly of 2009/2010 amounts to Kshs529.3 billion. So, the Kshs226.66 billion that will go to the counties is specifically 42.82 per cent. If we fast-track the approval of those audited accounts, maybe, the revenue going to the counties might even increase to 50 per cent.

Another element that has been stated here is the costing of functions. If the costing of functions that were transferred to counties were done on a more need-to-need basis, maybe, these counties could have received more money than what is stated here. So, the CRA and other agencies in charge of costing of this function should fast-track this so that more money goes to the grassroots.

On the finance bills at the county level, where counties are looking for other sources of revenue, I urge the counties not to overburden *wananchi* at the county level with taxes because that will be contrary to Article 201(b)(i) of the Constitution. They should do a lot of public participation to avoid what we saw in Kiambu County the other day where the courts nullified the Financial Bill of that county. Surely, putting more tax burden on *wananchi* is a move in the wrong direction.

Hon. Speaker, let me very quickly talk about some of the money---

*(Loud consultations)*

I would like to ask hon. Members to be a little bit attentive.

If you look at what is going to the counties, we have money for rural electrification and rural roads. Two things come into my mind, one we need to first of all define county roads. I know the Committee on Transport, Public Works and Housing is working on it. It should fast-track that so that we get to know which are county roads so that we can cost them. We need to know how much should go to counties in terms of roads and even in that way avoid duplication of roles where the national Government and other agencies are doing the same road using different resources.

Hon. Speaker, on the issue of Rural Electrification Authority (REA), the Jubilee administration had pledged to have 5000 megawatts connected to the National Grid. This will lower the cost of electricity and by extension the cost of living. Counties have been allocated about Kshs3.65 billion for rural electrification. There is need for co-ordination and information sharing so as to know which rural electrification projects are being done at the county level.

Hon. Speaker, there is something which is worrying; that is the public debt. If you look at this Bill, the Kshs414.4 billion as opposed to what was in this financial year that is ending in June, Kshs.381.5 billion is being proposed for payment of the public debt. This is a worrying trend and I think we need to find ways of controlling the public debt.

Hon. Speaker, as I conclude, I would like to say that it is true that it is still early to measure county governments' fiscal efficiency, since they have been there for a year. But one thing is very critical; county governments should look for ways of controlling the wage bill because of what we are seeing done in the counties. The issue of employment in haphazard way without considering fiscal implication may take the wage bill at the county level so high to an extent that what they are receiving will just go into paying wages instead of doing development.

Finally, there is need to enhance predictability and stability in the allocation of revenue to the counties. If Government agencies would, therefore, do costing of functions it would enhance more predictability and stability in knowing what the counties are going to obtain next time.

With those remarks, I beg to second.

**Hon. Speaker:** Hon. Members, if you have been following what is happening, once the Secunder finishes, I would normally propose the Question. But those who cannot sit continuously, like hon. Grace Kiptui, I request that you sit for a while. You cannot be upstanding all the time. Just pay attention to what is happening in the House so that you know when to consult.

*(Question proposed)*

As hon. Ngong'o prepares to contribute, it is important that I make the correction that, indeed, the requirement for the submission of the Division of Revenue Bill and County Allocation of Revenue Bill is contained in Article 218 of our Constitution and not Article 217.

Also I would like to appreciate that the Division of Revenue Bill essentially and largely implements what this House has already discussed in the Budget Policy Paper.

Hon. John. Ngong'o, you can proceed.

**Hon. Ngong'o:** Thank you, hon. Speaker. First of all, I must say that I have the privilege of sitting in the Budget and Appropriations Committee; and having discussed the Budget Policy Statement, the Division of Revenue Bill is fairly easier and straightforward. I think what is important for this House to note is the difference between the amounts provided under the Division of Revenue Bill that we have today and what we passed in the House in terms of Budget Policy Statement. In the Budget Policy Statement, remember we did approve that counties should get Kshs218 billion as sharable revenue. What we now have is Kshs226 billion and this House may wonder or ask how this is arrived at.

Hon. Speaker, I know the Mover of the Motion and the Secunder have actually spoken to this matter, but I need just to add that what happened is that the amount of rural electrification of Kshs7.3 billion was entirely put under the national Government at the position of the national Government revenue. Having looked at the constitutional provision and realizing that the function of provision of electricity is a shared function, it

became necessary to divide that amount into two; Kshs3.65 billion each to provide for electricity both at the county and also as a function of the national Government. Therefore, what we have now is the rural electrification fund or the amount going to rural electrification of Kshs7.3 billion divided into two, Kshs3.65 is going to the counties and Kshs3.65 being managed by the national Government. I guess this will be done through constituencies.

Hon. Speaker, Sir, I want to also add that there was a strong debate which we had with regard to Level 5 hospitals. We realize that Level 5 hospitals in this country serve more than one county. Our initial position was that those hospitals should be financed separately and distinctly. We also give conditional grants to these hospitals. Later on, because of the discussion we had between the Senate, the National Assembly and also the Council of Governors, we came to a conclusion that we should give the amount we had set for Level 5 hospitals to counties so that they share it and see how to fund these hospitals.

Hon. Speaker, I accepted this position reluctantly because I do know that in this event, we are likely to starve Level 5 hospitals because those counties which do not have Level 5 hospitals; like mine, will not accept to contribute to neighbouring counties like Kisii and Kisumu, yet we get services from these hospitals.

Hon. Speaker, it is a pity that as a country we do not think in a way that is beneficial to the entire country. We always get to cocoons of our counties. If Level 5 hospital in Kisii is not functioning well, even people from Suba Constituency will suffer. I know for a fact that hospital serves many of my constituents.

Hon. Speaker, the other amount we decided to allocate to the county governments as their portion of shareable revenue is the Kshs1.4 billion. This amount was initially earmarked for youth polytechnics. I just want to highlight that because there has been a lot of talk on how much the governors and the counties have been calling upon us to give them and what this House has finally given.

We have finally given Kshs226 billion, but the Commission on Revenue Allocation (CRA) had proposed Kshs279 billion. However, the Intergovernmental Budget and Economic Council meeting, which is provided for in the Constitution and in the law, chaired by the Deputy President, has heavy representation from counties. All the 47 executive officers responsible for finance are members of that committee together with the Council of Governors. Also, we have the CRA, Parliament and the Judiciary represented, among others. That committee agreed on Kshs238 billion. Therefore, Kshs238 billion minus Kshs226, the difference is about Kshs12 billion. So, what the counties can effectively say that they needed more and they did not get is Kshs12 billion.

Again, out of that Kshs12 billion, if you look at the analysis of the Intergovernmental Budget and Economic Council meeting, you realize that part of the Kshs238 billion was the entire amount for the rural electrification. This, therefore, means that the Kshs3.65 billion that has been put to the national Government would have gone to the counties to provide the same thing, namely, electricity, which is now going to be provided by the Kshs3.65 billion.

Therefore, in my view, the only amount that is in contention is about between Kshs8 billion and Kshs9 billion. That is what we have given less to the counties. One would wonder why the National Assembly has done that. My position at the Committee



was that we give the Kshs238 billion and that we add the counties more funds, but committees arrive at decisions through voting or consensus. I find the Treasury's explanation in page 221 about how they shared the revenue, wanting. You find the Treasury saying that the revenue allocation between the two levels of Government should be stable and predictable. That is agreeable. They go ahead to say that in the absence of proper costing of functions or a needs-based framework for financing of the two levels of Government, the revenue allocations are based on expected revenue allocations. Ordinarily, they are telling us that they are basing it on historical data. They are basing it on incremental Budget and revenue growth.

In my view, I do not see why, as we are going into the second year, the Treasury is still talking of lack of costing of functions. When will these functions be costed? Either someone does not want to cost the functions or someone feels that if the functions are costed, then we will give more money to the counties than we would or vice versa. I do not see why the Intergovernmental Budget and Economic Council cannot prioritize or even the Senate, which is responsible for protecting the interests of counties, a process that would help us arrive at the actual cost of delivering services to our people. If our constituents are sick, they go to hospitals and the drugs that they are supposed to use there; the needles, syringes and everything else is supposed to have been bought by the county governments. What if the county governments are not able to provide these services? It is going to be a loss to us as a country.

I was just concerned. I wanted to speak to the Treasury and I am sure they are watching. When they are giving us figures, either they give us accurate figures or they do not give figures at all. If you go to page 2225, Item (b) where they have talked of national interest, if you add all those figures, they do not add up to Kshs1.139 trillion. Those figures only add up to Kshs452 billion. The question is: Why did they not list all the items of national interest that are financed? Instead of giving us examples, this is a Bill and they need either to give us the details or one line item. I find this a bit careless for the Treasury to give us figures like these.

I want to conclude by saying one additional thing; we need, as a country, at this moment, to stop politicking on the issues of devolution and ask ourselves: What are the functions that have actually been devolved? What other additional functions are supposed to be devolved? You hear so many questions being brought to this House about the state of our roads. One of the reasons why the state of our roads in the entire country is in a mess is because we started a year without knowing who was responsible for which class of roads in this country. How careless could we be, as a country, to even not know who is going to maintain the Class D, Class C and Class C roads?

The first information we got was that, that money was taken to the counties. Later on, the Treasury had to do an arrangement which is like a token contribution to us, to give us some Fuel Levy Fund, which cannot even maintain 20 kilometres of road. The Kshs15 million is nothing in terms of maintaining rural roads. This is going to hurt the Members of Parliament badly. As I conclude, as a country, we need to be sure which functions have been devolved and which ones are with the national Government.

**Hon. Limo:** Thank you, hon. Speaker. I stand to support this very important Bill. From the outset, this country needs a lot of development. In doing so, we must respect the

spirit of the Constitution, where the Constitution has taken devolution as one of the important steps in developing our country.

If you look at the current Bill, it has split the revenue and has given the county governments a whopping 43 per cent, which is complying with the constitutional requirement of 15 per cent. This is very important and I want to urge county governments to ensure that this revenue is distributed fairly. If you look at the CRA formula, it is very clear. It has given money to county governments on the basis of population, land, poverty, equal share and responsibility. The county governments must also devolve all the revenue allocated to them equitably, the same way the national Government has allocated to them. They must ensure that every part of the county receives a fair share of the revenue given to them. If you look at what is happening, in some of the counties, you cannot tell on what basis they allocate resources on the grassroots. Therefore, I want to recommend that the counties should also be fair.

However, some of the bodies which we created to take care of the distribution of this revenue have failed this country. For example, the CRA and the Transition Authority (TA). We are in the second year and we are still sharing revenue in the counties on imputed cost. They have been in office for close to two years and they are not doing anything in coming up with actual costs for each transferred function. Therefore, in the second year, we are still allocating money on the basis of imputed cost. We want to ask them to do their job because they are receiving quite a lot of money to perform their functions, yet they are not doing their job.

Right now, there are counties which are really suffering. If you look at a county like Kericho County, where I come from, the actual cost of running the devolved function in health is very high. We are only receiving the revenue on the basis of the formula set, which is distributing revenue equitably throughout the country regardless of the transferred functions. Therefore, a county which has more than five big hospitals at the level of district hospitals will be disadvantaged compared to a county which has one district hospital.

Therefore we want to urge the CRA and TA to cost all the functions which have been transferred, so that we do not have any citizen in this country suffering because of the disparities in the formulas which have not been amended to suit the requirements of the Constitution.

Another thing which I want to talk about is the Equalisation Fund. This is a very important Fund in this country because the drafters of the Constitution were actually looking at the disadvantaged areas. The Constitution requires that we actually allocate more funding to areas which are disadvantaged because of historical issues. It is stated in the Constitution that allocation be done to marginalized areas.

One big mistake which CRA did was to pick several counties and say they are marginalized areas and then what has happened is that some of the counties which were left out have marginalized places. There are patches in the counties which were not taken into account, which have been disadvantaged. Therefore, if they are left, then they will be very poor for many years to come. Therefore, it will not serve the purpose of the spirit of the Constitution.

The CRA should actually relook again at the way they distributed the Equalisation Fund, so that it covers patches of areas in counties which were left out including and not

limited to counties like Kitui, Machakos and Kericho. According to many Members and citizens, they think Kericho is a good area but there are several areas in Kericho which are hardship areas and look like Kitui. If you visit a place like Sigowet/Soin and Kipkelion, you will really wonder whether they are in Kericho and we need this Equalisation Fund there.

I want also to comment that TSC has actually received a better portion of the revenue, but I hope in the details, it includes payment for promotion of teachers. We have heard a lot of complaints that teachers have applied for promotions for a long time and they have not been promoted. We know they are playing a key role in this country; building capacity. Therefore, we need to really motivate them by giving them more positions and promotions.

As I visited most of our schools especially during recess, I noted that there is a lot of increase in enrolment, which is good. But, the problem is as much as we are building classrooms using CDF and other funding, we cannot really enhance quality of education, if we do not employ more teachers. Therefore, I urge the Government to really look at putting more funding into recruitment of more teachers.

When it comes to the issue of electricity, I want to comment that REA has done a good job, especially in distributing electricity to primary schools in preparation for the noble laptop project. We want to encourage the county governments, now that we are sharing 50 per cent with them, to really distribute this electricity especially to areas where productive activities will be taking place. We need electricity for water projects and in the processing factories that are put up by farmers. I want to also recommend that the Government relooks at the way distribution of electricity is going on now. There is a lot of confusion. Whereas electricity connection was supposed to cost Kshs.35,000, the truth is that Kenya Power has a lot of hidden costs. We want to recommend that the Government, through proper funding and partnership, reduces the cost to Kshs.35,000, regardless of the distance as long as you are within 600 meters. They are saying that for any cost which is above Kshs.135,000, the applicant will fund the full cost of distribution to the premises, which in most cases is not affordable. Of interest is one case where one of my constituents who had applied for electricity connection was given a quotation of Kshs.50,000 but now it has gone up to Kshs.500,000.

I want to also comment on youth polytechnics, which we have allocated a lot of money now. I want to encourage the county governments to put a lot of money in one place at least. This will create an impact instead of dividing it into small bits. I want to really appreciate the allocation of Kshs.5 million per constituency for the Economic Stimulus Programme. I want to urge all Members to put this money into at least one big project---

**Hon. Speaker:** Hon. Makali Mulu.

**Hon. Mulu:** Thank you, hon. Speaker. I also rise to support this Bill and I want to start by saying that it is actually encouraging that more resources have been sent to the counties. You realize that we have moved to about 43 per cent of the revenue, which is going to the county governments. As we say this amount has increased as a House, we need also to bear in mind that the revenue we are using is actually for the Financial Year 2009/2010, which means we are about three years behind. I am just trying to imagine if we used last year's revenue how that figure would be. Even as a House, as we talk about

increased allocation to the counties, it is important that this House fast-tracks approval of the remaining reports, so that as we allocate money in the coming year, we will be talking about the latest audited reports.

The other thing in this Bill to consider is the timing. Today is 22<sup>nd</sup> April, 2014 and if you look at the calendar, we expect itemized budgets by around 30<sup>th</sup> April. This means we have only about a week plus to allow the counties and the Ministries to also submit their detailed budgets. We are a bit late and this calls for proper timing in terms of approving this Revenue Bill.

The other thing we must realize, and it has been said by my fellow Members of Parliament, is the issue of costing the function. When you read this Bill, it talks about incremental budgeting. What we are doing is looking at last year's budget and on the basis of that, adding some percentage and assuming that revenue will increase by the same percentage. This is a very dangerous way of budgeting. I want to agree with those who are saying that the Transitional Authority needs to do their work. It is unfortunate we are talking about un-costed functions almost two years after we started this serious work of devolution.

So, I will urge the authorities that we get these functions properly costed so that when we budget, we actually do not under-budget or over-budget because we do not know the amount it will cost to undertake these functions.

Hon. Speaker, the other thing I want to talk about is this money which has been sent to the counties; it relates to electrification of the rural areas. Fifty per cent of the amount has been left at the headquarters, that is the national Government and 50 per cent has gone to the rural areas or to the counties. The experience we have is that implementation of these projects takes a lot of time. Actually, there are a lot of delays in implementing these projects. I would urge the county governments to make sure that when this money gets to their accounts, it is used for the right purposes. This is because we have seen in some counties - and this is not a secret because we are reading these reports from the Controller of Budget - money is not being used for the purposes it was intended for because it is banked.

Hon. Speaker, I would plead with the county governments to ensure that when this money gets to their accounts, it is used and we have Kenyans getting electricity. It is very important for our areas and our people to get electricity for their domestic use and even for industrial use.

Hon. Speaker, the other thing which is also important and which needs to be noted is the issue of the fiscal capacity of these county governments and the efficient use of the money when it gets to them. This Bill indicates that it was not possible to determine the fiscal capability or the efficiency in use of resources by county governments. This is a very worrying statement. They are saying that they have only been there for one year and on the basis of that time, we might not be able to assess their fiscal capabilities but I want to say this, county governments are only new in terms of structure. I think when we look at the history of this country, we have been having departmental heads all through in the districts.

We have been having county treasuries all through in the districts through what we used to call District Treasuries. We also realise that most of the people who have actually been recruited by the county governments have been transferred from the Central

Government, which means in terms of experience and competence these people have been trained.

So, hon. Speaker, I think this time we must make sure that in the course of this year we are also able to assess the fiscal capabilities of these counties. This is because it will be very unfortunate to Kenyans to have this money sent to the counties and it is actually misdirected because people are claiming to have no capacity. So, I think bearing in mind that we have now given the counties more money, it is important that the fiscal capability and also efficient use of resources is guaranteed and it will only be guaranteed if we get a thorough assessment of their capabilities.

Hon. Speaker, this Bill also talks about emergency funds and actually we have allocated Kshs5 billion as emergency funds. That means that the funds can be used for emergencies. When it comes to supplementary budgets, it is also important to know how these emergency funds will have been used before we approve Supplementary Estimates. This money is not allocated or tied to any activity, meaning it is money which can be used for other emergencies.

Hon. Speaker, counties are also encouraged to start their own emergency funds. To me, this is a very important proposal because we have realised that things will happen at the county level and we hear that there is no money. Roofs have been blown off and they need to be replaced but we hear that there is no money. Serious accidents have happened where people have passed on and we need money to assist in burials or to meet medical expenses and we are told there is no money. So, we also need to encourage county governments to start emergency funds so that they can help our people meet their needs as they arise.

Hon. Speaker, the other thing which is also very important is the issue of debt. You realise that the amount of money which has been allocated for payment of national debt has increased. I think time has come for us to manage our debts properly. I have said many times that if you use borrowed money to improve infrastructure or in productive activities, you are likely to generate more employment and income and as a result of that, you will realise that the debt is not a burden to the nation. However, in a situation where we borrow and the money gets to activities which are not productive, the public debt becomes a big burden to Kenyans. Even as we approve this Bill, the whole concept of national debt needs to be thoroughly scrutinised so that at the end of the day we do not really approve payment of public debt which is not productive to this country and which does not assist the country in terms of economic growth.

Hon. Speaker, with those comments I want to support this Bill. Thank you for giving me the chance.

**Hon. Speaker:** Hon. John Waiganjo.

**Hon. Waiganjo:** Thank you, hon. Speaker for also giving me an opportunity to put my voice on this very important Bill on the Division of Revenue. I want to start by observing that the politics around devolution must now come to an end because this is a very progressive Bill that clearly shows that the national Government is committed to the issues of devolution by even allocating more funds to the counties against the Constitution.

We have seen the increment on the allocation of funds to the counties and it is encouraging to know that there is also the Equalisation Fund. It is also important to note

that there are some counties which started with completely nothing like Nyandaura County – a county that has no headquarters and whose governor hires an office on the top floor of shops and where their Assembly is in a church. So, even as we talk about equalisation and marginalised counties we should note that we need to be more careful so that we do not give funds to counties that appear to be doing alright.

This Bill is quite elaborate in its explanation in the memorandum and I particularly like the resolution of disputes because we have seen in the past people rushing to courts. I think we should be very careful to note that State organs should not find their solace only in courts of law because we have also seen a lot of contradictions from the judgements that are coming from courts. So, it is important to encourage alternative dispute resolutions at all levels and not only on State organs but also on the main organs of governance and on the manner in which we relate to each other as independent State organs or independent arms of Government *vis-à-vis* our mandate and levels of implementation of the new Constitution.

So, we see this Bill trying to remove the frivolous and vexatious attempts by State organs to approach courts for solutions because all the solutions do not lie in our courts. In fact, our courts sometimes have become sources or their judgements have become sources of confusion and pain.

Hon. Speaker, I like the economic stimulus allocation in this Bill. There are a lot of projects that had been allocated this fund previously and when these funds were exhausted, most of these projects were left suspended and unfinished and most of them are going to waste. I think that it is very important that these monies on economic stimulus come through the Constituencies Development Fund (CDF) because it is those committees in the CDF that started these projects and it is only fair that they proceed to use similar structures that they used to do the economic stimulus.

More importantly, I also like the fact that the Rural Electrification Fund has now gone to two levels; the county governments and also to the national Government. The reason why I say this is that we have increasingly seen that governors are now working because after one year now we can see in our respective constituencies, development taking root or going on. So, the views that some of us Members had last year are totally different because we have seen governors now taking their respective positions and carrying out their mandate either because they have learnt the ropes of governance or because they have seen the danger in which they can get themselves into, if they misappropriate funds or if they run their counties as their own personal fiefdoms. In fact, if every primary school is connected to our national grid, then we will see a lot of development because we have many of our youth who do not make it to the universities and who wish to join tertiary institutions, like youth polytechnics. I am happy to see that youth polytechnics have been given an allocation. It is also important to discourage the manner in which some of those youth polytechnics have been turned into other forms of tertiary institutions and even universities. This is because if you turn a youth polytechnic into a university, then obviously, you leave out a big section of our youth who are not able to join universities going to waste.

Hon. Speaker, I also see that the allocations to Level 5 hospitals have been very generous but there is fear that those counties that do not have such hospitals like Nyandarua will suffer because we shall not access this funding. So, moving forward, it is

important to look into certain issues that may appear to be moving against the general good. Governors must also be very careful when they are allocating funds to their respective constituencies because you will also find that in some counties, governors are allocating more funds to constituencies which they think supported them in the last elections. They continuously do that and on the national level we find that even if the Government has now fully devolved its functions, although the Transition Authority was an unmitigated disaster, devolution does not go to the grassroots because when it gets to the level of the governor, he now skews development and takes it towards areas where he thinks he had support. So, it is important to urge the governors to try and devolve these funds fairly and effectively to all areas.

I also want to comment on the fact that this Division of Revenue Bill, in its threshold of 15 per cent, if the national Government does not get to that threshold, they have clearly said that it is the national Government that will close that gap. That is a good thing.

In conclusion, I would like to say that it is clear to everybody that those who wanted to play politics with devolution must now look for something else to do or to blame the Government for. It is now clear that the national Government is committed to devolving funds. It is now left to the counties themselves to see how well they can represent their counties. I think the national Government must be happy to leave and guide the country in the knowledge that they have devolved the burden of blame from themselves to the governor. The ball is now clearly in the court of governors to know that they should govern their counties well, elaborately and fairly without malice or blaming the Government. We will now wait to hear what the Council of Governors will say because if this amount goes to the counties, the only shortfall – which is not a shortfall as such – is about Kshs12 billion. We will see their level of absorption and wait to see where they are headed. We also commend those of them who are working and wait to see those who just talk and not work to see where they are heading.

So, I support the Division of Revenue Bill completely and I urge my colleagues to support it.

**Hon. (Dr.) Laboso:** Hon. Speaker, I also rise to support this Bill. I think we are now getting to the point where we are beginning to realize that we are truly in a devolved system of government. This being the second Budget that we are preparing between the two levels of Government, I want to say that I am quite happy that we changed the Constitution and we now have our devolved units. If you speak to members of countries where devolution has worked, they truly inspire you to see that this is the best decision that we made for this country.

Be that as it may, I am happy that the Jubilee Government has gone ahead and allocated up to 43 per cent of the national revenue to the county governments. This has been done without what we have been hearing our governors going round wanting to protest; wanting a referendum and all manner of things that they did not have to ask because it was already in the plan to increase funding to the county governments. So that for me is a very big plus but even as I make it so, I want to say that it is important that these county governments pull up their socks in terms of what they are doing with the funding that is being given to them. There is clearly a very big disparity between what is happening in different counties as witnessed from the Controller of Budget's publication

where it was clear that certain counties have hardly used any of their amounts that were given to them. So, mine is to say that we need to get the counties working very quickly to absorb the funding that they are given and carrying out projects that are going to make a difference to the people.

I am looking at the allocation by the Commission on Revenue Allocation. They had allocated up to Kshs279 billion which they said they are basing on the latest financial year but I am wondering whether they took into consideration the provisions of Article 203(3) which clearly says that the amounts to be given shall be calculated on the basis of the most recent audited accounts of revenue received, as approved by the National Assembly. I see it just being cheeky, that they chose not to look at what is provided for in the Constitution. I am happy that our own Budget and Appropriations Committee has rectified that and given the figures based on the most recent audited accounts.

I want to also join my colleagues to make a comment on the question of costing of functions because there is no way, and this has come out clearly that this is just an *ad hoc* way of deciding what revenue is going where. There is nothing structured or cost given to any of the functions that are being devolved or are in the national Government. So, this is one area that we need to ask the Treasury to quickly fix. We cannot continue year in, year out to make the same accusations that we are basing whatever we are doing on things that have not been costed. This is an area that must be addressed as quickly as we can.

Hon. Speaker, as I look at the county allocations, I am wondering whether what our Budget and Appropriations Committee did is in order because they have gone ahead and even specified what this money is going to go to; that is the deviation from what had been agreed in the Budget Policy Statement. Does this not almost amount to budgeting for them? Are we making the decision on what they are going to spend their money on?

So, in my view, the whole issue of youth polytechnics and Level 5 hospitals, that specification of extra money that they have deviated from our earlier allocation is not constitutional. The county governments are independent and make their budgets based on where they feel their priorities are. Even as I say that, the allocation of rural electrification money to the county governments, I am a little bit uncomfortable because, in my view--- Yes, the Constitution in the Fourth Schedule clearly divides that function between the two levels of Government, but as we all know, at the moment, our county governments do not have the capacity to carry out that function. My discomfort is on whether we are actually in the process of destroying as we devolve those functions. There have been very good institutions and I am sure many of us have benefited from them. We have REA. I am sure it has been a real asset in terms of electrifying this country. So, the idea that we are slowly moving all the funding for rural electrification away from REA into the counties, and whether the counties are going to make use of that body, is another question. Mine is to say that let us look critically at this division of money for REA into two bits. I believe that the counties can also work very effectively with REA, rather than them being allocated the money directly.

As I conclude, I would like to laud the idea of Teachers Service Commission (TSC) being given a good amount of allocation. I want to reiterate that, again, one of the issues that we have is shortages of teachers. We want to ask that whatever money has been put there, we are going to get a larger number of teachers. But there is a very important point. The Early Childhood Development (ECD) teachers must be employed



by TSC and not by counties. That is the most sensitive part of education in a young child and we cannot leave it to the whims of counties. I am not saying that they are not able, but we want a standardized form that is applicable across this county. We do not want decisions being made at the county level.

Hon. Speaker, I want to laud the idea of Kshs5 million to every constituency to complete the “ghost” projects under the Economic Stimulus Programmme (ESP). There are very many incomplete ESP projects in the constituencies. It is good that we are being given money, through this Bill, to ensure that those projects that cost a lot of money to start can now be completed and made use of.

With those few remarks, I wish to support.

**Hon. Speaker:** Hon. Opiyo Wandayi.

**Hon. Wandayi:** Thank you, hon. Speaker for giving me this opportunity to contribute to this very important Bill. I want to start by expressing my reservations about transparency. When we talk about the allocation of funds, indeed, the Constitution, under Article 202, talks specifically about equitable allocation of funds between the two levels of Government. How would one determine equitability without, first and foremost, understanding which functions fall where and, secondly, without understanding the real cost of those functions? Through and through in this Bill, references have been to the fact that the costing of those functions has not been done. That is about four years since the promulgation of this Constitution and nearly two years after the first election under this Constitution. We are not being told when such costing is ever going to be done. Therefore, you find a problem in agreeing with the contents of this Bill. When we talk about 43 per cent of the revenues based on the last audited accounts of revenue, and we are also told that those accounts of revenue are in respect to the 2009/2010 Financial Year, then you see the mischief! It is not possible that this Bill may talk of 43 per cent and then make us believe that, that is far much higher than the 15 per cent that is envisaged in the Constitution. The reality is that the Kshs226 billion is actually just about 22 per cent of the total sharable revenue, which is about Kshs1,026.31 billion in this Bill. The question then that one would want to ask is: If for any particular or strange reason, the accounts of revenue do not get audited, or if for any reason they get audited but Parliament does not approve them for, let us say, ten years, shall it continue making reference to the last audited accounts of revenue? That is the question and, therefore, in my view, this 43 per cent is basically a red herring. The reality of the matter is that, until and unless we do proper costing of the functions after determining which functions have been transferred to the counties, there is no day I will be convinced that this Bill is going to support devolution as we know it. We are being told that the Bill is attempting to explain deviations from the recommendations of Commission on Revenue Allocation (CRA). The Constitution makes reference to deviation. The operating word here is “deviation”. But if you look at this Bill, it has basically ignored in totality the recommendations of CRA. It has basically rubbished the recommendations of CRA. That is because CRA is recommending a total sum of Kshs279 billion shillings to be allocated to the counties. It is doing so on the basis of some scientific analysis. But this Bill is attempting to rubbish the work of CRA with a pre-determined mind. It is meant to make the public believe that CRA has not done what it is supposed to do. The CRA is a constitutional Commission. In fact, one of its principal functions is to make

recommendation on the allocation of revenues between the two levels of Government. I do not think the framers of this Constitution intended that the recommendations of CRA would be rubbished in the manner in which they are being rubbished in this Bill. What am I saying? I am saying that this Bill is basically a continuation of the very clear pattern of emasculating the Commission on Revenue Allocation (CRA) and, secondly, slowing down devolution.

Hon. Speaker, as we speak, we are not aware of which functions have been transferred to the counties. Indeed, it is a shame that even the Transitional Authority which is vested with this responsibility cannot stand and state clearly which functions have been transferred to the counties. Therefore, what would you be basing your allocation of revenue on? It is very clear.

If you look at the Bill, you will find that CRA has done the costing of the administrative structure of the county governments. That is the basis upon which it has arrived at the sum of Kshs279 billion, among other things. However, you will find the Bill rubbishing that costing without giving any alternatives. So, whom do we believe?

**Hon. Speaker:** What are you asking?

**Hon. Wandayi:** Hon. Speaker, what I am saying is this: The CRA, in performing its responsibility as provided for in the Constitution. It has attempted to do the costing on some---

**Hon. Speaker:** Hon. Wandayi, just look at Article 203 of the Constitution so that, even as you say what you have to say, it is based on something that is real. If you get encouraged or distracted by comments from the streets, you will find yourself lost on the Floor and I do not want you to get lost. This Article talks about the most recently audited accounts as approved by the National Assembly. Now, you are going to the villages and streets looking for other explanations. As a Member of Parliament, it is very bad if people listening to you think that you are lost. It will reflect very badly on us, as a House. We, surely, are the people who are supposed to be knowledgeable. Proceed, but do not get carried away by those other small things out there.

**Hon. Wandayi:** Thank you, hon. Speaker. But, certainly, I am not lost because I really understand the criteria set out under Article 203 that should guide both CRA and the persons drafting this Bill.

Therefore, in short and as I conclude, what I am saying is that I will only support this Bill with certain amendments which I am going to propose. Unless the Bill gives convincing reasons as to why it has departed from the recommendations of CRA, then the least we can do as a House is to go by the recommendations of CRA. That is what I am saying.

**Hon. Speaker:** Where is that recommendation of CRA that you are referring to constantly? That is why I am telling you not to discuss things which you cannot substantiate. We will ask you where that recommendation is and you will not show us. You should be telling us the recommendation from CRA and to whom it is being recommended. They cannot recommend to every Tom, Dick and Harry walking in the streets. They make recommendations specific to other institutions.

Yes, hon. Wandayi!

**Hon. Wandayi:** Hon. Speaker, I appreciate your sentiments but let me conclude by saying that I will be proposing certain amendments to this Bill.

**Hon. Speaker:** Based on those recommendations that you have not brought.

**Hon. Wandayi:** Hon. Speaker, let me conclude by saying that I oppose this Bill in its current form. Later on, I will be bringing my amendments to it.

Thank you.

**Hon. Speaker:** It is your right to oppose. Nobody can deny you the right to oppose and oppose vehemently.

Yes, hon. Pukose.

**Hon. (Dr.) Pukose:** Thank you, hon. Speaker, for allowing me to make this contribution to the Division of Revenue Bill, 2014. I want to say that the main issue that many Members have raised is with regard to costing of functions. At one stage last year, we asked CRA and Transition Authority to give us the costing of functions that have been devolved to the various counties and, two years down the road, that has not been done. It is very sad. If we had done the costing of all the functions, we would be in a position today to know that, for the counties to deliver on those functions, they require this amount of money.

At one point, many governors were moving round and saying that they wanted the revenue to be raised to this much. The question was that if you raise it to this percentage, then what are you basing it on? Even as we move to this second year of the Division of Revenue Bill, we are not yet sure how much money counties require to perform those functions. That is because last year after the elections, we delayed in coming up with the Division of Revenue Bill and even the allocation of the funds. Up to date, most of the funding to the counties has not been fully absorbed.

On county allocation, rural electrification, Level 5 hospitals and youth polytechnics, those should be conditional grants to the county governments. That is the way I look at it. That is because if we give it in the form in which all of them have been lumped together, then what will happen is that counties will sit and look at what their priorities are. Their priorities will not be the way it is done unless the national Government gives that as a conditional grant to do rural electrification, give money to Level 5 hospitals and youth polytechnics. It is not going to happen the way it is. It is important for this House to bring an amendment to make that a conditional grant.

The way the county government expenditure is - as one of my colleagues has put it - is that we expect them not to marginalize certain areas within their counties. There may be marginalization of certain constituencies because, maybe, they did not give the governor enough votes. If we marginalize certain areas, then we will not achieve what we want as a nation.

Hon. Speaker, we are also giving counties money to purchase drugs. There was an amendment which was being discussed at the Senate with regard to the Kenya Medical Supplies Agency (KEMSA) being able to supply drugs to all the counties and we had people in certain areas opposing it. However, if we do not have standardization of all the drugs that we are giving in the country, then some counties will buy chalk while others will buy other things which do not exist. This will be setting a bad precedent. What the governors need to know is that they need to come up with rules and regulations that will outlive their stay as governors. That is because the governor might be so-and-so today--- For example, the governor of my county today is former Permanent Secretary, Khaemba

but it could be somebody else in 2017. When it is somebody else and you have made your people to take chalk as drugs, then it will be a very sad affair.

We made an allocation; conditional grant, to Level 5 hospitals. Those are formally provincial general hospitals. They include Kisii, Machakos and all the other former provincial hospitals. If we give the money not as a conditional grant to Level 5 hospitals, then what it means is that the money will be distributed equally among all the counties. What happens to the county that is hosting the Level 5 hospital? Are the other counties which are being served from that county willing to give their share to that Level 5 hospital to provide services? This is where the big challenge is. That is because initially, when we gave funds as conditional grants, the county allocation of revenue will allocate say, Nakuru Provincial General Hospital, Kisii Level 5 Hospital, Machakos Level 5 Hospital and Coast General Hospital this much. However, the way we have done it now means that each of the counties will get an equal share. If I do not want to support Level 5 hospitals, it means that I will use that money within my county and let the Governor of Nakuru County who hosts the Nakuru Provincial General Hospital to allocate the money to that hospital. That means that there will be cut-off of funds to the Nakuru Provincial General Hospital unless all the counties within the region that fall under Rift Valley Province are willing to give something to that hospital.

The other issue is on utilization of cost-sharing money. Where is that money going? Is it being used properly? That is money being generated in each of the counties. We have done the division of that money and each county is also collecting cess money. How much is being collected in each of the counties and how is this money being utilized? Where is it banked? Is it being used properly?

Hon. Speaker, we have talked about the Equalisation Fund and we have disbursed some money. But to me, when I look at the Equalisation Fund, as much as it is serving areas that we want developed--- In Nairobi, if you go to Kawangware or Korogocho, those two places are marginalized and they need to come up to the same level as Runda. So, how much are we giving to Korogocho, for example and yet, in the Equalisation Fund, such factors are not captured?

If you look at my constituency, Endebess, roads are equally as bad as they are in Wajir or Mandera. They are impassable because of marginalization over a period of time and yet, we are not getting anything from the Equalisation Fund. Therefore, this is something that we need to seriously look into and see whether we can also classify some areas that are marginalized in order for them to benefit from that Fund.

We have given a good amount of money to the Teachers Service Commission (TSC) and yet, when you look at the employment of teachers, it is not evenly distributed in this country. I have schools within my constituency that have only two teachers. Schools like Ashapel and Nawiyabong primary have only two teachers and yet, children from those schools are expected to compete at the same level with schools that are having enough teachers. Therefore, as we give that money to TSC to employ teachers, it must look at areas that are marginalized. That way, we will have an equal number of teachers and opportunities for all our children throughout the country.

Hon. Speaker, after the last Division of Revenue Bill, governors went into high gear about raising the money to 50 per cent and things like that. We spent a lot of time, as a country, debating on how much we need to give to those areas, instead of debating on

how to utilize the funds that have been allocated. I hope that this time round, we will spend more of our energies to discuss on how we will spend the money that has been given to the counties so that we are able to absorb the money within the required time and deliver services that Kenyans yearn for.

Many Kenyans voted for devolution because they wanted services to be closer to them. They need to see the benefits of devolution. Two years down the road, those benefits are not going the way many Kenyans had expected. It is just trickling at a very slow pace and we expect our brothers and sisters within various counties, Members of County Assemblies (MCAs), governors, the executives and the National Assembly to work together to ensure that what Kenyans wanted is achieved.

**Hon. Aden:** Thank you very much, hon. Speaker. I stand to support this very crucial Bill, as a Member of the Budget and Appropriations Committee. This particular Bill has given an increase of 19 per cent from what was allocated last year. I must say that this is a step in the right direction. Some of the members of the Council of Governors are seeking more money. I want to urge them that indeed, we are getting there. While the allocation to the national Government has reduced, indeed, the allocation to the county governments has increased and this is showing that this House is ready to support devolution and with time, this House will be giving more and more to the county governments as long as services are being delivered.

Hon. Speaker, the point I want to say here today is that the challenge is on the county governments to prudently utilize the funds that have been allocated to them. A sum of Kshs226 billion is a lot of money that can make a huge difference in our country and in our counties. This requires prudent and fair utilization in that manner to ensure that all the respective constituencies and wards in each county get their fair share of that devolved money.

Hon. Speaker, our county assemblies have got challenges even greater than those of last year, to now ensure that they offer effective oversight over the Kshs226 billion. Failure of effective oversight can lead to very bad consequences which, in this case, will be the unfortunate misuse of the funds allocated to devolved counties.

Hon. Speaker, the county assemblies need to start to draw smart budgets for each of their counties. I believe, knowing that there are a number of trainings that I am aware of--- At least, Members of County Assemblies (MCAs) have gone through some training in terms of how to prepare budgets. We expect them to draw very good budgets unlike last year, which was marred by a lot of confusion in different counties and some were not able to do their budgets within the required time as stipulated in the law. So, county assemblies must do that and ensure that, upon the approval of those budgets, they need strict oversight to ensure strict adherence to the approved budgets by the county governments.

We have seen and read of county governments that are not using the approved budgets. Indeed, they have gone ahead and used other amounts in total disregard of the budgets that were approved by the county assemblies. That is contrary to the law. The county governments should adhere to the approved budgets and it is the responsibility of the county assemblies, which I believe have now got the right footing in terms of experience, to ensure that they offer that particular guidance.

Hon. Speaker, I do not want to take much time on this debate. As I support my fellow members of the Budget and Appropriations Committee, I just want to say that, even as we increase the amount allocated to the county governments, there is need, more than ever before, to ensure that we offer strict vigilance and oversight by the specific institutions that are mandated to do that.

*[The Speaker (hon. Muturi) left the Chair]*

*[The Deputy Speaker (hon. (Dr.) Laboso) took the Chair]*

Hon. Deputy Speaker, the Senate has the authority to do oversight and it is their job, as mandated by the Constitution, to ensure that they work for the success of each of our counties. That will entail offering strict oversight on each and every governor and the county governments in the respective counties.

Hon. Deputy Speaker, I want to say that our Auditor-General also needs to work more efficiently and harder so that we can approve the budget and the audited accounts. That is because, time and again, the governors are making excuses that Parliament is using very old budgets to appropriate or to do the division of revenue. We only have to do what has to be done under Article 203 of the Constitution. We can only use the last audited accounts. Therefore, it is the responsibility of the Auditor-General to fast-track and work more quickly and efficiently so that this House is able to approve those budgets faster in order to use the preceding year's budget, if possible, for us to share that revenue.

As I conclude, I would like to say that I am greatly encouraged to see that this House is standing to the challenges to support devolution. This House is now challenging county governments and saying: "You have asked for more funds. Here are more funds. We now want to see real development and not just recurrent expenditure in each of our counties."

Thank you, hon. Deputy Speaker.

**Hon. Tonui:** Thank you, hon. Deputy Speaker for giving me this opportunity to support the Division of Revenue Bill, although I would have wished that an amendment was brought before us. However, that ruling by the Speaker earlier on meant that to move an amendment to this Bill, it will require us to go backwards and it might not be possible.

I want to commend the Jubilee Government for its good intentions in providing adequate funds to the counties. Last year, we allocated to the counties Kshs190 billion and this year, we are giving them Kshs226 billion. That is an addition of Kshs36 billion. I would have wished to see some of the county functions being transferred immediately, together with the funds that are allocated to them. For example, the funds that are allocated to the Ministry of Environment, Water and Natural Resources, particularly the funds dealing with water, which is around Kshs41 billion – and that is a lot of money - I would have wished that some of that money goes to the counties, so that water services can be provided in a better way. I have seen that the counties can do it much better than the Ministry.

There is a feeling that there is competition between the national Government and the county governments. That is an imaginary competition. Our current differences with the governors are because of that perceived competition and that we are doing similar

roles with the governors. That, we are the ones who are supposed to construct roads! For example, in my county, my governor is very good at incitement. When he goes round, he tells people that he has done this and that road and the remaining roads are for the Member of Parliament to do. He tells them to ask him to do the roads. In the last Budget, not a single cent was allocated to Kenya Rural Roads Authority (KERA), which is under the Ministry of Transport and Infrastructure. It is only during the recent Supplementary Budget where we allocated something small, which we are working with. If we are getting Kshs10 million and the counties are getting Kshs4 billion, it is quite unfair to compare the two. I would have wished that we address the issue of KERRA also to, at least, add some funds. The Kshs15 million per year is too little. If we could adjust that amount to, at least, Kshs50 million, I would appreciate. That way, we can improve the status of roads in our constituencies.

I come from an area which relies on tea and it requires an improved road network. Currently, most of the roads are being improved using the tea cess. This is another burden to the farmers. We need to provide adequate funds for roads. That cess can be reduced because, currently, the payment for tea is very low. The farmers have missed their usual mini-bonus and we need to do something. I would also wish that we address the issue of special economic zones. Going through the breakdown where we are allocating only Kshs4 billion to the Ministry of Industrialization, the Ministry which we are relying on to provide jobs to the youth of this country and spearhead special economic zones, that amount is too little. We need to do something to ensure that we create jobs in this country. Industrialization is the way to go.

I must also appreciate that we are allocating about Kshs4.1 billion to the counties to build youth polytechnics. We need to appreciate that not all our children will make it to the universities. Those who will not make it to the universities need those polytechnics. We need to have technical institutions, so that they can also do those blue collar jobs.

There is also the issue of Constituencies Development Fund (CDF). During the Budget, without anticipating debate, I would wish that it is also adjusted from the usual 2.5 per cent to 10 per cent. That is what is being felt at the grassroots. That money has improved facilities in various schools. I wish that, that is adjusted because currently, it is very little. Having only Kshs70 million to share between bursaries, construction of schools and other activities is quite inadequate.

Again, going through this Division of Revenue Bill, the Teachers Service Commission (TSC) is being allocated Kshs160 billion. This is too little. This will only recruit about 5,000 teachers. We know that the teachers' shortage in this country is around 90,000. We need to recruit a minimum of 20,000 teachers this year. I wish the allocation to TSC could be adjusted upwards to take care of the teachers' recruitment and harmonization of leave allowances. Teachers are highly discriminated. Other public servants enjoy leave allowance, but the teachers do not. I wish that during the Budget-making process, we consider that so that teachers can get leave and responsibility allowances.

Senior principals in big institutions do not enjoy responsibility allowance with all the responsibility that they have in their institutions. Those are the kind of issues which I would wish are addressed. With regard to the issue of Rural Electrification Authority (REA), I am happy that we are allocating about Kshs3.7 billion to REA to go to the

counties to ensure that there is power to pump water, and in health centres while the national Government provides electricity to primary schools. I wish we could give more funds towards that very important role.

As we take all that money to those levels, both the national Government and the county governments, we must have accountability. That money should not be siphoned or stolen. It should be used for the right purposes. When we hear that about Kshs500 billion cannot be accounted for in the national Government, it is quite unfortunate. That is the exact thing we are devolving to the counties. The fellows in the counties are also practising corruption in tendering and procurement. At least, in my county I know that this is not right. They have even gone beyond this saying that the previous ones grabbed land and they must also grab. That is what they are practising. The governors are saying that they are the bosses now and they cannot just grab only one point. They must grab, at least, an acre in a town, so that they can be the same with those plot owners in centres like Bomet. If we encourage this, which direction are we going? When some of us raise issues, that we cannot allow them to grab land belonging to Early Childhood Education (ECD) centres, they say that they are yet to give birth to adequate babies to enjoy such facilities. I would wish that this is addressed. We should not devolve corruption. However, I am not saying that corruption should continue in the national Government. We need to do proper oversight to ensure that we do not have Kshs500 billion not being accounted for in the national Government.

I was quite comfortable with the figure of Kshs239 billion going to the counties because that was already calculated by the Treasury and I tend to trust what the fellows at the Treasury do. I believe they have done their accounts quite well. The figure of Kshs239 billion is a good figure. Because it is said that this is a money Bill and we might not get adequate opportunity to bring in amendments, which I wanted to bring, I support this idea of allocating Kshs226 billion to the county governments.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, hon. Deputy Speaker, for giving me this opportunity. I want to say that I support. However, even in supporting I wish to say, as a very good proponent of devolution, that the Budget and Appropriations Committee would have deemed it fit to actually add more money to the county governments. I know that many of us are still not very happy with the rates at which the governors are performing in many counties.

However, hon. Deputy Speaker, I think the fact that they are not performing is not reason enough not to give them enough money, but it is reason enough for us to re-check how we are actually undertaking our transition. I think there is really a big problem on the issue of transition and the mandate that we are actually giving our counties.

Hon. Deputy Speaker, actually, when I was walking in here, I spoke to the Chairman of the Constitutional Implementation Oversight Committee (CIOC) and I said that I am actually bringing a question to them very soon. That is because I think that Committee is sleeping on the job. The reason is that, even if you look at what some of our county assemblies are doing, it is not constitutional. For instance, I saw recently one of the county assemblies passing a law telling people how to dress or how not to dress. That is a human rights issue and no county assembly has the mandate to deal with issues like those.



Hon. Deputy Speaker, so, if some of those county assemblies are not directed, it is not because they have ill motives. It is because they do not have direction. We have institutions that were put constitutionally to give direction, but they are not giving them direction. I have been listening to what the Senate is doing and there is actually no difference between what the Senate is doing and what we are doing. If we move in the same direction or the way that we are going, then very necessarily, one of the Houses will die. It will either be the Senate or this House. But there is no justification for having two Houses or two Chambers if we are doing exactly the same thing.

Hon. Deputy Speaker, the House is very clear about the role of the Senate and the role of this House. There are things that, legislatively, the Senate cannot do. There are legislative things that if we do them here, they must be passed again by the Senate. However, what I am seeing is that everything that we do, the Senate also does the same. There is no clear-cut distinction and, really, there must be a body that gives that direction. I see it a lot also in terms of what our governors are doing.

Hon. Deputy Speaker, so, I do not think really we would blame them too much. But I would want to say that one of the things that we need to devolve as a matter of urgency is the Ethics and Anti-Corruption Commission (EACC). I know that many people have complained that we have counties where there are a lot of things which are written on paper but, if you look at what is on the ground, there is a divergence. We do not want to send our people to jail. We need to give people direction before they get to that level.

Hon. Deputy Speaker, I have just spent a whole week in Mbita monitoring my projects. I think I went through almost 60 projects within that one week. I can tell you that when you do not monitor them, they will fail. That is because when people feel they have a free hand, they will do whatever they want. I could see the variance in different projects. When you give somebody Kshs700,000, he or she will build two complete classrooms which are painted and everything else, while somebody else with Kshs700,000 has not even left the ground. I know we will have to relook again at the Constituencies Development Fund (CDF) Act because many a times, things are not done properly. You then ask the Member of Parliament and yet, the powers of the Member of Parliament are very limited even in terms of management.

Hon. Deputy Speaker, I am happy with the allocation that has been given to Rural Electrification Authority (REA). I come from one of the constituencies that have been marginalized. I know that there is a portion that has been given to the county. As I know, if we were selfish as Members of Parliament, we would have insisted that all that allocation goes to REA. But if we do want to build the capacity of our devolved system as Members of Parliament, we must begin to cede some of the mandates that we have had constitutionally. However, I know that the issue of electrification is shared and, therefore, I am, indeed, happy.

Hon. Deputy Speaker, on the issue of Level 5 hospitals, when I was going around Mbita, one of the issues that my constituents kept raising is the level of our hospitals and one of the things that we need to do, which I am also going to bring here, is how we standardize and upgrade our hospitals. This is because in the whole of Homa Bay County if we do not have a Level 5 hospital then that is bad. I know in a way it may be beneficial because we will then use that money to benefit us because we do not have a Level 5

hospital. However, it also goes to say that in terms of services that we have, they are of very low levels.

Hon. Deputy Speaker, I was in some of the islands and I was actually telling one of my colleagues that I am going to make an application to the Parliamentary Service Commission (PSC). Members of Parliament are given a car grant which is to enable you reach your constituency. I serve six islands and for me to reach Takawiri, Remba, Ringiti, Risi and all the islands I use boats. I will need a boat grant to be able to reach those islands because I must serve the people of Mbita. This is because that is one of the reasons why we talk about equality and equity and even if the boat does not come back to me, it must stay for the next Member of Parliament but my work must be made easier.

Hon. Deputy Speaker, it may sound like a joke but one of the nights I finished my work at around 7 O'clock. The hired boats have a policy so they abandoned me at Mfangano Island. We could not get another boat. We ran out of fuel in the middle of the lake. You know when you run out of fuel with a car, you can stop the next car. When I run out of fuel in the middle of the lake---

**Hon. Deputy Speaker:** Hon. Millie Odhiambo, hon. Lessonet is on a point of order.

**Hon. Lessonet:** Hon. Deputy Speaker, my colleague, hon. Millie Odhiambo is requesting for a boat grant. We are here to debate the Division of Revenue Bill which definitely that boat grant cannot be included in it. Is she in order to dwell on a subject which is irrelevant to the Division of Revenue Bill? More so, she is in possession of huge CDF funds from which she can buy as many boats as she wishes.

*(Laughter)*

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, hon. Deputy Speaker. Indeed, I am not irrelevant because that Division of Revenue Bill is division of revenue between the county governments and the national Government. The money cannot be mine. That money will come from either of that part of that division.

Hon. Deputy Speaker, when he tells me to buy that boat using my CDF money, I will be disadvantaged because that money which I will be using to buy a boat he will use to build a classroom. So, we must be put at an equal level so that he is able to serve his people in the same way that I can serve my people.

Hon. Deputy Speaker, I have requested the Budget and Appropriations Committee to come to Mbita so that when they talk they know that I am not talking fancy issues here. Some people come from Kenya, others come from a country that almost looks like Kenya and I am one of the people who come from a country that almost looks like Kenya. This is because the resources we have are very different from the resources Kenya has. We have been marginalised for many years. I know that North Eastern has been very loud in terms of saying they are marginalised. We have been speaking very strongly over the marginalisation of others. From this year, I have said I am going to speak about our own marginalisation first before I speak about other people's marginalisation.

Hon. Deputy Speaker, finally I want to speak to the issue of youth polytechnics and I want to be very thankful that money has been put so that we do not put it to waste and we remember the youths of this country and build their capacity.

Thank you for indulging me, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Hon. Mahamud.

**Hon. (Eng.) Mahamud:** Hon. Deputy Speaker, let me also contribute to the Division of Revenue Bill, 2014. Hon. (Ms.) Odhiambo-Mabona says she comes from a county that looks like Kenya. I think I am one of those guys who come from a place which looks like Kenya and the best that has happened to this country is devolution. Let me say from the outset that I support devolution wholeheartedly. Having said that, this is the second time we are passing this Bill. Last year, the Bill that came before this House was not as elaborate as this one. This is a well prepared Bill. The notes we were given were elaborate and clear in terms of what was being achieved. The Bill has been tested against the criterion which is set in Article 203 of our Constitution. But when you look at the issues that we have raised, one glaring example is that we have not been able to cost the functions. It is not easy to cost functions because if you look at the functions which are given to the county governments in Schedule Four, they are very many. To be frank, the county governments are not going to do all those functions in one or two years. There is need for both levels of Government to have a parallel list to know how the functions can be cost. I do not think we need to cost everything from water, roads, electricity or agriculture in one year. Let us come with a programme which will show how we are going to allocate funds to county governments.

In the last year, many complaints were raised as to the commitment of this Government to devolution. One example that was used was that it was not able to give enough money. However, if you look at the Constitution, it requires a minimum of 15 per cent. This year, we can see that this Bill allocates 43 per cent. I would like to urge our friends who are arguing and making a big deal out of this that, if we only utilize the 43 per cent properly, we will make a big difference in this country. Where I come from, which is Mandera and other counties from the former North Eastern Province, the amount of money that has been allocated this Financial Year has never been seen in those counties since Independence, which is 50 years ago. That money will do a lot and we will continue supporting devolution and support the Government to devolve as much funds as possible. However, capacities within the counties must also be looked into. I would urge our county governments to look at the capacity they have to implement projects. It is not only money that makes everything happen. You must have personnel, plans and ideas to develop the systems. You have priorities to change the lifestyle of our people. The amount of money allocated to the county governments; the Kshs226 billion is in my opinion, adequate for the purpose. It is an increase of 19 per cent from last year's allocation.

Having said that, there is a lot of talk about roads and electricity being devolved. There is enough work in the county governments for roads to be done. There is enough also in terms of electricity because it is a shared function in Schedule Four of the Constitution. But let us be very careful not to kill the institutions that we have built over time. The Rural Electrification Authority (REA) is an institution which is targeting the grassroots in terms of electricity. A lot has happened since its inception in the last few

years in the history of our country. When you look at the road function which was abandoned in 2007, Kenya Rural Roads Authority (KERRA), Kenya Urban Roads Authority (KURA) and Kenya National Highways Authority (KENHA), there is a reason why they were established. But just because we have a new Constitution, we cannot just do away with those institutions.

I heard that last week, the Senate approved that all roads should be devolved to the counties. That is ridiculous. When we talk about county roads, we must define what they are. When we talk about national roads, we must also define what they are. In some places where we come from, we have no national roads. If you go to North Eastern Province today, there is only one Class A road, one Class B road and a few Class C roads. We would like the national roads to be covered in the whole country so that, when you look at the map of Kenya, we have the national trunk roads equitably distributed. That way, they can also access funding from the national Government, including funding which comes from development partners. There are enough roads for the county governments and so, let us wait for the laws to change so that we have laws which can define county roads and national roads.

Hon. Deputy Speaker, in terms of rural electrification, capacity within the counties is not there and yet, because electricity is not something that you can just have an electrician doing wiring, you require designs and teams to do the work. We are simplifying a very serious task. But there is no harm in the counties having the money and using the human resource of KERRA to do the work for them. However, totally devolving it and taking all the functions to the counties will not help.

The confusion that was earlier mentioned by hon. Ng'ongo about Article 218 of the Constitution, the word "Parliament" is very confusing in this country. Whatever happens in this House, I think is supposed to happen on the other side. That is because they are both Houses of Parliament. I do not know what we will do to remove this ambiguity in future. But an attempt must be made at the level of the Speakers to develop some sanity so that we do not do the same job. Otherwise, there is no reason why we should have two Chambers.

With those few remarks, I beg to support and support devolution. I hope that our country will be different in the next five years.

**Hon. Mwaura:** Mhe. Naibu Spika, ningependa kusimama kuunga mkono Mswada huu. Kwanza, ningependa kusema kwamba ukitathmini na kuangalia hii sheria na ulinganishe na ile tuliokuwa nayo mwaka jana, ni ishara kwamba kumekuwa na mabadiliko. Kumekuwa na uwiano wa mambo ambayo tunafaa kuyaafikia kama Taifa la Kenya. Inasemekana kwamba hii sheria itazungumziwa na Bunge zote mbili - Bunge la Seneti na Bunge la Kitaifa. Ukikumbuka, kulikuwa na tashwishi na watu wakakimbia kwa Mahakama Kuu ili ieleweke ni vipi ambavyo tutaweza kuangazia swala hili. Pia, tumeona wakati uliopita kwamba kumekuwa na malumbano kati ya yale maamuzi ambayo yanafanyika kutoka katika korti zetu na kuendelea kwa Taifa.

Kwa hivyo, tunafurahi kwamba Mswada huu unapendekeza ya kwamba kabla ya kukimbia kortini, watu waketi chini na kuangazia maswala tata na kuyashughulikia badala ya kwenda kortini. Pia kipengele hicho kinasema hususan kwamba ikiwa kuna afisa yeyote wa umma ambaye atafanya Serikali gatuze ipate gharama ya kwenda kortini, basi achukuliwe hatua yeye mwenyewe kama mtu binafsi. Pia ukiangalia asilimia ya hela

ambazo zimewekwa kufikia mashinani kupitia serikali za ugatuzi, ni kweli kwamba zimeongezeka kwa kiasa cha asilimia 43. Lakini pia tumekuwa na mazungumzo kama Kamati ya Bajeti na Makadirio kwamba kulikuwa na kiwango ambacho kilikuwa kimependekezwa na ile Tume ya Ugavi wa Rasilmali cha Kshs279 bilioni. Tilitoka pale hadi Kshs238 bilioni. Kwa hivyo, huu mchakato lazima uendelee kwa sababu sijui kana kwamba kupunguza kule ni kutokana na majukumu ambayo yamezidi katika Serikali ya Kitaifa.

Pia ukiangalia zaidi, nafikiri Wakenya wamekuwa na mwito wa kuhakikisha kwamba hakuna rushwa ambayo inajikidhiri katika maeneo ya mashinani kupitia mifumo ya serikali za ugatuzi. Lakini pia tujue kwamba vile ambavyo tunapiga msasa serikali za ugatuzi, ndivyo ambavyo tunatazamiwa pia kupiga msasa Serikali ya Kitaifa. Kuna mwandishi mmoja ambaye anaitwa John C. Maxwell ambaye anasema kwamba ndiposa ufaulu, ni lazima ufanye makosa. Nafikiri mwaka huu ni wa kwanza. Kwa kweli, tumeona kwamba serikali za ugatuzi zimefanya makosa na kutoka hapa kusonga mbele, kutakuwa na mwito mpya kuhakikisha kwamba wananchi wanapata huduma. Wananchi wanapata dhamana ya zile hela ambazo zinapelekwa katika serikali za ugatuzi. Ukiangalia Mswada huu, unaelezea kinaga ubaga jinsi ambavyo pesa zilizotengwa zitatumika.

Jambo ambalo linanifurahisha ni kuona ya kwamba tumepatiana hela za kuboresha *polytechnics* katika kila kaunti ya nchi hii. Pia, kuna hela za kuboresha mahospitali.

Mhe. Naibu Spika, mwaka jana kulikuwa na tetezi kwamba Kshs16.6 bilioni zilikuwa zimewekwa ili ziweze kutumiwa na serikali za ugatuzi kama masharti fulani yangeweza kufuatwa. Kwa lugha ya Kimombo ukipenda “Conditional Allocations”.

Kwa hivyo, katika masuala ya elimu, kuhakikisha kwamba wale ambao hawajahitimu kujiunga na shule za upili wanapata nafasi ya kupata taaluma ili waweze kujikimu katika maisha na kusaidia jamii ndiposa tuweze kuafikia Ruwaza Ya 2030, ninafikiri ni jambo la kutajiwa.

Pia, kumekuwa na tetesi kuhusu masuala ya usalama na nafikiri jambo hili linaweza kuangaziwa ili vijana wetu waweze kupata ajira na riziki ya kila siku.

Mhe. Naibu Spika, pia, ni jambo la kutajika kuona kwamba kuna hela ambazo zimetengwa za kuinua miradi ambayo inafaa kusaidia uchumi wetu uweze kukua kwa kiwango ambacho kinafaa. Jambo la kusikitisha ni kwamba Kenya inaorodheshwa kufikia mwezi wa Septemba kuwa na uchumi ambao ni wa nne bora zaidi katika ukanda wa Afrika. Lakini jambo ambalo tunafaa kuangazia ni, ni vipi tutaweza kuweka pesa mashinani ambazo zitawasaidia wananchi kupata ajira? Hii ni kwa sababu ukuaji wa uchumi pasipo na ajira si jambo ambalo linasaidia kwa sababu linafanya maskini wawe maskini zaidi na mabwenyenye waendeleo kuwa mabwenyenye na matajiri zaidi. Kwa hivyo, ni jambo ambalo tunafaa kuangazia ili tuweke masharti ya utumizi wa pesa kuhakikisha kwamba hela ambazo zinafika mashinani zinasaidia kuleta ajira na kuinua kiwango cha uchumi hususani katika familia.

Pia, katika kiwango cha kitaifa, tumekuwa na mwito mpya kama Kamati ya Bajeti na Makadirio kwamba tunaangalia takwimu ama unapatiwa hela ambazo unahitaji lakini lazima uwe ni miradi ambayo unaonyesha kweli kwamba Wakenya wataweza kufaidika. Tungependa Bunge la Seneti liweze kuangalia jambo hili baada ya Mswada huu na ule

Mswada mwingine ambao unapatiana hela katika kila kaunti ili wasisitize miradi ambayo kila kaunti inaonyesha ndiposa wasipatiane hela kwa sababu watu wanasema kwamba wametengwa kwa muda mrefu ama watu wanasema kwamba hawajawahi kuangaziwa na Serikali.

Mhe. Naibu Spika, pia ningependa kusema kwamba ni muhimu katika hiyo miradi kuhakikisha ya kwamba asilimia ya watu walemavu ambao wanaishi mashinani ni 79. Kwa hivyo, ni muhimu katika kila kaunti kuwe na hela ambazo zimetengwa ili kuwasaidia kuenda shule na kuhamasisha jamii kuhusu madhara ya kuwatenga watu walemavu na kujua ni vipi wataweza kuhusishwa. Hii ni kwa sababu wakati huu tunaona kwamba pesa nyingi zimewekwa tu katika Baraza la Kitaifa kuhusu Watu Walemavu. Lakini kama ambavyo imesemekana, Bodi ya Baraza hilo haijateuliwa karibu mwaka mzima sasa. Hili Bunge lilipeana Kshs1.3 bilioni mwisho wa makadirio ya matumizi ya Serikali na hizo hela hasijatumika. Masuala ya watu walemavu si tu masuala ya Serikali ya Kitaifa bali ni masuala ya serikali za ugatuzi. Kwa hivyo, ni lazima magavana na bunge za kaunti tofauti ziweze kuweka pesa ambazo zitasaidia watu walemavu.

Ukiangalia deni la nchi, utaona kwamba kiasi kikubwa kinatumika. Tumeongeza matumizi yetu kulipa deni kwa Kshs34 bilioni na Kshs60 bilioni zinatumiwa kulipa malipo ya uzeeni. Vile miaka inavyosonga, kutakuwa na watu wengi ambao watakuwa wanastaafu lakini kuna kasumba ya rushwa ambayo inafanya pesa hizo kutowekwa vizuri ndiposa ziwafaidi wale ambao wanastaafu. Kama nchi inatumia Kshs414 bilioni katika masuala haya, ni viema tujiulize ni vipi tutahakikisha kwamba tunapata---

**Hon. (Ms.) Kajuju:** On a point of order, hon. Deputy Speaker. I beg that the Chair uses her powers. Reading the mood of the House and the contributions that have been made so far, there is consensus that this is a Bill that does not have any major opposing issues and we reduce the time so that each one of us can, at least, contribute to the debate by giving us five minutes each. That way, we can give more valuable ideas to this Bill. I request the House that we reduce the debating time to five minutes because we are also running short of time in view of what I can see from the screen.

Thank you, hon. Deputy Speaker.

**Hon. Deputy Speaker:** Is it five minutes or three minutes?

**Hon. Members:** It is five minutes!

*(Question, that debating time be reduced to five minutes, put and agreed to)*

**Hon. Deputy Speaker:** Hon. Mwaura, you have already spoken.

Hon. David Ochieng, remember the debating time is five minutes to each Member now.

**Hon. Ochieng:** Thank you very much, hon. Deputy Speaker. I rise to oppose this Bill in its current form. The consideration and passage of this Bill is one of the most important functions of this National Assembly as is enshrined under Article 95 of the Constitution. The Article says that as a House, we determine the allocation of national revenue between the levels of government as provided for in Part 4 of Chapter Twelve.

The determination of how much goes to the national Government and how much goes to the counties is a scientific process and it does not just happen. However, we do

not see that science when we look at this Bill. We also do not see the mathematics and meticulousness in trying to make sure what is being given to us has gone through some thinking. It is as if there is no new constitution with provisions on what should be done and followed when we are preparing this Bill. That is why we are doing allocation of revenue between the national Government and county governments without costing the functions of either body. We have not done the costing of functions of the National Government as they are now nor have we cost the functions of the county governments as they are now. This is the case and yet we are saying that we are using the figures of 2009/2010 Financial Year. We have 2011, 2012 and 2013 figures. So, how do you know? No wonder you have been blaming counties. As much as we are celebrating saying that 43 per cent of the monies have gone to the county governments, we do not know how much it is that will be used for development. Probably, out of the 43 per cent, 40 per cent will be used for paying salaries and wages because no science has gone into it. We do not know whether out of Kshs226 billion only Kshs6 billion will be used for development.

Hon. Deputy Speaker, that is why in the coming years, the Treasury and the relevant Committee of this House should ensure that we are able to double efforts and the functions of the county governments as well as the national Government. That is how we can know that the money we are allocating will be used to do something incremental in this country.

Hon. Deputy Speaker, I want to talk about money set aside for the national debt. We are paying for Ken-Ren and Anglo-Leasing, which are covered under the national debt. We need to go down and see where that money is going to, so that we can make some saving because that money keeps increasing every year. That is why I said that it is not scientific! It is just being done in the same old days of KANU and NARC, when things used to be lumped together and you say that the Budget is here.

Hon. Deputy Speaker, the role we are playing is not supposed to be abdicated to the National Treasury. It is our role! We should sit down here and do the allocation instead of being brought figures which we just pass. The National Assembly must ensure that it sits down and goes through what is being proposed with a tooth comb because that is our role. The idea that things are being brought to this National Assembly and we sit here for two and a half hours and say that we have now debated and, therefore, we should now pass the allocation, we are not playing our role rightly.

Hon. Deputy Speaker, if I can continue, we are voting so much money for Government investments, but we are not getting enough returns from those investments. In future, we should also have investments but we should be shown how much the Government is getting from its investments as part of the money that we are raising as a country.

Hon. Deputy Speaker, devolution is important but there is too much ado about it for nothing. Let us not fear when we see things go wrong with devolution. We must point them out and ensure that we are not throwing good money after bad money. We must ensure that we are sending money to the counties and that money is going to be used for the right purpose. I do think that the counties have no capacity to use the money that is being proposed to be taken down in terms of Rural Electrification Authority (REA). The role of REA in this country is known and I do not think any county in this country has the capacity to undertake the role of REA as it is currently. We cannot throw away money

like this! That is why the national Government had to look for money and give to KERRA last year and this year.

Hon. Deputy Speaker, we are doing the wrong thing by giving REA money through the counties as of now. It is not the right thing. That money should remain at the national level until counties have developed enough capacity to do it.

I need ten minutes more --- I really oppose this Motion on those grounds.

**Hon. Deputy Speaker:** Your time is over, hon. Ochieng. Let us hear from hon. (Ms). Kanyua.

**Hon. (Ms.) Kanyua:** Thank you, hon. Deputy Speaker. I also rise to support the Division of Revenue Bill as drafted.

The reasons why I support this Bill are because the commitment for devolution in this country continues to be exhibited. This is only the second year of our devolution programme and so far, the funding has moved from Kshs190 billion which was shared last year, to Kshs226 billion. I think that is fairly good incremental changes that we are seeing in this country.

In supporting the Division of Revenue Bill, I am also mindful of the lines that the Budget and Appropriations Committee, which I am happy to serve as a member; was able to put in conditional allocations. That is because those funds are also going into the counties and what the Budget and Appropriations Committee is saying is that, we do not want to risk devolution. We do not want to interfere with devolution in any way. But the country needs to issue very strong messages in those areas.

Hon. Deputy Speaker, if you look at the funding provided for youth polytechnics, as a country, it is that time we concentrated on youth polytechnics. I support the move like what is happening in my own county, Nyeri, to change the name from “youth polytechnics” to “county technical institutions”. The youth polytechnics seem to come with a stigma of their own, in the sense that only those who did not complete the 8-4-4 System of Education were allowed to go to the youth polytechnics. We are telling the country that this House and the country at large does care about technical schools and want to provide more artisans in our country.

Hon. Deputy Speaker, if you look for employment right now, a mason or a plumber has high likelihood to even make more money than some of the graduates we have. Therefore, I support the Bill for providing money directly to youth polytechnics in the way that it has done.

If you look at the amount for the Economic Stimulus Programme (ESP), again, there are very good reasons to continue supporting ESP and centres of excellence. I am urging this House, even as we go on, in the next year, we should try and complete the ESP that was initiated by the President when he was the Minister for Finance. The original ESP had with it health centres, markets, veterinary services and the education component.

Hon. Deputy Speaker, if you look at the Budget for this year, we have only catered for the education sector. In the next financial year, we still need to have the ESP as a whole. As we support the Bill as drafted, it is good to note that the country needs to concentrate on making more money. The funding that is available right now can only go up to 43 per cent as provided. I think pushing the level beyond what we now have is not going to be possible because the national Government has also strategic interventions.



We want to see things done in line with the Jubilee Manifesto and in line with many other programmes in this country. So, as we support the Bill, it is really in recognition of the availability of money and need to get support by use of other funds that go to the counties and are used by counties in ways that are earmarked and in ways that they are ring-fenced by this House.

As we continue, and as I wind up, there is a sad thing about our country. Every year, we sit here and vote money and we never check how that money is used. I would like to urge this House and the Budget and Appropriations Committee in particular, that we institute an end-of-year budget review. Every year, after we vote for funding, like we are doing now; before we go to the next financial year in the second year, we should first check with everybody. We should know what the absorption capacity was. We need to know how the funds were spent. This idea of giving money every year without looking at what has been done with the money is something that we need to check on to. Of course, on the accountability debate, I look forward to a day when there will be no bail for corruption offences and when life sentence will be introduced to offences of corruption and especially where money for development is concerned. I think those who steal development funds should go to jail forever.

Let us introduce those measures. I support the Bill and thank you.

**Hon. Deputy Speaker:** Let us hear from hon. Diriye Mohammed. Hon. Diriye, you are not even at your place where you placed your card.

**Hon. Mohammed Diriye:** Thank you, hon. Deputy Speaker. I stand to support the debate on Division of Revenue Bill. But I would also like to support it very cautiously because the county governments are supported by everybody, but one year down the line, they have not shown much progress.

Therefore, while we celebrate the increment of the county governments funding to 43 per cent, we need to be very careful. I wish the county governments were very clear and accountable for the progress and development they have attained. I can very confidently say that despite the billions that were given to the county governments, what the Constituencies Development Fund (CDF) has done, particularly in my constituency – and it is less than Kshs100 million or about Kshs80 million – is much more than what the billions we gave to the county governments have achieved.

Hon. Deputy Speaker, I wish to say that the Kshs3.4 billion that is meant for Rural Electrification Authority (REA) should better be channeled through CDF or through REA. That is because the county governments have enough funds already. In addition, there are some counties in this country that are marginalized very much, especially the counties in northern Kenya. Up to now, we do not have roads, electricity and water. In North Eastern Province, from Garissa to Mandera, there is no single road with tarmac. We wish that apart from what the county governments and national Government are doing, there should be implementation of some development projects. That is because 50 years down the line, the situation is pathetic in that region. Without tarmacked roads, you cannot pass through our region to access another region. There is also no electricity connection within a 10 kilometre radius in my constituency.

Therefore, I would also like the Equalisation Fund to be dedicated to the counties that are marginalized. It is also very unfortunate that we are now using the audited accounts of 2009/2010 which are very conservative estimates compared to the Financial

Year 2013/2014. Because of that, the funds that are being allocated to the counties are not properly captured. When you use the figures of 2009/2010, the amount of funds look higher, but when you use the figures of the Financial Year 2013/2014, then you will see that it is a different story.

With that, I support this Division of Revenue Bill but later on in the Committee of the whole House, we will propose some amendments.

**Hon. Nyamweya:** Hon. Deputy Speaker, thank you for giving me this chance to support this Bill. There is a basic issue that I want to raise in this Bill. The way the revenue has been given out, let us be very conscious of what we are doing. The public debt stands at Kshs414 billion. What is left to the national Government is Kshs385 billion. If you remove the money given to the TSC, the money left to the national Government is only Kshs226 billion. As Members, we should do oversight not only on devolution, but let us see what the governors are doing with the funds they have got for the time they have been in office. We have audited accounts for last year which are available. What is the absorption capacity? We are giving them a lot of money which they are not going to use. Finally, it will sit in the books and it will come back to the Treasury.

The Department of Defence (DoD) and National Intelligence Service (NIS) have been given Kshs79 billion. The police have been given Kshs67 billion. Are we serious as a country that we want to fight crime? Politicians have been talking about the issue of national identity cards. Where will the money come from if in this Budget, it is not there? Let us be very serious as we debate this because the resources are for this country. Therefore, let us see the best way in which they can be maximized.

I also want to talk about the national debt, which is alarming. It is a monster that we have as a country. It has increased. When we go to the Budget making process, we will get the items that cost this. We want to know exactly what those items are. The country is working to collect money to pay the national debt. That is all we are doing. Where is the money going? We want to know exactly which projects are those that, as a nation, we are contributing to pay for. The responsibility of the national Government is to collect money to pay the national debt. It has no money for development. I will tell you that unless we work hard, we are on our toes and make sure that there is money given for development and, specifically, roads, there will not be any development.

I am happy funds have been given for the Rural Electrification Programme. I do not see money for water. We are going to have a miracle to get this money out. The money is indicated here. What has not been factored here is foreign funding, which we are not sure whether it will come. So, we have to rely and work with the Budget that we have as a country. So, my major concern here is that, as much as we are supporting devolution - and I am also supporting it - let us be very clear on how we support it and what happens on the ground. The money that we will finally vote for is for the welfare of our people. It is about their lives and improving the quality of our citizens. We may argue about the national Government and the county governments but, overall, our responsibility as a nation is to improve the lives of all Kenyans.

When I look at these figures, I am very concerned that there is no funding to the Kenya Police. As we go to the Budget making process, I urge the Members to help the Kenya Police to get more money, if we are serious about fighting crime. About the

national identity cards, it is true that we need to have a system which is like the passport system. You can easily be traced by pressing a button. You give your passport and somebody keys in your data. We need to invest in the Kenya Police. We cannot achieve anything as a nation unless we have improved our security.

With those few remarks, I support this Bill. But there is need to do amendments on this report and be serious as Kenyans so that we can develop this country for all of us. Also, let us not over-emphasize about devolution. We are giving them money, but what have they done in their audited books in the last financial year?

**The Deputy Speaker:** You have already said “with those few remarks”.

**Hon. (Ms.) Kajuju:** Thank you, hon. Deputy Speaker. I rise to support the Division of Revenue Bill as drafted and presented before this House. One of the reasons why I support this Bill is because it has granted our county governments 43 per cent of the national revenue, which is a great improvement from the last allocation that we gave to the county governments.

As women, one of the key issues that we are concerned about is the issue of hospitals. We have seen that resources have been allocated to Level 5 hospitals to ensure that they are well stocked, taken care of and well maintained. That will translate to a healthy nation. I support centres of excellence that are being set up. I support the provision of Kshs5 million per constituency towards the completion of the already set up centres of excellence. We want to grow a generation that is younger than us, that is going to take up the challenges that will be there in future. Setting up centres of excellence in our constituencies is a good way to go in future, so that we can have better qualified people to take up the challenges.

I also know that the Transition Authority has had challenges in ensuring that county functions are transferred as set out in the Constitution. This is one body that has to take up its challenge properly and ensure that which it is tasked to do, it does it in the right way and within the set timeframe. Looking at the objects and the purpose of this Bill, they set up the division in equitable and equity manner, so that revenue is allocated both at the national level and the county level. As has been stated by several of my colleagues, equitability does not just stop there. We must have transparency and accountability in as far as the use of the money that is given to the counties is concerned.

I, therefore, propose that there be a system of monitoring and evaluating the money that is being sent out to the counties, so that we can know that it is being spent for the purpose it is intended for.

With that, I support the Division of Revenue Bill and pray that we move as it is presented, to enable us to clear with this process.

### ADJOURNMENT

**Hon. Deputy Speaker:** Hon. Members, it is now time to adjourn the business of the House. This House adjourns until tomorrow, Wednesday, 23<sup>rd</sup> April, 2014, at 9.00 a.m.

The House rose at 6.30 p.m.