

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 23rd March, 2016

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Bady has a petition to present. Proceed.

PETITION

DISMISSAL OF EMPLOYEES BY HANTEX EPZ LIMITED

Hon. Bady: Thank you, Hon. Speaker, for giving me this opportunity to present a Petition on employees of Hantex EPZ Limited on unfair dismissal.

I, the undersigned, on behalf of the dismissed workers of Hantex EPZ Limited, draw the attention of the House to the following:-

THAT, Article 41(1) and (2) of the Constitution entitles every worker to the right to fair labour practices, fair remuneration, reasonable working conditions, right to form, join or participate in activities of a trade union and the right to go on strike.

THAT, in the recent past, about 900 employees of Hantex EPZ Limited have been subjected to salary delays without prior notice or explanation for the delay from their employer, forcing them to hold peaceful demonstrations in demand for their delayed two-month salaries;

THAT, the employees who have been working for the company for the last four years now, were suspended in early March this year following the demonstrations which were held out of frustration.

THAT, a meeting held on 14th March this year between the management of Hantex EPZ Limited, myself and the representative of the employees agreed that the suspended employees would be recalled to work in phases until all employees are re-absorbed.

THAT, on 21st March this year, the management of Hantex EPZ Limited disregarded the return to work agreement and served about 700 of the suspended employees with dismissal letters.

THAT, the tussle between the employees and the management of Hantex EPZ Limited has been so persistent that last year, the management also dismissed the employees, but reinstated them after lengthy deliberations through my intervention.

THAT, while there has been efforts to resolve the tussle between the management and its workers, a lasting solution between the employees and the management of Hantex EPZ Limited has not been conclusively resolved.

THAT, the issues in respect of which this Petition is made are not pending before any court of law or any constitutional body.

Therefore, your humble Petitioners pray that the National Assembly through the Departmental Committee on Labour and Social Welfare:-

(i) intervenes to ensure the unfairly dismissed employees are reinstated to their jobs and their outstanding salaries paid in full; and,

(ii) recommends any other measure that it may deem fit in addressing the plight of the Petitioners

And your Petitioners will every pray.

Hon. Speaker: Hon. Maanzo.

Hon. Maanzo: Thank you, Hon. Speaker, for giving me an opportunity to support the Petition by Hon. Bady. Similar situations have happened in other areas. Recently, the Departmental Committee on Agriculture, Livestock and Cooperatives visited the Kenya Meat Commission (KMC) and found a similar crisis. It seems companies have become immune to the law. Therefore, I would urge the Committee to be keen on it. We need a methodology or some teeth to bite so that when resolutions are passed here, those companies can follow.

I support the Petition. Thank you.

Hon. Ababu: Thank you, Hon. Speaker. Of course this House will recall that this is a long standing matter about those 700 employees of Hantex.

Hon. Speaker: You said it is a long standing matter?

Hon. Ababu: It is a long standing matter.

Hon. Speaker: Why so?

Hon. Ababu: Hon. Speaker, it is a long standing matter in the sense that, last year, the same issue arose. Hon. Bady Twalib pushed this matter to great extent. Even though at that time we believed that a resolution had been arrived at between the employees and the management, obviously that has not been the case. Therefore, I want to support this Petition in the hope that by receiving the attention of this House through this process, maybe, the management of Hantex EPZ Limited will see the seriousness of this matter and find a lasting solution to this. We should send a clear message. One of the purposes of EPZ and the motivation behind it was to create employment and expand the employment space for Kenyans. So, for an EPZ firm to turn to practices that amount to constricting the job opportunities for Kenyans is certainly unacceptable.

I support the Petition.

Hon. Murungi: Thank you, Hon. Speaker. I also want to support this Petition by my friend, Hon. Bady Twalib. As I support, there are so many other Kenyans who are suffering under the same hands of people who are not following labour laws. As the Committee looks at this Petition, it should put the Ministry of Labour, Social Security and Services to task. The Ministry should be very vigilant and conduct inspections on most of the EPZs and other factories; especially those that are owned by foreigners in this country. Those are the people who are exploiting our people. This should be taken into great consideration.

Thank you.

Hon. Onyonka: Thank you, Hon. Speaker. I am coming in to endorse this Petition. The suggestion I would like to make is that this is a matter that affects a large population in this country. I would want to suggest that the Departmental Committee on Labour and Social Welfare and, indeed, as somebody has suggested, the Ministry of Labour, Social Security and Services to look into this issue.

A time has come when we need to look at the labour laws in this country comprehensively. Let us look at what has been happening in the past and where we are right now. If possible, we need to link this observation to the fact that there are Kenyans who now get jobs outside the country so that we can come up with a comprehensive labour law which deals with all those outstanding issues. We have the same matter in the area I represent in Kisii, where the Coca-Cola Company un-ceremoniously fires employees. It does not consider any labour laws and does not pay them any terminal benefits. It is a matter that I would want the Departmental Committee on Labour and Social Welfare to look at and evaluate, so that we can agree on both sides. That is because we need the companies to employ Kenyans. We also do not want the companies to frustrate and make sure that Kenyans are not getting their dues.

Thank you.

Hon. Speaker: Finally, Asman Kamama.

Hon. Abongotum: Thank you, Hon. Speaker. I stand to support the Petition by my good friend, Hon. Twalib. I also want to confirm that I worked in Machakos in Athi River and I was very close to the management of EPZ. At that time, you were a principal magistrate in Machakos. Those issues of EPZ are not taken seriously. Most of the companies which work there do not stick to the Employment Act and labour laws of this country. So, we want to propose that the Departmental Committee on Labour and Social Welfare should visit that area and come with a comprehensive report so that we can solve some of those problems once and for all.

We all know that unemployment is one of the biggest challenges that we face in this country. If you announce over the radio that all graduates in Kenya should come to Kasarani, they will fill that stadium. If you are talking about graduates, what about artisans, technicians and all those manner of cadres?

I support the Petition. The Committee should visit that area, expedite and bring the report to this House.

I thank you.

Hon. Speaker: Next Order.

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table of the House today Wednesday, 23rd March, 2016:-

The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June 2015 and the certificates therein:-

1. Kenya Urban Roads Authority;
2. Kenya Roads Board (Operations);
3. Kenya Roads Board Fund;
4. Jomo Kenyatta University of Agriculture and Technology Enterprises Limited;
5. Kenya Accreditation Service;
6. Industrial and Commercial Development Corporation (ICDC);
7. Civil Servants Housing Scheme Fund (Ministry of Land, Housing and Urban Development);
8. National Hospital Insurance Fund;
9. National Transport and Safety Authority;

10. Engineers Board of Kenya;
11. Kenya Nuclear Electricity Board; and,
12. Kenya Medical Supplies Authority.

(Hon. A.B. Duale laid the documents on the Table)

Hon. Speaker: The Petition by Hon. Bady Twalib is referred to the Departmental Committee on Labour and Social Welfare. Hon. Twalib, you are encouraged to make sure that it is processed within the stipulated time of 60 days.

COMMUNICATION FROM THE CHAIR

VISIT BY DELEGATION FROM NATIONAL PEOPLE'S CONGRESS OF THE PEOPLE'S REPUBLIC OF CHINA

Hon. Speaker: Hon. Members, this Communication relates to a visit by a delegation from the National People's Congress of the People's Republic of China which will commence from today 23rd to 26th March, 2016.

Hon. Members, as you may be aware, one of the unsung functions of the Houses of Parliament in nearly all jurisdictions is promotion of diplomatic ties. In this regard, I wish to convey to the House that the Parliament of Kenya is honoured to host a high-powered delegation from the National People's Congress of the People's Republic of China. The delegation, which is arriving today Wednesday, 23rd March 2016, is led by H.E. Mr. Zhang Dejiang, Chairman of the National People's Congress (NPC) of the People's Republic of China. About 60 delegates shall accompany H.E. Mr. Dejiang, who is also the Speaker of the National People's Congress. They include the Secretary-General of the Standing Committee of the NPC, Chairperson of the Foreign Affairs Committee of the NPC, Vice-Minister of Foreign Affairs, the Ambassador for Extraordinary Affairs and Plenipotentiary of the People's Republic of China to Kenya and two Deputy Secretary-Generals of the Standing Committee of NPC.

Hon. Members, you may recall that China was among the first nations to formalise diplomatic relations with Kenya by establishing a mission in Kenya on 14th December 1963, shortly after Kenya's Independence.

(Loud consultations)

What is happening Hon. Members?

(Hon. Lentoimaga and Hon. Letimalo consulted loudly)

Hon. Lentoimaga, if you could stay a bit further from Hon. Letimalo, there would be silence.

Hon. Members, since then, the two Republics have enjoyed rapidly expanding cordial and mutual ties. The visit comes in furtherance of the Declaration of the Johannesburg Summit on the Forum on China-Africa Cooperation (FOCAC) and the 2016-2018 FOCAC Johannesburg Action Plan adopted by the 6th Ministerial Conference and the 2nd Summit of the FOCAC held in Johannesburg, South Africa between 3rd to 5th December, 2015.

During the meeting, the two sides agreed to develop a comprehensive strategic and co-operative partnership featuring political and socio-economic cooperation among other areas of mutual cooperation. Therefore, the objective of this visit is to fast-track the implementation of the results of the 2015 Forum on China-Africa Cooperation Johannesburg Summit, buttress the blossoming Sino-Kenya relations and promote parliamentary exchange and co-operation between the legislative bodies of the two countries.

Hon. Members, during the visit, Mr. Dejiang is scheduled to visit Parliament to meet the Speakers of the two Houses of Parliament and sign a memorandum with the Parliament of Kenya. He will also visit His Excellency the President of the Republic of Kenya, conduct an inspection tour of some of the development projects funded by the Government of the People's Republic of China in Kenya and also visit some of the magical tourist attractions in Mombasa, Kenya.

The delegation shall hold bilateral meetings with the representatives of the Parliament of Kenya in the Members' Lounge situated next to the entrance to the main National Assembly Chambers. To facilitate those meetings, Hon. Members are hereby requested to vacate the said facility from the evening of today 23rd March 2016 until the evening of Thursday 24th March 2016. That room is popularly known as "Hon. Cheboi's boardroom."

(Laughter)

Hon. Members, allow me to take this early opportunity to welcome the delegation to Parliament tomorrow, and particularly the National Assembly, and wish both sides fruitful bilateral engagements. I thank you.

STATEMENTS

Hon. Cheboi: On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Cheboi, what is your point of order? You are temporarily without a room.

Hon. Cheboi: Hon. Speaker, having made your ruling, which I really respect, would I be in order to request my Members to meet in the other lounge which is on the other side?

(Laughter)

Hon. Speaker: I imagine that your Members are the same Members of this august House. Let us have Hon. Jessica Mbalu give her statement.

ATTACK ON PEACEFUL DEMONSTRATION ALONG KIBWEZI-KITUI ROAD

Hon. (Ms.) Mbalu: Thank you, Hon. Speaker. I have a Personal Statement to make on an attack on a peaceful protest.

I am Hon. Jessica Mbalu, Member of National Assembly for Kibwezi Constituency. I rise under Standing Order No. 84 on Personal Statements. This has been necessitated by the outcome of the demonstration along the Kibwezi-Kitui Road that took place on Monday 21st March, 2016, where police attacked me and other leaders. The violent and despicable attacks were perpetrated

by officers of the National Police Service (NPS) on me and 10 other leaders, despite our being unarmed, peaceful and disciplined during our protest. I personally escaped death by a whisker when three teargas canisters were lobbed at my car by one rogue police officer. Several members of the public, including demonstrators and roadside traders, lost property at the hands of the police. The excessive use of force, including wanton use of teargas canisters, has left the Lower Eastern Region in panic and uncertainty. Even more shocking is that those acts of violence were perpetrated by members of the NPS who abandoned all decorum and behaved like goons. This has had a serious repercussion on the public trust and co-operation with NPS. Such unprecedented levels of force were uncalled for and should be condemned in the strongest terms possible.

The protests were conducted under Article 37 of the Constitution, which guarantees every Kenyan the inalienable right to peacefully and unarmed demonstrate, picket and present petitions to public authorities. Notification for planned demonstrations and request for security had been made to the necessary authorities and had been assured. However, on the material day, the authorities did not pick calls from any elected leaders. It is, therefore, baffling that those I requested security from, nearly ended my life through the use of deadly force against elected leaders. I do not take this matter lightly because the use of teargas against me and other peaceful Kenyans and, in particular, the hurling of teargas canisters directly at my car was a threat to my life.

Hon. Members, you will recall that on Thursday, 23rd September, 2003, in Nigeria, a serving senator and also a former President of the Nigerian Senate, Dr. Chuba Okadigbo, died from complications arising from being teargassed by police in the Northern Nigerian city of Kano during an opposition rally two days earlier. I refuse to be sent to my grave in tears.

I urge the Speaker to use his powers to increase my personal security; given the chilling events. I also urge the Inspector-General of Police, the Independent Policing Oversight Authority (IPOA) and other concerned State organs to commence immediate and thorough investigations on the matter.

As a historical note, it should be observed that the B7 Kibwezi-Kitui Road was first surveyed in 1974 and since then, successive governments have been giving unfulfilled promises of tarmacking it. The B7 Road is the only untarmacked Class "B" road in Kenya. The tarmacking of that road has also been subject to over 40 parliamentary questions and petitions by Members of Parliament. This is evidenced by the perusal of the HANSARD records. The first question was asked before the survey of tarmacking of the road in 1974 as Question No. 621 on 19th July 1972 by Hon. Kitonga. The response by the then Assistant Minister for Public Works, Hon. John Keen, was that the road would be re-done with murrum when funds were available. In 2011, the Government had earmarked the road as Priority No. 3 after the Standard Gauge Railway (SGR) for purposes of financing by the China Government. In 2012, a contractor by the name Sinohydro was introduced to the intended site at Kibwezi by the Vice-President, Hon. Kalonzo Musyoka. It is not clear to the residents of Kibwezi and Lower Eastern why the Government has since never progressed in the implementation of the project.

In conclusion, I, therefore, want to assure both my constituents and the county at large that I will continue to use peaceful, legal, civilised and constitutional means to agitate for their rights and to carry out my mandate as a legislator and development-conscious leader. Even as I do this, I urge all State organs to respect and observe the constitutional guarantees to basic rights. This will reduce the ugly incidents like the one we witnessed on 21st March, 2016.

I thank you.

Hon. Speaker: Once again, I have to keep on reminding Hon. Chris Wamalwa to just kindly look at Standing Order No. 84. There is no debate. By the indulgence of the House, a Member may explain matters of a personal nature. No debate may ensue. So, it is unfortunate. I can see Hon. Marcus Muluvi, Hon. Francis Nyenze and Hon. Makali Mulu wanting to say something. It is unfortunate that there is no debate that may be allowed. I can also see Hon. Kangogo and Hon. Kathuri.

Hon. Member: It is a special one!

Hon. Speaker: There is nothing special. Look at Standing Order No. 84. We will go to Committees. Each Committee is informed appropriately that it is giving its Report in 10 minutes. We will begin with the Liaison Committee. The Chair of the Liaison Committee, please, apprise the House on the business pending before your Committee.

BUSINESS PENDING BEFORE LIAISON COMMITTEE

Hon. (Dr.) Laboso: Thank you, Hon. Speaker. As you are all aware, the Committee was established under Standing Order No. 217. Its mandate is:-

- (i) To guide and coordinate the operations, policies and mandate of all Committees.
- (ii) To deliberate on and apportion the annual operating budget among the Committees.
- (iii) To consider the programmes of all Committees, including their need to travel and sit away from the precincts of Parliament.
- (iv) To ensure that the Committees submit reports as required by the Standing Orders and consider reports of Committees that have not been deliberated by the House and report to the House on the consideration of such reports.
- (v) To determine, whenever necessary, the committee or committees to deliberate on any matter.
- (vi) To give such advice relating to the work and mandate of the select committees as it may consider necessary.

What has the Committee achieved? The Committee had established the following:-

It has facilitated the fast-tracking of the Senate Bills pending before the National Assembly Committees and facilitated the fast-tracking of Bills with constitutional deadlines.

Following the ruling by the Speaker that the Liaison Committee takes over the role of the Budget and Appropriations Committee on an interim basis, the Committee has done the following:-

- (i) Considered the 2016 Budget Policy Statement and tabled its Report in the House on 3rd March 2016.
- (ii) Secondly, it tabled its Report on the Division of Revenue Bill 2016 on 22nd March, 2016.

The following business is still pending before the Committee:-

- (i) Consideration of the first Supplementary Estimates for 2015/2016 Financial Year. The Committee expects to conclude the Estimates and table its report on 14th April 2016.
- (ii) Money Bills referred to the Committee in accordance to Article 114 (2) of the Constitution.

On the list of Bills under consideration by the Committee, there is an annex list of the Bills. I do not know whether we really need to read through it. It is a very long list of Bills.

Hon. Speaker, do I need to read the number of Bills pending before the Committee? We have Bills and Motions pending before the Committee. We have a list of draft Motions requiring costing. Those ones have been referred to us because we are acting as the Budget and Appropriations Committee. We have over 40 to 50 different Bills that are pending before us. I believe that is the reason we said that we have not touched any of those Bills.

We are expecting the substantive Budget and Appropriations Committee to be constituted quickly so that they can get on with the business of prosecuting those Bills.

That is it, Hon. Speaker. Thank you.

Hon. Speaker: Did you say 40 to 50 Bills? It is a lot of work. Next is the Departmental Committee on Education, Research and Technology. Hon. Melly, the Vice-Chair, do you have any update?

BUSINESS PENDING BEFORE COMMITTEE ON
EDUCATION, RESEARCH AND TECHNOLOGY

Hon. Melly: Thank you, Hon. Speaker. Hon. Members, as you are aware, the mandate of the Departmental Committee on Education, Research and Technology touches on areas of education, training, research and technological advancement. As such, the Committee is considering the following business in its sittings:-

We have the Universities (Amendment) Bill, 2015. This one is signed by Hon. Aden Duale, the Leader of the Majority Party. As a Committee, we have received memoranda from stakeholders and we are considering them now.

We have the County Early Childhood Education Bill. This is a Senate Bill No.32 of 2014. It went through First Reading on 2nd March 2016. We have not engaged the stakeholders and we hope to do so next month.

We also have the Kenya National Examinations Council (Amendment) Bill by Hon. Dr. Chris Wamalwa. It went through First Reading on 17th February, 2016. The Committee has already requested for memoranda from the public on the Bill. The Committee is planning to engage stakeholders in the next two weeks.

Hon. Speaker, other business before us is:-

The proposed Basic Education (Amendment) Legislative Proposal 2015 by Hon. Grace Kiptui. We have actually met as a Committee. We have deliberated on the proposed legislation and we have made recommendations. We shall be forwarding the comments and tabling them before the House.

We also have a proposed Kenya School of Law (Amendment) Legislation 2015 by Hon. Irungu Kang'ata. It was brought before us in July last year. We have received comments from the Attorney-General and other stakeholders and we have held a meeting with the sponsor, the Hon. Member. We are actually making recommendations at the Committee level.

We also have a proposed Basic Education (Amendment) Bill 2015 by Hon. (Eng.) James Rege. We have held two meetings with Hon. (Eng.) Rege, the sponsor, on 17th March, 2016. That was last week. We are now writing recommendations on the said proposal. We are going to forward the comments to you.

We also have the proposed Basic Education (Amendment) Legislation Proposal 2015 by Hon. Mary Seneta. We have discussed it at the Committee level and made recommendations. We shall be forwarding them to the House.

The other one is the proposed Kenya Institute of Curriculum Development (Amendment) Bill, 2016 by Hon. (Ms.) Joyce Emanikor. The Committee has written to the Attorney-General and the Kenya Law Reform Commission to submit their comments on the Bill and, thereafter, the Committee will invite the Member to come and make her submissions.

Another proposal is on the Basic Education (Amendment) Bill by Hon. (Ms.) Winnie Njuguna. She appeared before the Committee on 17th March. We have made recommendations. We shall be forwarding the proposals to the House.

We also have the proposed Universities (Amendment) Bill. That is another business by Hon. Abdullahi Diriye. We had scheduled to meet the Hon. Member, but he requested for a re-scheduling of the meeting. The Committee will consider his proposal when he comes before us. He did not appear before the Committee and, therefore, we are waiting for the opportune time when he will come.

The other one is the proposed Kenya National Examinations Council Bill by Hon. Alfred Agoi. We met the Hon. Member on 17th March, 2016. We interrogated him and we shall be forwarding the proposals before the House.

The Committee has dealt with many issues. Some of them are on the gross mismanagement of Murang'a University. This is a Petition which was brought by the people of Murang'a County. We have interrogated the Petitioner. We visited the University. We also met the residents and the concerned Petitioners. We are waiting to write the report on this.

We also have the alleged mistreatment of Bura Girls High School students. This was a Petition by Hon. Nassir. We have visited the school. The Committee will meet with the Petitioners over the recess period and make a final report.

We also have the Petition on the discrimination of *Akorino* students in some of the public secondary schools for wearing headscarves. We have met the concerned *Akorino* Petitioners. We are waiting for the Cabinet Secretary to come before the Committee and then write a report on that.

We also have the release of 2014 Early Childhood Development (ECD) examination results by the Kenya National Examinations Council (KNEC) and the registration of the institute. This was a Petition by Hon. Richard Makenga. The Committee will meet the Petitioner during the second week of April, 2016.

We also had a Petition into the inquiry of the mismanagement at the University of Nairobi by Hon. Emmanuel Wangwe. We have the Report ready. We shall table it tomorrow, 24th March, 2016.

We also dealt with the challenges facing Braille technicians in the country. This was a Petition that was brought by Hon. Dr. Makali Mulu. The Committee has scheduled to look at the Petition in April.

Lastly, we have also looked into the cancelation of the 2015 Kenya Certificate of Secondary Examination (KCSE) results.

The matter was brought by Dr. Wamalwa and it is under consideration. The Departmental Committee on Education, Research and Technology will meet the Cabinet Secretary for Education, Science and Technology on 24th March, 2016 - which is tomorrow - and discuss the way forward.

Hon. Speaker, there are other businesses that are pending before the Committee. As you know, we are very busy. We have the Supplementary Budget of Financial Year 2015/2016. The Committee was briefed by the Parliamentary Budget Office and we are meeting the Cabinet Secretary on Tuesday, 29th March, 2016, to deliberate on the same. The Committee is also planning to carry out the monitoring of the Sanitary Towel Programme in all selected public primary schools across the country. The Committee is also planning to visit and inspect the ongoing programmes of the technical training institutes across the country.

Lastly, the Committee would like to bring to the attention of the House the ongoing curriculum review programme or what is being done by the Kenya Institute of Curriculum Development. As you are all aware, our curriculum is under review. I am asking that the House supports this process because it is going to affect the education of this country. I am calling upon the House to support the process of curriculum review in all our schools in the country.

I thank you.

Hon. A.B. Duale: On a point of order, Hon. Speaker.

Hon. Speaker: The Leader of Majority Party, what is your point of order?

Hon. A.B. Duale: Hon. Speaker, I want to thank the Vice-Chair of the Departmental Committee on Education, Research and Technology for that elaboration. Article 95(2) of the Constitution reads:-

“The National Assembly deliberates on and resolves issues of concern to the people.” Over 6,000 children of the citizens of this country have had their exams cancelled. The people who cancelled the exams have not given very good reasons. It is the KNEC. Exams are like a national security item. This Committee should call an emergency meeting, bring a report to this House and recommend action against those who committed that offence to the over 6,000 innocent children. It is not business as usual.

I want to confirm that, at least, none of my schools had its exams cancelled, but it is something that has never happened in the history of Kenya since Independence. It is a total of 6,000 students whose parents did all that they could do for four years, only to be told their children’s exams had been cancelled. Somebody somewhere in KNEC, whether it is the Chief Executive Officer (CEO); whether it is the management or the board are sitting pretty. In the last examinations, you could see that before the paper is done---

Hon. Speaker: What is out of order?

Hon. A.B. Duale: What I am saying is that the Vice-Chair has not said it. What is his Committee doing about this national crisis where 6,000 children are sitting back at home? The exams have been cancelled and some of them have committed suicide. What is the Committee doing and how fast can we get a report to deal with those who participated in the cancellation of those exams?

Hon. Speaker: I thought somebody has done a Petition. Is it Hon. Wamalwa? Yes, I thought there was a Petition. Hon. Melly, would you want to respond to that?

Hon. Melly: Yes. I would want to respond gladly. First of all, I want to inform the Leader of the Majority Party that, as I read my submissions, I informed you that we are meeting the Cabinet Secretary tomorrow to give us his report on the issue.

Secondly, last week, we met Hon. Agoi and we are proposing, as a Committee, many structural changes to the Kenya National Examinations Council (KNEC). We are looking for ways and means of curbing that menace once and for all. The Committee is doing a lot on this

matter. I invite the Leader of the Majority Party to come to the Committee tomorrow and get more information.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Melly, of course, your recommendations can only have meaning if you bring them to the House to be deliberated on in terms of Article 95(2), so that the House can resolve to adopt them in full or with amendments or reject them. It is an important matter. It is, indeed, a matter of great national importance.

Hon. Members, before we go to the next Committee, allow me to recognise students and pupils from the following institutions:-

Ngoto Boys High School from Makueni Constituency of Makueni County, Dagoretti Best Care High School of Nairobi County, United Africa College (UAC) from Makadara Constituency of Nairobi County, Neema Development Centre from Embakasi North Constituency, Nairobi County and Gathimaini Primary School from Kigumo Constituency of Murang'a County.

They are welcome to observe the proceedings in the National Assembly.

(Applause)

Next is the Departmental Committee on Energy, Communication and Information.

BUSINESS PENDING BEFORE COMMITTEE ON ENERGY,
COMMUNICATION AND INFORMATION

Hon. Kamau: Hon. Speaker, the business pending before the Departmental Committee on Energy, Communication and Information is as follows:-

The Committee is currently dealing with a legislative proposal; namely, the Information, Communication and Technology Practitioners Bill, 2015. This is a proposal by the Member for Garissa Township, Hon. Adan Duale. On the said proposal, the Committee has written to the following institutions requesting for input:-

The first one is the Office of the Attorney-General. They have, to date, not given us any response and we have sent a reminder. The second one is the Kenya Law Reform Commission. We have received a response. The third one is the Ministry of Information, Communication and Technology. They have responded.

Hon. Speaker, we expect to sit as a Committee next week and make final resolutions on the legislative proposals.

The Committee has also opened an inquiry into a matter regarding non-payment of royalties to musicians and artists. This matter came before the Committee on 29th January 2016. The Committee has met a number of stakeholders, including musicians and appointed a joint technical committee composed of our staff, musicians and stakeholders in the industry to look at the legal structure of the relevant laws governing the industry. They are expected to report to the main Committee on 26th April 2016, so that we can compile a report for consideration by the House. The Committee intends to have a long-term solution to matter of royalties to musicians, an industry which has employed a number of youths in this country.

Hon. Speaker, on Bills, the Committee will meet next week for the stakeholders to submit their amendment proposals on the Energy Bill, 2015 for consideration by a Committee of the

whole House. The Committee has also written to your Office requesting for a *Kamukunji* with all Members of Parliament on a matter regarding the Last Mile Connectivity Programme. This is a Government sponsored programme, through the Ministry of Energy and Petroleum. It is being implemented by the Kenya Power and Lighting Company (KPLC).

The Committee requests you to allow the meeting to be held in the Main Chamber at your convenience. This will enable Members to participate and express their views on this important Government programme intended to increase access to electricity to people in our respective constituencies. The *Kamukunji* will be addressed by the Cabinet Secretary (CS) of the Ministry of Energy and Petroleum and the Managing Director of KPLC.

Hon. Speaker, on the very serious issue of education pending before us, I would like to request that the Departmental Committee on Education, Research and Technology be given some timelines within which to report to the House. That will do justice to this House and Kenyans in general. Thank you very much.

Hon. Speaker: Very well. Do I see an intervention from Hon. Ababu Namwamba?

Hon. Ababu: Hon. Speaker, I had actually sought to voice a concern over the earlier matter by the Departmental Committee on Education, Research and Technology but, apparently, I did not catch your eye at the right time. I had wanted to add my voice to that matter. I do not know whether you will indulge me.

Hon. Speaker: No! Let us not go back to that matter. The Committee is already working on it. Let them bring a report and then we can deliberate on it.

Hon. Ababu: Thank you, Hon. Speaker.

Hon. Speaker: Are these other Members with interventions? Hon. Nyokabi!

Hon. (Ms.) Kanyua: Thank you, Hon. Speaker. I want to raise a question with the Chairperson of the Departmental Committee on Energy, Communication and Information, Hon. Jamleck Kamau; on the question of access to Information Bill, which is pending for introduction of amendments. The Committee is supposed to process the amendments by the Ministry of Information, Communication and Technology. It will be good if they can finish the amendments by the Ministry so that that the Bill can be dispensed with, noting that it is a constitutional Bill. I did not hear him mention it in his Report. I am a bit concerned about that.

Hon. Speaker, let me add that, in my status, I would want them to expedite the matter so that I can finish with the Bill before I go and serve the country in other ways.

Thank you.

(Laughter)

Hon. Speaker: Departmental Committee Chairperson, I am also informed that the Bill has been with your Committee for far too long. Maybe, you could comment on that. Maybe, you did not give any update.

Hon. Kamau: Hon. Speaker, the Bill is ready. We are just waiting for the House Business Committee to set the date so that we can bring it to the House.

Hon. Speaker: Hon. Clement Wambugu!

Hon. Wambugu: Thank you, Hon. Speaker. I am asking for a small clarification from the Chairman of the Departmental Committee on Energy, Communication and Information. He said that we will be having a *Kamukunji* with the CS of the Ministry of Energy and Petroleum.

He only talked about the Last Mile Connectivity Programme, which I believe relate to areas which have transformers for maximum utilisation.

As you are aware, there was a facility which was availed through the Rural Electrification Authority (REA), where Members used to get an allocation of approximately Kshs15 million to plan for electricity within their constituencies. For the last three years, we have not heard anything about that facility. There are many areas which have not been connected because of lack of either power lines or transformers. If the Chairman could advise the CS to come armed with an answer to that question, I will appreciate very much.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Kamau.

Hon. Kamau: Thank you, Hon. Speaker. When the CS appears before the *Kamukunji* to address us on the Last Mile Connectivity Programme, we expect him to deal with all the matters that will be raised by Members. Some of the issues include the 5,000 megawatts, connectivity to other areas and, more importantly, the maximisation of the selected transformers that have been set aside. It will be important for Members to even know which transformers in their constituencies are earmarked for maximisation. The Ministry should be able to answer all those questions. The Member for Mathioya should make sure he attends so that he gets the answers.

Thank you.

Hon. Speaker: Hon. Members, it is also fair and advisable that you attend meetings to raise whatever matters you may be having when a particular CS appears before a certain Committee. Even if he is not ready to respond to the particular issues that you may raise on that day, he can give an undertaking as to when he or she can reappear before the same Committee to respond to such issues. It may be an easier way of getting some of the issues that you have from your constituencies being addressed by the CSs from time to time.

Member for Cherangany, Hon. Wesley Korir, is it about marathon?

Hon. Korir: No. It is not about marathon. It is about the energy issue. There was a project that the Government was undertaking about the Free Primary Education Connectivity. The Government has told us that all primary schools have been connected. There is a scenario in my constituency where poles are there and there is no power in any primary school. There are poles but no transformers.

Hon. Speaker: Hon. Korir, take the advice I have given. On the date that the Chairperson has indicated the Cabinet Secretary (CS) will be appearing, go there and ask the question so that you do not appear to be speaking in vain. We agreed that the Chairperson will be the one to facilitate. He has already indicated the date when the CS will be appearing. Go there and raise all the issues about your constituency. Not just about your schools, even those things you are calling the last mile or longest miles. Go and raise them so that the CS will respond either on that day or any other day, giving you a direct undertaking.

Next Order!

PROCEDURAL MOTION

ALTERATION OF THE CALENDAR OF THE NATIONAL ASSEMBLY

Hon. A.B. Duale: Thank you, Hon. Speaker. I beg to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order 28(4), this House resolves to-

(a) alter its Calendar in respect of the First Part of the Fourth Session as follows:-

(i) Short Recess: Friday, 1st April to Monday, 11th April, 2016; and,

(ii) Sitting Days: Tuesday, 12th April to Thursday, 5th May, 2016.

(b) exempt the adjournment of the House in respect of the Short Recess of the First Part of the Session from the provisions of Standing Order 28(3).

Hon. Speaker, in line with the President's constitutional obligation, His Excellency the President has requested, through you and your colleague the Hon. Speaker of the Senate, to address a Special Sitting of Parliament on Thursday next week on 31st March, 2016, so as to outline the State of the Nation Address in relation to values and principles of governance as elaborated in Article 10 of the Constitution.

Secondly, the state of the nation's security as provided for in Article 240 and finally, for the President to give the status in fulfillment of the international treaty obligation under Article 132 of the Constitution of Kenya, 2010.

So, the extension by one week will not necessitate a recall for a Special Sitting. Ideally, we were supposed to leave this Thursday for 10 days. If that was the case, then on Thursday next week, the two Speakers would have had to recall both Houses and, more so, for the National Assembly because I am talking about the Calendar of our Assembly.

For us not to allow Members 10 days to be uninterrupted, the Short Recess of 11 days will begin on 1st Friday to 11th Monday of April, 2016. Members should also note that this option was agreed on yesterday at the *Kamukunji* and was affirmed by the House Business Committee (HBC) in its sitting last night Tuesday, 22nd March, 2016.

So, it is a small matter. It is procedural. We have agreed in the *Kamukunji* that, instead of leaving this Thursday, we shall have our 11 days recess beginning next week so that the Hon. Speaker does not have to recall the House for just one day. Since I am not seeing the leadership from the other side, I am forced to look for my colleagues in the House Business Committee and the person directly in front of me is Hon. Makali Mulu to second.

Hon. Speaker: Let us have Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Speaker. I second the Motion. Just as the Hon. Leader of the Majority Party has rightly put it, we discussed this matter yesterday in our Speaker's *Kamukunji*. We all agreed that we need this one week which should not be interrupted. At the same time, it is important that we get the Presidential Address to the Nation on 31st March, 2016. Instead of being recalled, we would rather just wait for that one week so that, that matter is behind us and then we proceed on recess.

So, with those remarks, I second.

(Loud consultations)

Hon. Speaker: Hon. Members, including Hon. Grace Kiptui, you are in the House.

(Question proposed)

I am giving her the chance to sit. Just sit there. You can sit anywhere.

(Question put and agreed to)

Next Order!

BILL

Second Reading

THE DIVISION OF REVENUE BILL

Hon. A.B. Duale: Thank you, Hon. Speaker. I beg to move:-

THAT, the Division of Revenue Bill No. 4 of 2016 be now read a Second Time.

We are all aware that the Public Finance and Management (PFM) Act, 2012 requires the National Treasury to provide the following documents to Parliament before 15th February each year:-

The Budget Policy Statement (BPS), which they did and in fulfillment of this requirement, the National Treasury submitted it. They also presented to Parliament and, more so, to the Clerk of the National Assembly, the legislative proposal on Division of Revenue Bill, 2016. They also provided the Medium Term Debt Management Strategy Paper and the legislative proposal on County Allocation of Revenue 2016, which was sent to the Senate. This is because the County Allocation of Revenue Bill 2016 ought to begin from the Senate. So, they have confined to the law. By 15th February, all those documents were in Parliament.

These documents provide the basis for formulating the Budget for the Financial Year 2016/2017, the medium term and the law on sharing of revenue between the national Government and county governments. Therefore, the principal object of this Bill is to provide for equitable division of the revenue raised nationally between the national Government and the county governments for the Financial Year 2016/2017. This is pursuant to Article 201 of the Constitution, which partly says “the public finance system shall promote an equitable society, and in particular revenue raised nationally shall be shared equitably among the national Government and the county governments.” The catch words in this Article are “promote an equitable society.” It is for Hon. Members to agree with me on whether that equitable society is there since the advent of devolution.

More importantly, Article 201 says that the revenue raised shall be shared between the two levels of government. It should be further noted that the revenue allocated to the national Government shall ultimately be spent at the county level directly. The money that this House appropriates for the national Government will ultimately go to the citizens in their counties, constituencies and villages just like the money that goes to the county governments. There is no way a governor can claim to have done so much. What will the national Government have done? Both levels of government are under obligation to make sure that they provide the necessary services to the citizens.

Article 203 of the Constitution provides the criteria for sharing that money. It gives the criteria for determining the equitable shares as provided for in Article 202. The criteria provides for taking care of the national interest, the national public debt provisions and the needs of the national Government. The criterion also seeks to ensure that the county governments are able to

perform their assigned functions and undertake development projects. Further, this Article provides that the share of revenue raised nationally to be allocated to the county governments shall not be less than 15 per cent of all the revenue collected by the national Government. The Constitution is very clear. Not less than 15 per cent of the revenue collected nationally must go to county governments. So, the county governments' share can be 20, 30, 40 or 50 per cent.

Going to the Medium Term Budget Policy Statement (BPS), the total sharable revenue is estimated at Kshs1,380,199 million. This comprises of what the national Government and the county governments will get. The National Government will get close to Kshs1,093,899.00 million, while the county government equitable share is estimated outside the conditional grant that the county governments will get, which is estimated at Kshs280,300.00 million. Above all, there is constitutional provision for the Equalisation Fund at Kshs6,000.00 million, which is for 14 specific counties. Regarding the Equalisation Fund, there was a misinterpretation. It is not just the Kshs6 billion that is contained in this Budget. It should be from the time the Constitution of Kenya 2010 became operational. I am sure that the necessary correction will be made. The total of the amounts due to the Equalisation Fund for that period will be given to the 14 counties, which include my county. It is not because of any favour, but Garissa County is one of the most marginalised counties in this country. We have never produced a president, prime minister or a vice-president since Independence. That is why we are marginalised. It is only now that one of the 14 marginalised counties has produced a Speaker and a Leader of the Majority Party. I want to thank the Jubilee Coalition for giving the pastoralists and the 14 counties those two positions. Those who were there before did not do anything like that. They should not blame the Jubilee Government. The memorandum which is appended to this Bill clearly demonstrates how the national Government has taken into account the criteria set out in Article 203 of the Constitution.

Further, this Bill sets the revenue allocation for county governments for Financial Year 2016/2017 at 30.5 per cent of the recently audited accounts of revenue as approved by Parliament during Financial Year 2013/2014. The Jubilee Administration, under the leadership of President Uhuru Kenyatta, can be credited as the first Government that has implemented a devolved system of government in Kenya. One of the biggest achievements of the Jubilee Administration is that we had the opportunity to implement devolution. The Constitution sets the revenue share for county governments at 15 per cent but, from Financial Year 2013/2014 through to Financial Year 2016/2017, we have raised that allocation to more than 30 per cent. This year, the amount allocated to the county governments is 30.5 per cent, based on the audited accounts presented to this House by the Public Accounts Committee (PAC) and approved in the Financial Year 2013/2014. This allocation is above the minimum constitutional requirement of 15 per cent. That must be very clear. That is a deliberate attempt by the Jubilee Administration, under the able leadership of President Uhuru Kenyatta.

In accordance with the provisions of Article 202(2) of the Constitution, the county governments may be given additional allocations from the national Government share of revenue as conditional grants or un-conditional grants. If you look at the Division of Revenue Bill, 2016 before us this afternoon, you will see that the national Government has set aside additional resources as conditional grants to counties for specific national Government interventions. Hon. Members will agree with me that the national Government has intervened in certain devolved functions. Examples are health and water sectors. I have no intention of becoming a governor, but I know what is happening in our counties. Certain services are not rendered very well. We must look at the institutions that are responsible for those services. The national Government, in

this year's Division of Revenue Bill, has decided to intervene in certain key sectors. The total conditional transfer given to county governments is Kshs21.89 billion. If you add it to Kshs280 billion given on the equitable share, then the total amount going to county governments will be about Kshs302 billion.

What are those grant interventions? One of them is Kshs4.5 billion to cater for the leasing of medical equipment and facilitate the purchasing of modern specialized equipment. When you walk to some hospitals which have received those machines, for example Rift Valley Provincial General Hospital and Machakos Level 5 Hospital and many others, at least, the Intensive Care Unit (ICU) machines and specialized equipments are there. I am sure the Committee on Health will agree with me that Kshs4.5 billion was allocated.

Another Kshs4.1 billion was allocated to the free maternal healthcare. That is the biggest achievement of this Government. Never again will our women or mothers deliver outside a health centre. I come from a pastoral community. When President Uhuru Kenyatta took over the Government in 2013, 46 per cent of Kenyan mothers were delivering in health centres. Today, I can say without any fear of contradiction that 67 per cent of Kenyan mothers deliver in clean health facilities free of charge. In the pastoral communities, our mothers used to deliver under trees. That is because the roads are very bad. Free maternal health care has never been there since Independence. There are many children called Uhuru and Ruto in the villages because of the free maternal healthcare. Maybe, some will be called Duale but, for now, we have told them to exhaust the names on Uhuru and Ruto.

An amount of Kshs4 billion has been put as grant for Level 5 hospitals. My constituency has a Level 5 Hospital. We are talking about Embu, Kisumu, Kakamega, Mombasa and Nakuru, among others. The national Government has done a deliberate intervention to Level 5 hospitals, giving them specialized health services so that they can create equity in access to healthcare. I am sure there are many other items in the Schedule of the Bill which have been given to country governments as conditional grants.

This is a very important Bill. We brought it because it will go to the Senate. I am sure the Budget and Appropriations Committee knows the controversy between the two Houses on the Division of Revenue Bill. We have missed the deadline as provided for in the Public Finance Management (PFM) Act, 2012. Therefore, I urge this House to fast-track the approval of this Bill, in order to allow for adequate time for the finalization of the budget estimates for the national and county governments.

Article 218(1) of the Constitution provides that for, 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 revenue between the two levels of Government. Article 218(2) of the Constitution further provides that the Division of Revenue Bill shall be accompanied by a memorandum, setting out the explanation of revenue as proposed by the Bill. The memorandum bit of this Bill was missed out in the 2013/2014 Financial Year. It explains so that one can understand. It is the only Bill the Constitution allows a memorandum to be attached for explanation of the revenue as proposed. It is an evaluation of the Bill in relation to what it contains.

Clauses 1, 2, 3 and 4 of the Bill basically deal with the preliminaries, the short title, definition of words and expressions. If you go to Clause 4 of the Bill, it provides for the division raised between the two levels of government in respect of the Financial Year 2016/2017. Clause 5 of the Bill provides for the mechanism of adjusting in terms of valuations the revenue raised by the national Government. Clause 6 of the Bill provides for dispute and resolution mechanism

should they apply prior to instituting court proceedings. If this Bill is not passed, then it means that county governments will not get money and someone can go to court. Clause 6 deals with that organ. It includes the provision for personal liability on public officers who cause any state organ to incur costs and referring them to disputes. In this Bill, there are schedules.

The First Schedule provides for equitable share of revenue raised nationally between the two levels of government. In conclusion, we are a House that has the powers under the Constitution in the budget-making process. We allocate both levels of government resources and do the Appropriation Bill. The onus is on us - both the National Assembly and the Senate - to make sure that each and every cent we allocate to those two levels of Government goes to the people of Kenya, regardless of whether or not we are related to people in the county governments. I asked a former Provincial Commissioner in North Eastern Province who has been recalled how much the three counties in North Eastern were receiving from the national Government before devolution. He told me it was not more than Kshs1.5 billion for Garissa, Wajir and Mandera - the former Northern Eastern Province.

Under devolution, those three counties now receive Kshs19 billion. We ran away from Kshs1.5 billion which was being given to us by the national Government after we knelt down and cried saying: "Please give us something!" The Constitution gave us Kshs19 billion and today it is not visible. It is, maybe, because many of our children got jobs in the county governments or there are too many vehicles owned by the county government. As I stand here, in my constituency, where the biggest river in Kenya passes in the middle of Garissa Town - and water being a devolved function - somebody can die because of lack of water. If you look at all the Level 5 hospitals - and I have nothing against them--- There are people who feel that when we talk about county governments, we have some personal interests. We have no personal interests. Some of us voted for the new Constitution of 2010 because of a devolved system of government. The money that we allocate, we have the oversight role and we must follow it.

With those many remarks, I want to ask the Deputy Speaker, who is the Chair of the Committee on Liaison, to second. She has the capacity to interrogate the budget as per your Communication. I ask the House to support it.

Thank you, Hon Speaker, I beg to move.

Hon. Speaker: Hon. Deputy Speaker.

Hon. (Dr.) Laboso: Thank you, Hon. Speaker. I would like to thank the Leader of the Majority Party for acknowledging the capacity of the Deputy Speaker as well as that of the Liaison Committee. Despite our capacity, we still insist that the Budget and Appropriations Committee must be formed, so that they can take over their rightful responsibility.

In seconding this Bill, I would like to bring forth some issues that were critical as we looked through the Division of Revenue Bill. As the Leader of the Majority Party has rightfully said, we have been apportioning finances to county governments and sharing between the two levels of Government. As you have rightfully pointed out, a lot has been transferred to the county governments. The public view and opinion is that there is little infrastructural development that can be seen despite the amounts of money apportioned to the county government.

There has been a lot of discussion on the need to increase resources to the counties, but we have not spent enough time to look at how the counties can help the national Government bake a bigger cake. We are here looking at the same amount and fighting over who should get what allocation, but nobody is looking at what the county governments are raising. Who is auditing what is being raised if at all anything is being raised at the county governments? The

Senate and the county assemblies should focus on that area, so that we can have additional funds to share out.

(Applause)

There are many reports of misappropriation of resources at the county level at the expense of delivery of service. It is open in our media and we see governors being taken in and out of courts and facing impeachment instead of delivering service to the people. They complain why we question misappropriation of money. They say that the “child” learned from the “father”. We are against that because even if the “father” had some mistakes, we do not want them transferred to the “child”. Kenyans voted for devolution because they wanted services at the level they could reach. We want efficiency, accountability and transparency at the county levels.

We also looked at the delivery we are getting at the county levels. For example, agriculture is fully devolved and with the funds allocated to the counties, we expected that we would have what used to be done by the national Government in terms of introduction of extension officers and more support to farmers, but unfortunately, practically, nothing has changed in terms of farmers getting more informed on how they can make billions from the funds they have.

Hon. Speaker, some lessons have been learnt from devolution and the use of money at both levels of Government. There seems to be a disconnect. We do not have a good link between what is going on at the county levels and at the national level. Do they understand their agenda? Is there a clear agenda at the county level of what is the national Government’s agenda? That link is missing. There should be a more cohesive way in which the two levels of Government work and have more synergy for them to feel that they are one and have a common agenda. Maybe the Division of Revenue Bill will help.

The Division of Revenue Bill is based on the just concluded Budget Policy Statement (BPS). It is important to note the resolutions on the BPS that were made in this House a few weeks ago. It should be the guide. We have seen many changes in this Budget and we hope that what was presented in the BPS will guide what happens in 2016/2017, particularly in ensuring that the capital Budget is based on a reconcilable list of projects. This is an act of fate because we have passed many Budgets for development without clear ideas of where those projects will be. As the Liaison Committee acting as the Budget and Appropriations Committee, we should be given specific projects that this money will fund. That is why every year we are apportioning more money because the project is still incomplete. We do not know its status last year and we end up allocating more money in the following financial year.

The Division of Revenue Bill is in line with our BPS. According to the National Treasury, those are the only available resources. Any changes you will want made should be explained as to why you want them done. Otherwise, it would mean that the National Treasury will borrow more money.

With those remarks, I want to second and hope that this House will pass the Division of Revenue Bill.

(Question proposed)

Hon. Speaker: Hon. Members, it is fair to inform ourselves of some of the timelines in our Constitution because you have a responsibility to the county governments. Article 224 of the Constitution states that counties can only prepare their Budgets and come up with appropriation laws on the basis of the Division of Revenue Bill passed by Parliament. If we do not pass the Division of Revenue Bill which in keeping with practise goes to the Senate, then we are holding all the county governments to ransom because they cannot prepare their budgets. We are lucky that this has come a little earlier than it has happened in the last two financial years. Article 218 of the Constitution provides that the Division of Revenue Bill shall be introduced in Parliament, at least, two months before the end of each financial year. I would like to request that we deal with this Bill and if we fail to conclude it today, then we can still proceed with it tomorrow. As we debate it, we should bear in mind those timelines and the possibility of mediation. Hon. Makali Mulu.

Hon. Mulu: Thank you, Hon. Speaker. I want to start by appreciating the Liaison Committee for the work well done. As you have rightly put it, we have never had the Division of Revenue Bill in the House this early. That is a commendable effort and we need to support it.

What we are doing with this Bill is what we call vertical division of revenue. When we pass this Bill, the national Government will be able to do a detailed Budget. The county governments will also do their detailed budgets after the County Allocation of Revenue Bill is passed by the Senate.

I appreciate the fact that a number of the legal requirements have actually been adhered to. The one which is of great interest to me is where it is required by law that where there is a deviation from the Commission for Revenue Allocation (CRA), that deviation must be explained. The CRA recommended that the equitable share of revenue be Kshs331.8 billion. This Bill proposes that the equitable share of revenue be Kshs280.3 billion. A lot of efforts have gone into explaining why we have this deviation. It is important this is explained to Kenyans, so that we do not appear to ignore the CRA's recommendations. In terms of the CRA's recommendations and deviation, adherence to the Constitution has been very important.

Looking at the actual allocations, I want to make observations. We are basing these allocations on the 2013/2014 audited revenue. So, in between, we have the Financial Year 2014/2015. If we had audited reports for that year, they would have been used. I am sure we all know that the revenue for the year 2014/2015 was higher than the revenue for 2013/2014. So, as a House, we need to pull our socks to make sure that we are only one year behind.

I am looking at the specific allocations, more so, the conditional grant. This year, we are going to give Kshs4.5 billion conditional grant for medical equipment. We did the same last year. I remember last year we asked the question whether we have the framework to ensure that this leasing of medical equipment is properly done. This Bill allows for a section where you explain a bit of details in terms of figures and I expected this House to be updated on this particular financial year. I expected us to be informed on the progress of utilisation of the resources that this House gave to county governments and the national Government for leasing of medical equipment. This brings out the element which the Member has just mentioned on the issue of this House being not brought into speed on the money we allocate every year. How are we fairing in terms of output? As a country, we are not taking monitoring and evaluation seriously.

The other point is on the allocation to the Level 5 hospitals, which is now Kshs4 billion. The reason why these hospitals are given this money is to make sure that they provide specialised health care at that level. It is the same Level 5 hospitals which are benefiting from the

leased medical equipment. My expectation would have been that because we are doing this for the second year, then the allocation to Level 5 hospitals would reduce because the equipment is provided by the national Government. However, this figure has remained constant. This is an area where we are giving money, but the services are not improving as we expect.

There is also an allocation of Ksh900 million to compensate the county health facilities for forgone user fees. While these facilities are very important, we have serious challenges in terms of staffing. Medical personnel are very scarce in these facilities. People are not accessing services because it is the personnel who provide the services and not the equipment. As you can see, most of the allocations to the sector are in terms of conditional grants. The bigger question is whether, even as we continue to appropriate a lot of money to the health sector, we are realising value for money in terms of the resources being translated into improved service to Kenyans. More likely, majority of Kenyans will answer no to that question.

As a House, we need to start doing proper monitoring of the resources that we release to county governments and the national Government to make sure these resources are translated into improved service.

The Kshs4.3 billion allocation for road maintenance is very important. This will go a long way in assisting us to improve our road infrastructure. As you are aware, there is a case in court stopping road engineers from using the money. This matter needs to be resolved as quickly as possible, so that Kenyans get value for the money.

The other issue in this Bill is the repayment of public debt. It is going to increase from the current Kshs362 billion to Kshs433 billion. We have said many times in this House that public debt needs to be properly managed. When you look at the international indicators, we are not doing very badly, but we need to be cautious in terms of the amount of debt we are incurring as a country. This debt has serious implications to the economy. If we do not do that, we will have issues.

I want to raise general issues briefly. As a House, we are allocating money to programmes every year. Time has come for us to demand to know how much has been cumulatively allocated to each programme, so that, as a House, we can know how much we have allocated to different programmes. That way, we can ask the hard questions like how much more we need to allocate, so that the programmes can be completed.

The other matter I want to raise is the issue of our Public Accounts Committee (PAC) Reports. Every year, PAC looks at reports and makes serious observations. We also get audit reports from the Auditor-General. As a House, time has come for us to ask the hard questions. If a Ministry has been mentioned to have misappropriated funds, do we really need to give them more resources or do we need to give them lesser resources, so that we start controlling how the resources are used? We have been told that the Ministry in charge of Public Service, Youth and Gender has misappropriated about Kshs180 million. If you look at this Bill, we are proposing to give them more money. The question is whether we want to give money to people who have misappropriated resources. This is an important question.

I will also want to speak on the issue of the Equalisation Fund. This is the third year we are giving the Kshs6 billion. However, this money has never been used in any year. Why should we continue appropriating more money for the Equalisation Fund when it is not being used?

The last point is on the Emergency Fund for the county governments. It is important for them to set aside funds for emergencies because emergencies cannot be avoided.

With those remarks, I support the Bill.

Hon. Speaker: Hon. Sakwa Bunyasi.

Hon. Bunyasi: Thank you, Hon. Speaker. I rise to support the Division of Revenue Bill. In doing so, I would like to make a few observations. This is the time when we all get a chance to look at how the hard earned money from the Kenyan taxpayer and other such sweaty sources is put together and how it is proposed to be shared out. It is a moment we should be generally upbeat about what will go out there and spur economic growth both at the national and county levels for this Republic. It is a time when we have a chance to reflect on how well we have done in the past year.

Hon. Speaker, first, I would like to thank the micro-economic managers because this year, their levels have reduced somewhat from those of last year. We cannot just grow in a linear way increasing each year. We have to look realistically at the sources of revenue. Sometimes when there is a challenge you have to lower your expectations.

Too often we focus too much, in my view, on the misuse of funds at the county level. First and foremost, we must condemn wasteful expenditure at all levels in this republic. That is now becoming notorious. Every day you wake up, the headline is about funds wasted, stolen, misallocated and all manner of things. It is equally disappointing whether it is happening at the national level or at the county level. We cannot be on a high horse to think that when there is theft down at the county, it is more serious than theft at the national level. First, we must condemn it and hopefully, as we go through the various Motions and Bills, we will continue to tighten the loop overall in the misuse of funds, particularly in the scandalous waste of funds. So, whether they remain at the centre or go down to the county, we must have equal concern.

Secondly, just by the virtue of the magnitude of the funds involved, even if we went along this recommendation, we would have about Kshs300 billion going to the 47 counties and we remain on the basis of revenue alone, with slightly above Kshs1 trillion, which is a lot of money. All that can have a major impact on this economy if used properly.

I urge my colleagues that we should give strong condemnation of misuse of resources at all levels and not necessarily celebrating because a governor has been chased literally or bundled into a vehicle and we then think that Kenya is doing a good thing on the use of resources. Remember they are taking Kshs300 billion and there is Kshs1 trillion before borrowing resources. This is all revenue that has been earned. It is going to be probably used by others for whom we shall never be able to get close to a police vehicle, but who might take the billion or the many billions. That is a practice that we must all work together in condemning.

We are still at the initial level where we are allocating resources in a manner that, in a sense, we have to prescribe how counties should use it. As we mature in devolution, I hope these funds will go to each country and each county will use them in a way that is unique to them, so that they can elicit the fastest growth they can on the basis of the resource base they have and not on the basis of the assumptions made in Nairobi. That is where we came out of. Some counties will grow faster than others. If there is no fairness of opportunity, there will never be fairness of outcome. The fairness of outcome is going to depend on the efforts of each county on the probity with which they use public resources and how well they synchronise between expenditures and opportunities that are provided within their counties. That day will come. We are learning the hard way, but that day is going to come.

As it is now, it is, indeed, right that we should pressurise the allocation of these resources. This is a health debate to carry on at a time like this on the allocation of resources between the national Government and the counties. For the counties, we will keep pushing while for the

national Government, we will give reluctantly. But the pressure should be that wherever the shilling lands, it goes to the most productive. Hopefully, it will not land on the rock in a political sense, but will land on fertile soil and it will give us a major product.

Table Two shows the breakdown of the resources. Before I get there, it is a pity that this has come just a few days before we present the 2014/2015 audited accounts. We are at a stage in which we are going to be doing report writing largely. It will just be a few weeks later than would have been the case and possibly, they would have used these resources. Hopefully, next year we shall catch up.

Looking at the break down on Table Two, my attention is drawn primarily at the issue of public debt. In 2015/2016, it was estimated that the public debt payment will be about Kshs362 billion rising to about Kshs433 billion. This is an area we must keep a tight eye on as we go forward and particularly as the Government comes out with the borrowing strategy for the coming year. Institutions of Government at the national level have been left without much change which is probably the right thing because inflation will help to take care of it. Part of the revenue that is wasted in this Republic is under undefended litigation. I would like to urge the institutions concerned like the Judiciary, the Director of Public Prosecutions as well as the Attorney-General, in deciding how quickly to settle this debt, to be vigilant. In many of these provisions, there are additional payments that would have not occurred if cases had been settled on time. If judgement has gone against you and you know you have to pay, do not wait for two years and accumulate interest because that interest is being paid for by the taxpayer.

In terms of the quality of services that are being delivered, there has been a wide variance across this Republic. I remember back in 2005/2006, I had discussions with my local agriculture department on a rice project we were trying to promote through self help efforts, through community development efforts. There was zero extension. To get the extension out, you had to pay for it. This is in 2006 before devolution. Let us not exaggerate services that maybe only existed in some parts of the country and not in others. This is the same, for example, in health services. People talked about how counties will afford to keep vaccines. If they do so, they do not have fridges. We never had fridges when we had the national Government responsible for this. Now we have it and we would like it to operate better. The devolved government has brought services that others did not see before. If you look at most counties around the country, there is vibrancy in the local economies because part of these billions are spent locally, whether through justifiable means or otherwise and are spurring local economies. There are some advantages to it. We are not talking about the opportunities provided by public sector employment. These are opportunities that these expenditures spur local economic growth leading to a bubble in many places.

I would hope that this effort continues to catch up to schools. We have a huge challenge. The only investment that goes to school comes from the CDF. The national Government, at least, in the county where I come from, has completely abandoned this function. We need to expand and modernise infrastructural development in areas where population is still growing through a transfer of such resources. I know there are other parts of the country where population is contracting and they do not have that problem, but I hope we begin to look gallantly at this issue of sharing of revenues and think of it as an opportunity for this same Republic. For the President of this country, it is better for him that resources that go to the national Government and the county governments spur growth. It is his country. It is his Republic and economy. It is just a division of which level would best provide services.

With those few remarks, I support.

Hon. Speaker: Hon. M'ruaki.

Hon. M'uthari: Thank you, Hon. Speaker. I rise to support this important Bill which clarifies the division of revenue between the two levels of governments.

It is important to realise that the money that we are giving to the counties, the counties also wait to spend it. In my opinion, the leadership of the counties should consider counties as cost centres, so that at the end of the day, we see value for the money that we give. In my constituency, if you compare the CDF and the money that is allocated to the county, there is very little from the county. Spending of this money does not consider the needs and the aspirations of the people. As we allocate the money, we should create a mechanism to ensure proper investment of the taxpayers' money. At the end of the day, many regions experience greater benefit than others. This is again the responsibility of the citizens of this Republic. In the process of identifying leaders, regions get what they need according to the leaders they have put in place to be responsible.

Hon. Speaker, the Fourth Schedule of the Constitution states clearly the functions of the county governments and the functions of the national Government. We should expect more benefits at the devolved units. For instance, in agriculture, we expect to have vibrant activities at that level. We expected many communities to experience the benefits of devolution, but that is not the case in many counties. We also expected better health services, but that is not the case in many counties. We also expect to have better infrastructure in terms of roads. Instead, governors have gone to court to demand more money and functions. At the moment, very little is realised from the money that is entrusted to them. It is important that the various bodies that we have allocated money to, as indicated in Table Two, do their part. Bodies that have been given responsibility to oversee the expenses and ensure that justice is done to the citizens should do it properly, so that we have value for money at the centres that have been allocated money. They should stimulate development and facilitate citizens to live a better life.

I can see allocations for safety nets for people with various challenges. This money has not been increased. This is the money that goes directly to the disadvantaged citizens of this country, including the aged, orphans and vulnerable children and the disabled. This provision should have been increased, so that more people can benefit because there are more aged people in this country. It is also important to consider aspects of our economy that will lead to greater productivity and improvement in the wellbeing of more citizens. If there is improvement in livelihood and productivity, more benefit will spread to the citizens.

In this Bill, I also see enhanced allocation to agencies dealing with defence and security for more surveillance and support. It is important to note that there has been some improvement in this area lately. More can be done in terms of cushioning and supporting our security agencies to ensure that we have security for our people.

In certain areas that have experienced challenges like the National Youth Service (NYS), re-engineering has been done. Allocation to this area has been slashed, but the slashing must be followed with keen follow-ups to ensure that individuals entrusted with various responsibilities do not take the money for their personal use at the expense of the greater good of our country. All in all, we have a responsibility in the area of oversight, so that resources that are entrusted to various institutions and levels of Government are not wasted. We should strengthen oversight to ensure that resources that are given to the various levels of the Government are not wasted, but are utilised to help the country to move to the next level of development. A lot of the resources

are utilised on Recurrent Expenditure. Very little resources are put in areas where we can have greater benefit like research, development and innovation. Those are the areas which are given less attention. In the process, we end up being at the same level of development.

It is my hope that we will have a greater scrutiny of the resources, so that governors do not spend the money for their enjoyment or creating conflicts, but they spend the resources for the greater good of the people of Kenya.

With those remarks, I beg to support.

Hon. Speaker: Member of Parliament for Ugunja!

Hon. Wandayi: Thank you, Hon. Speaker, for giving me this very rare opportunity to contribute to this very vital Bill. It is rare because we hardly talk about the Division of Revenue Bill.

I support the Bill. I have to because it talks about dividing revenues between the county governments and the national Government. As I do so, it is important to make a few remarks.

First, I take note of the fact that the total allocation to the counties is about 32 per cent of the last budgeted revenues of the 2013/2014 Financial Year. It is still an issue. For how long are we going to continue basing our revenue allocation on very old revenue accounts? That is an issue that should occupy our minds.

Hon. Speaker, it is a fact that allocations to programmes end up not being absorbed year, in year out. I am aware of many Government departments and Ministries which have not spent substantial amounts of the allocations for the current financial year. That should concern all of us. If we cannot ensure the money we appropriate in this House is expended on time, we risk engaging in a ritual, as it were. The only time the economy will grow is if we carry out development projects in all the sectors.

The other area I am concerned about is that of infrastructure. Our economy can only be sustainable if we focus on infrastructural development. I look forward to discussing this matter a lot more as we move along.

I am aware that a number of functions were unbundled to the counties. What is worrying is that, even after unbundling those functions to the counties, the requisite funding has not been provided to enable the county governments to perform those functions effectively. I have in mind the functions of health and roads. They remain contentious. To date, there is no clarity as to who is responsible for what kind of roads. That is an issue that needs to be settled once and for all because infrastructure is the backbone of any economy. If we cannot address the issue of infrastructure, we will go fast. Roads significantly contribute to the infrastructure.

There is the matter of the Controller of Budget and Auditor General's Office. We have said many times that the office needs to be improved.

Hon. Speaker: No. We do not have any such office. There used to be.

Hon. Wandayi: It is the Auditor General's (AG) Office. I am being corrected by my Chairman, Hon. John Mbadi.

Hon. Speaker: Hon. John Mbadi knows that the office was split into two, namely, the Auditor General and the Controller of Budget offices.

Hon. Wandayi: I am guided. Hon. Speaker, that office needs to have teeth if it is to rein in the matter of wastage of funds at both levels of Government, namely, national and county government. I am looking forward to seeing a more strengthened AG's Office if we are to play the oversight role that we are supposed to play as a House. Corruption remains the single most important impediment to our advancement in development as a county.

A lot of these resources are gobbled up through corruption. We have had very many cases this ending financial year of mega corruption in this country. I hope something will happen to change the situation as we move to the new financial year. Otherwise, I support the Bill and look forward to a more enhanced economic growth.

Thank you and God bless you.

Hon. Speaker: Member for Emurua Dikirr.

Hon. Kipyegon: Thank you, Hon. Speaker. I firmly support this Bill. I thank the initiator because of the time the Bill has been introduced in the House. I also thank you, Hon. Speaker for allowing that and facilitating the initiative, so that we can stop these complaints. We have been told that there has never been enough time to go through and discuss this Bill. At the same time, the time when money is to be released to counties has been addressed so that these people will stop excuses of delays. Also, if we were to have disagreements between the two Houses, we have enough time to deal with them.

The creation of counties by the Constitution of this Republic has done us a great deal. It has annexed development to the counties. For a long time, areas that most of us come from have never had a slice of the national cake, but through the counties, we have received the money. The only problem that these counties face is mismanagement by governors and the fact that they are still new and are trying to pick up.

Most of the areas have been facing disparities and inequalities in terms of sharing money. The creation of these counties has done a great deal to ensure there is equity and equitability in terms of sharing resources.

We have witnessed a situation where most of the counties have resources which are meant to be managed both in the counties and also be shared with the national Government. It is important that the Senate, which is meant to be legislating for the counties, puts in place serious measures to ensure that money collected by the county governments through revenues and road levies is managed well, so that people in those counties can benefit from such revenues.

The Senate should legislate on priorities, so that a certain percentage of the money that goes to the county is spent on development. We have witnessed a situation where most of the money has been going to Recurrent Expenditure such as salaries. Development suffers most in devolved functions that are supposed to be funded through the money that has been sent to the county.

So, I urge the Senate to legislate on how this money is spent, so that when funds are released, it is not upon the governor to decide whether to pocket the money, use it as pocket money or for other matters that do not benefit the people in the county. The Senate should enact serious legislation on that.

[The Speaker (Hon. Muturi) left the Chair]

[The Temporary Deputy Speaker (Hon. Cheboi) took the Chair]

We must also look at the money allocated to the national Government. We allocate 30 per cent of the money to the counties, but 70 per cent remains with the national Government. It is upon this House to look at how that money is spent, so that we do not only look at the money sent to the counties and chasing governors up and down. We should also look at how the money that is allocated to the national Government is spent.

We have had a lot of uprisings in the Coast, Rift Valley and the northern part of this Republic. The reason why these counties are rising up against the Government is because, for the last three years, the national Government has not accounted for the money that has been allocated to it.

For example, money allocated for roads only benefit a particular area. People from the counties and villages are wondering whether we have been budgeting money for roads. So, as Members of this House, we should not concentrate too much on the counties and leave the national Government to squander the money that we budget for it. We take many loans that our children will be burdened to repay. We are challenging the county governments and of course we know how governors are squandering money. The reason is from the proverbial saying “like father like son”.

The governors are “sons” of the national Government and they are borrowing a leaf from the way the national Government squanders money. We are devolving corruption from the national Government to the counties. It is the mandate of this House just like it is the mandate of the county assemblies, to ensure that taxpayers’ money is spent properly and used the right way.

For the first time, I wish to thank the Leader of the Majority Party and the serious people who drafted this Bill because of the Equalisation Fund. Most of us come from regions that have been marginalised for a long time and have not received any serious support from the national Government. In this Bill, we have Kshs6 billion allocated for the Equalisation Fund. Although we have heard several arguments from county governments and governors complaining that this money is meant to be going to the counties, the Constitution states clearly that the Equalisation Fund is a function of the national Government. I am happy the money is here.

I urge the Cabinet Secretary for National Treasury to put in place measures on how this money will be determined by the national Government. We have had a problem with the counties. Some county governors have gone to court to stop construction of most of the roads which initially were run by KeRRA. I wish the governors who have gone to court including my governor to stop the construction of KeRRA roads can understand that in this Bill there is an allocation from road and fuel levies of 15 per cent which should go towards the construction of county roads. I urge them to withdraw those cases so that KeRRA can continue constructing the roads.

With those few remarks, I wish to say that it is our responsibility as Members of the National Assembly and MCAs to oversee the money that is budgeted in both levels of Government. We should not be so sycophantic to the Government that we do not see how both the national Government and county governments are wasting taxpayers’ money.

I support the Bill.

The Temporary Deputy Speaker (Hon. Cheboi): Very well. Let us have the Member for Rongo.

Hon. Anyango: Thank you, Hon. Temporary Deputy Speaker. First, this is what you call lying with statistics. The Leader of the Majority Party was emphasising that the national Government is allocating 30 per cent of the national revenue to county governments. It is not true. How can it be true when you are talking of 2014 Financial Year and we are in 2016? The Constitution talked of audited revenue accounts. With modern computers, revenue accounts can be updated to the last 90 days. Therefore, there is no reason why actual allocation should be based on estimates. We should have the actual audited revenue accounts of 30th June, 2015

approved by Parliament. It does not take longer than 90 days to audit revenue accounts. We wait for the Exchequer expenditures.

The Constitution talks of audited revenue accounts. The Auditor-General is capable of splitting the audit of revenue accounts from the audit of the Exchequer accounts of the Government. The Government can delay the audit of their national expenditure accounts by so many queries that take the Public Accounts Committee years to resolve. Hon. Gumbo would have told us that there are so many audit queries and that we will get the audited accounts of Government in this House in less than two years. We need to split the audit of revenue accounts from the audit of the other Government expenditures. They can delay them as long as they like. The Kenya Revenue Authority (KRA) gives us the figures of revenue collections within 90 days and any account clerk can go to the Central Bank of Kenya (CBK) and certify that, that revenue was received.

The Auditor General should then bring a statement to Parliament that audited revenue accounts for the last 90 days are this much. That is what should be used to determine the correct percentage to be allocated to county governments.

I have noticed that pending bills are accumulating in the county governments because tenders, which are the basis of their expenditure, are based on current prices, but the revenue which was allocated to them is two years old. Because of corruption, there is a scramble as to who will be in charge of allocating tenders. That is the cause of fight over roads. County governments want to award road tenders so that they can make deals with contractors. The national Government wants to award the bulk of the road tenders so that they can make deals under the Standard Gauge Railway (SGR) and the other accounts.

Instead of wrangling that the Commission on Revenue Allocation is escalating revenues by 15.9 per cent and the National Treasury is escalating them by 7.8 per cent, let us have actual revenues and stop hoodwinking Members that you are giving 30 per cent of the revenue raised nationally to the county governments. We want to know the exact figure. If it is not enough, we will be talking of actual figures in future.

Allocating not less than 15 per cent of the revenue raised nationally to county governments, which is recommended in the Constitution, is a vague thing. From my calculations as an Economist, I had wanted 25 per cent. Definitely, less than 25 per cent is not enough to run county governments with the bloated wage bills. We have made a lot of effort in managing performance in public service. If county governments became more efficient, 25 per cent would not have been enough to initiate development which we need from the grassroots to push this country forward.

First, let us get accurate figures. Revenue accounts should be audited within 90 days and brought to us for approval. They should be used for the correct allocation formulas. Two, we should be more specific on what county governments are going to do. We are giving fake figures of conditional grants. The worst thing is that the money is never disbursed. How do you talk of a conditional grant and the year will end before the money is disbursed to Busia County? Right now, so many governors are being bombarded by contractors because they have not paid them. We then go into the vague area of why they awarded tenders when they did not have the money. The money was in the Budget, but there is a big variation between disbursement and the actual money in the Budget. How do you explain that Parliament cannot pay mileage and salaries in time and it has accumulated pending bills? If Parliament is not respected, which institution will be respected? So, the national Government has so much to answer.

When it comes to money, I plead with my colleagues on the other side of the national Government to refuse to be rubber stamps. It is not politics, but development of our country. Parliament has no duty to defend the Executive. Our duty is to defend the people and the Executive must do what they undertake to do as an Executive. We should stop giving them comfort that we will support them when it comes to revenue allocation, expenditure and corruption. If we support them, we will be cheating ourselves, Kenyans and allowing corruption to continue until so many Kenyans believe that power can be purchased. It is ridiculous that you can purchase power to go and rule the very people who are giving you the power. It is as if there is competition at this time that the money I take from tenders will guarantee my re-election. I will then have to recover that money to a point that our youths are beginning to feel that you do not even need to go to school, that all you need is to make money. These things are beginning from us here. I sympathise with our many youthful leaders who are here because the system is cannibalising. You have little money from a tender or whatever source and then you fight in the constituency and win the seat, but the money you got was enough to win the seat. You do not have enough money to sustain the seat for five years. You end up producing another cannibal from your constituency who gives money from nowhere and knocks you out in the next elections. After five years, we have destroyed a very promising and resourceful national leader before he performs anything in the country.

How do we allow such a cannibalising system to continue, if we continue sympathising with those responsible for controlling expenditure in the country? Why should we battle over the amount of resources that should be given to the Auditor-General? Why should we be in conflict over the amount of money to be allocated to the Ethics and Anti-Corruption Commission (EACC)? Why should we find it difficult to give money to the Independent Policing Oversight Authority (IPOA) to deal with corruption and other integrity issues in the police force? We think we are supporting our respective parties. We are supporting individuals to enrich themselves against our own people and in the process, we are going to destroy the national youthful leadership that would spearhead this country to a better future.

Let us be an accurate and firm National Assembly when it comes to money issues. Other things we can be friends, but on money we have to insist that each person with control over our national resources performs without sympathy.

Thank you, Hon. Temporary Deputy Speaker.

*[The Temporary Deputy Speaker
(Hon. Cheboi) left the Chair]*

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

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Well spoken, Hon. Members I give the Floor to Hon. Ababu Namwaba.

Hon. Ababu: Hon. Temporary Deputy Speaker, I do notice the Chair has changed gender. First of all, it is a point to note and celebrate that for the first time, this Bill is coming to this House on time. Indeed, it has been a concern that previously, it has been a race against time because it has not kept time as it were.

Secondly, it is also a point to celebrate that temperatures which were witnessed previously, between this Chamber and our sister Chamber, the Senate, are a thing of the past. Now, this Bill can be debated and passed in this Chamber and seamlessly moved on for consideration by the Senate.

Even as we celebrate that improved relationship between the two Chambers, I want to emphasise the importance of having a Senate that is effective in the execution of its mandate and especially as far as overseeing expenditure by county governments is concerned. Therefore, it is a point to celebrate and encourage that we have finally agreed that Senators should be given resources that will enable them to play their oversight role. It is a point which I hope Members will support as we move forward.

A lot has been said and when the Leader of the Majority Party was moving this Bill, he indicated that the percentage of the revenue share going to the counties is now at 34 per cent. But even as we bandy around this statistic, it will be important to interrogate the basis of this supposedly impressive percentage of 34. The Constitution is clear that the basis for calculating that revenue share is the audited accounts prepared by the Auditor General, looked at by the PAC and approved by this House. We all know that standard has never been up to-date. I do recall that an year ago, PAC tried to clear three years of audited accounts at ago in a bid to bring this standard up to-date.

Until this standard is brought up to-date so that we can talk about the very latest audited accounts, I would be very reluctant to get all excited like the Leader of the Majority was while moving this Bill and celebrate figures like 34 per cent when in fact, we are calculating that statistic on the basis of figures that are definitely not up to-date. This places a challenge on this House to ensure that somehow, we must make every effort to respect and implement the audit cycle as set out in Article 229 of the Constitution. That Article sets a very strict nine months cycle, which includes the work of Accounting Officers, the Auditor-General and this House. Article 229(8) provides that:-

“(8) Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action.”

This Article of the Constitution is one that we have repeatedly violated. We continue to violate because we are not living within that strict cycle set by the Constitution. Let us also take the challenge of ensuring that we update audited accounts.

Hon. Anyango: On a point of order.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Ababu Namwamba, there is a point of intervention by Hon. Dalmas Otieno.

Hon. Anyango: On a point of order, Hon. Temporary Deputy Speaker. When you say audited accounts---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Are you on a point of order or point of information to Hon. Ababu Namwamba?

Hon. Anyango: He is misleading the House.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You are on a point of order.

Hon. Anyango: Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): What is out of order?

Hon. Anyango: When you say audited accounts, it is revenue and expenditure. The Constitution talks of accounts of revenue.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I think that is a point of information.

Hon. Anyango: No, I am informing my brother here that there is a distinction between the two. Audited revenue or accounts of revenue are not the same thing as audited accounts which are both sides of Government revenue and expenditure. We have not been able to make this distinction and that is why we continue to wrangle with county governments on the correct percentages.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Okay, Hon. Dalmas Otieno has stated the information and you should respect what the senior Member has given you. I am sure his discussion is either informed or he can substantiate as he moves on. Yes, Hon. Ababu Namwamba, proceed.

Hon. Ababu: Hon. Temporary Deputy Speaker. Of course, I acknowledge the intervention by the senior Member for Rongo. He will admit, as he has, that it remains a point of contention because it is a basis of calculating the share of revenue. It is a matter which, as he correctly says, requires clarification moving forward, whichever way you clarify it. The point I was making is in terms of this House paying fidelity to Article 229 on audit cycle. That is a point that cannot be contested.

Moving forward, I mentioned the point about the Senate as we discuss share of revenue. It is important that the Senate is given sufficient capacity to play effective oversight role. The reason why I say this is because speaker after speaker in this House has mentioned this.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over, but I will give you an extra minute.

Hon. Ababu: Time is moving fast. I barely noticed the light. I was not warned at all, unless you have changed the system.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): I am at my best and I will add you two more minutes. It is Madam Speaker now that we have debated the two-thirds gender rule.

Hon. Ababu: I have certainly not contributed for 10 minutes. The system has been malfunctioning. Are you sure there is no virus in the system?

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): That is why at my discretion I am adding you two minutes. You could be contributing now.

Hon. Ababu: At times, we are told that it is impossible to introduce a factor that can multiply or depress figures the Kericho style. I am told there is geometric progression which was tested in Kericho the other day.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Please, proceed.

Hon. Ababu: Hon. Temporary Deputy Speaker, there is a challenge in the counties and some have said that we have devolved corruption. We support devolution unreservedly, unequivocally and we will continue to do so. Devolution is the present and future of this country. We must confront the challenge of how resources going to the counties are being utilised. We must acknowledge---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Ababu, as I said earlier, I am at my best and so, I had to consult. You had used seven minutes and I added you two more minutes and I, therefore, add you five more minutes. Plan yourself well.

Hon. Ababu: I want to plead that I be duly warned by the precious lights.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The system is now working.

Hon. Ababu: Thank you, Hon. Temporary Deputy Speaker. I have the highest regard for you and I appreciate your consideration.

We appreciate the challenge of county assemblies playing an effective oversight role and it is not unique to them because this House has struggled for long in playing its oversight role effectively. The capacity of county assemblies to oversee county executives is a major challenge and that is why expenditure problems are escalating. As we seek to build the capacity of the county assemblies, we should also empower the Senate to assist in this role.

Last year, it was disheartening that we did not see it fit to give the Senate funding to strengthen the oversight role. I hope that moving forward we will be enthusiastic as a Chamber to support the Senate and ensure that we provide enough resources to it for that purpose. As we release these funds, I hope the national Government will keep its word and release funds on time and does not become the bat jokes.

The other day there was a video called “*Kutengatenga*” going around on social media showing that the Government only sets aside money for various projects, but you do not really see what the money set aside does. This is why the Jubilee Government has serious problems in its traditional support basis like the Rift Valley. They had to go the extra mile to firefight to retain the Kericho seat. This is a serious indictment because you cannot be a Government that merely sets aside going around all corners of the country telling people that you have set aside funds yet people cannot see what you have set aside. For example, the 10,000 kilometre roads programme has been talked about forever. We have also talked about laptops project until it is now a joke. When funds are allocated for a particular programme, then those programmes should be implemented.

Money should be released to the counties on time to implement programmes devolved to counties. We do not want governors and executives to use the excuse of delayed disbursement to explain why services like healthcare and water are experiencing serious problems. In my Busia County, the quality of health services and supply of water has deteriorated considerably. County executives will tell you that they have not received funds. We should release these funds on time and hold people responsible in implementing the programmes to account.

On borrowing, a report was released the other day showing that only two counties across the country will pass the test of indebtedness. Forty five counties have been borrowing very heavily. I do not know whether this borrowing meets the standard in Article 212 of the Constitution which provides, and I will quote, that:-

“A county government may borrow only-

- (a) if the national Government guarantees the loan; and
- (b) with the approval of the county government’s assembly”.

Do these loans meet the requirement of the Constitution? Is the national Government guaranteeing these loans and are the various county assemblies considering these loans and going into the details of determining whether they are in the best interest of various counties? What are these borrowed resources being applied to? We do not receive good reports on how county governments are collecting revenues. As they borrow, we want to know how they are performing in terms of revenue collection, so that we can see the progress made in devolution if all this money is put in one pot.

With all the interruptions of my thought process, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, let me have the honour to give priority to Hon. (Ms.) Priscilla Nyokabi, Member for Nyeri County to contribute given her status now that we are debating the Constitution of Kenya (Amendment) Bill.

Hon. (Ms.) Kanyua: Thank you, Hon. Temporary Deputy Speaker.

(Hon. (Dr.) Pukose consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. (Dr.) Pukose! What is your status in the leadership of the House? The Member for Nyeri County has the Floor. Proceed, Hon. (Ms.) Kanyua.

Hon. (Ms.) Kanyua: I wonder why Hon. (Dr.) Pukose would have difficulties. I am happy to take the Floor, but the queue has been quite long on this Bill because I pressed my request button at 2.30 p.m. and I have been waiting since then. I hope when there is a special status it can be considered to allow other processes to take place.

In supporting this Bill, I want to commend and thank the Jubilee Government for the allocation of Kshs302 billion, 32.3 per cent of the revenue way above the constitutional minimum of 15 per cent, to the counties. With that allocation, Kenya confirms to everybody that devolution was a good way to go. At Kshs302 billion, Kenya continues to confirm to everybody that devolution was a good way to go and that we made no mistake in our Constitution to pass devolution. Despite the challenges that we have seen in the implementation of the devolution framework, we are still on the right course. I personally support the 47 counties. I have not seen any reason why we should lose any of those counties.

The challenges remain as continued effectiveness, continued service delivery and continued development by the counties. At 32.3 per cent, we put all our critics to shame. We confirm to this country and everybody that the Jubilee Administration supports devolution not by word but by action, by money and by putting our money where our mouths are. Although we have been accused of *kutenga*, this is not a *kutenga* issue. The Kshs302 billion is in law. It will be passed by this House as law. So, this is not one of those issues that we discuss in rallies. This is the National Assembly. We have a Bill that we are going to pass which has Kshs302 billion reserved and allocated to the county governments in this country. It is a good increase from the last allocation. Every year, the money going to the counties has been increasing up to what we have now.

I thank our Public Accounts Committee (PAC) here in the National Assembly. The allocation this year is based on the 2013/2014 Financial Year audited revenue. It is, indeed, commendable that the PAC has managed to work on the backlog of Reports that were pending and that we now have the very latest audited revenue used for the purposes of allocating monies between the national Government and the county governments. We thank the old and the newly constituted PAC. We hope that the Chairman, Hon. Gumbo, and the other members of the Committee, will continue with this path and even do better now. They should not just finish the audited revenues but they should proceed to help us to nail and put behind bars the people who are squandering public resources in ways that are not acceptable. A lot is still expected of the PAC. We are yet to have a PAC that matches what we see of other PACs around the world. The audited revenue records are up to date. So far so good but a lot more is still expected of the PAC.

In supporting the Bill, I have looked at the allocations that we have done, in particular the conditional allocations. I think we are on the right direction in terms of conditional allocations. If

you compare our country to other countries which have devolution, you will find that we are not even doing as much of conditional allocations as we should. Going forward, it will be important for the National Assembly to allocate conditional allocations for critical services like healthcare and education, especially polytechnics, early childhood development centres and nursery schools.

Conditional allocations should also be allocated to water. Instead of giving the Kshs302 billion as a wholesome allocation, it will be important that much of the Kshs280 billion, which has not been given as conditional allocations, is given as conditional allocations by this House. We have seen a free hand in the implementation of these monies. That free hand has not been beneficial to the public. Going forward, it will be imperative for this House, in allocating money to county governments, to allocate specific allocations for water, health, education, early childhood education and youth activities. Youth empowerment in counties is still a lot more lip service than allocation of money. It will be good to put monies that should go to polytechnics and sports in the conditional allocations that go to counties.

It is time we put in legislation the procurement principle of 30 per cent that the tenders should go to the youth in the counties. It has been left to the county governments and we have not seen much progress. I want to speak about my county of Nyeri. We have not seen tenders and government contracts going to companies owned by young people to the level of funding that the county has. It will be important for our governors to allow young people in our counties to work in those county projects and create employment with monies coming through the Division of Revenue Bill.

We support the seven conditional allocations such as the free maternal health, the leasing of medical equipment and the compensation for user fees, especially the Level 5 hospitals, noting that my county of Nyeri has a Level 5 Hospital which was the former Provincial General Hospital. Time has come for us to put in law that the conditional allocation money goes directly to the implementing agency. I have not seen any reason why funds meant for a Level 5 hospital goes to the governor's county account. I have seen absolutely no reason. It is not in law, it is not desirable and it is not in practise. So, the Nyeri Level 5 Hospital is now in very poor state and shape while the funds that were supposed to go to it are held in an account in the governor's office. The monies that are meant for Level 5 hospitals should go directly to the hospitals. There is a medical superintendent and a board at the hospital. There are certain structures within the hospitals that should be used to account for the money that is meant for Level 5 hospitals. It is not just for Level 5 hospitals. All the monies that are meant for hospitals should go to the hospitals. All the conditional allocations should also go directly to the implementing agencies as opposed to going to county government accounts from where release of those monies starts to create issues, delays and other problems.

The counties also need to spend their money on a 50:50 ratio – 50 per cent for development and 50 per cent for Recurrent Expenditure. We still have counties that spend over 70 per cent of their funding on Recurrent Expenditure which is not very useful.

As I wind up, the fight against corruption needs to be intensified. In the Departmental Committee on Justice and Legal Affairs, we have requested the Ethics and Anti-Corruption Commission (EACC) to pick one or two counties to do lifestyle audits. In fact, the competition in the Committee is which county will start. Nairobi looks like a natural one but many counties ought to have lifestyle audits done for their officers. I can see Taita Taveta, Homa Bay, and Mandera counties are requesting. Nyeri County is on the queue.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You support. I can record that. She supports the Bill.

(Hon. Ng'ongo interjected)

The Chair of the Orange Democratic Movement (ODM), I appreciate your capacity. However, what you are doing is un-procedural. If you have a point of order, raise it through me. You did not want to raise it but your consultation was high. When you want to address Hon. Nyokabi, do so the right way. Let us have the Member for Endebes.

Hon. (Dr.) Pukose: Thank you, Hon. Temporary Deputy Speaker, for allowing me to contribute to this Bill. At the outset, I support the Division of Revenue Bill which is very important. What the former PAC did, which is coming up with three audited accounts, is a record that needs to be emulated. It is a big challenge to Hon. Gumbo and his team to meet the challenge that was put by the Ababu team. If that is done, then we will be basing our budget on the recently audited accounts. That should be on the 2015/2016 Financial Year. We will be working our budget based on the recently audited accounts. That should be on the 2015/2016 Financial Year.

Hon. Temporary Deputy Speaker, if you look at the Division of Revenue Bill, you will realise that one of the key issues that comes up is whether whatever the Commission on Revenue Allocation (CRA) does has any merit and whether it has any guidance or this is just an office to employ people to just draw some salary without anything that is of any major input. All the CRA has come up with has been trashed and nothing has been considered. If you look at some of the proposals they come up with, for instance, when they talk about budget allocations for rehabilitation of primary and secondary schools, which is a national function, you will wonder whether they really understand the Constitution of Kenya. You also wonder where this should fall under; whether it should come as a conditional grant or as a national Government function. If you look at the table on page 66, you will find that it talks about what the CRA has allocated and what the National Treasury has allocated. If you look at the adjustment for the county roads, you will find that the CAR proposes Kshs27.8 billion while the National Treasury allocates zero. On adjustment for public participation, the CRA allocates Kshs5 billion while the National Treasury allocates zero. Whatever they are doing is it work in futility or they are doing something that can add value to Kenyans?

You remember when the Transition Authority (TA) which wound up the other day came to office the first thing it started talking about was extension of their time. Even when it left office it was still talking about extension of their time. This is why we ask ourselves whether people get into offices to add value to Kenyans or they get into offices to fill their pockets.

One of the key issues that our Departmental Committee on Health asked the CRA and the TA when they appeared before us was whether they had cost the devolved functions. For example, how much do you require to run a dispensary? How much do you require to run a health centre? Have we cost these functions even when we talk about Level 4 hospitals? Have we cost them? Up to date we do not have a cost function of those devolved functions. Even as this Bill comes to the House and we talk about a certain amount of money allocated either to the national Government or county government, is it adequate for us to carry out the devolved functions or when we talk about Kshs280 billion, how much is that and what value is it going to add to the counties where we have devolved functions? How much out of that amount is for

development? At times it is very easy for us to criticise and say that out of what has gone to the county governments, 70 per cent is going to Recurrent Expenditure and 30 per cent is going to Development Expenditure. If you have more employees in county governments, who require salaries and you are giving them an amount that is not well cost, then it will be very difficult for you to determine how much of that money will go into recurrent or development.

The allocation of Kshs4.5 billion that we talk about for management of equipment service is fine but as a Departmental Committee on Health we have asked the Ministry to account it for us. In the last financial year, we allocated Kshs3.4 billion. In the last financial year, we allocated Kshs4.7 billion. That is Kshs4.5 billion for leasing of equipment and Kshs200 million for training. How much of that money has been spent on the leasing of equipment? When Members talk about the various counties, it should be known that not all equipment is within those counties. There are counties that do not have equipment. Even when you talk about Machakos County, for example, as having an ICU, is it functional? It is not. The ICU at Machakos has been set up for the last eight months but it is not operational because the laboratory is not in place. Workers have been trained but the consumables are not there. Are we putting up facilities just for the sake of it or we are putting up facilities that can add value to Kenyans?

When we asked the Ministry how it has spent the Kshs4.5 billion, it said that some of it was used to settle pending bills. Is it worth for us now to say that we want to allocate another Kshs4.5 billion to pay pending bills which is not part of the managed equipment service? These are the hard questions we ask ourselves.

On the Kshs4.5 billion for maternity service, is it really going to all those facilities or it is going to county governments where it will be utilised for other functions? Do we have a better way on how this money for maternity can be ring-fenced? Can we propose that this money goes through the NHIF to avoid double payment? If someone is an NHIF card-holder and she delivers in hospital and they pay through the NHIF, the same hospital will bill the Government for the same service. So, there is double payment. You will pay through the conditional grant which is Kshs4.2 billion and yet the NHIF has paid. Can we have a systematic way of how this money can be utilised.

On conditional grants to hospitals, the money is not ring-fenced because it is not going directly to the hospitals that the money is earmarked for. The money is going into the accounts of the county governments where it is used for other functions.

We visited Jaramogi Oginga Hospital in Nyanza and the Kakamega Provincial Hospital and we were told by the governor that the money that was sent there was put in an account because they are thinking of building a hospital. This is the case and yet the same facility demands money for delivery of services. So, are we achieving what that money is supposed to do?

With those few remarks, I support this but we must, as the National Assembly, ask ourselves how efficient and effective this money will be utilized to deliver what Kenyans want.

Hon. Ochieng: Thank you, Hon. Temporary Deputy Speaker. I also want to support this Bill. I support and start by saying that the money we are allocating or the money we are in a way sharing is Kenyans' taxes. This is money raised through the sweat of Kenyans. It is given to the Government to ensure that its programmes are run well. So, I wanted to remind the President and the governors that the work being done by the Presidency, the Executive and the governors should be in the interest and rights of Kenyans.

So, when the President says that governors and MCAs should not steal from their projects, he disadvantages Kenyans. Kenyans want their problems solved. They do not care who does what. As we debate this and as we apportion monies to the national Government and the county governments, service delivery in a manner that meets the interests and requirements of Kenyans should be at the top of the agenda and not who does what.

In this financial year as you have seen, monies are being taken to the counties; that is Kshs280 billion to be shared according to the agreed formula but the bulk of the money remains at the national level. So, I also wanted to make a point, even as I support this Bill, that nothing in law stops the national Government from implementing a county function. I have heard this talk a lot about people saying that health is ours or water is ours. Nothing in any of our laws stops anyone--- That is why we keep giving what you call conditional grants.

In America, as much as money goes to the state, where the Federal Government thinks that this is an area of importance, you will see it shedding more money to the national government trying to get the states that are doing better in those areas and encouraging the ones that are doing badly to do better. So, I would like to see that in Kenya. Where a county, for example, is doing well in housing, you will find that housing is devolved but I am certain that few counties have put money in housing. This is the case and yet if you go to the villages where we come from, you will find most widows and old women stay in shanties. They stay in paper houses. We want to see money going to those areas. We also want to see the national Government encouraging county governments that put money in those areas do better in that regard. We are in this together.

There is no Kenya on one side and the counties on the other. The counties are within the county. Where the counties do well, Kenya does well. Where the national Government does well, Kenya does well. Realising that we are in this together is important so that we stop competition. I want to blame the Presidency on this matter. You cannot start cutting this country into pieces by saying; “these are national Government issues and these are county issues, and we do not talk about them” and all that. We are working for the same Kenya.

Hon. Temporary Deputy Speaker, the current Financial Year has been very bad for this country. Most Government departments, counties and ministries have not got their monies on time. The National Treasury talks about “absorption capacity.” The issue is that the National Treasury is not releasing money on time.

Since Independence, Kenya has never had a balance in the Budget. It is important for us, as a people and country, to start working towards a balanced Budget. When will we say that our Budget does not include huge deficits or that our Budget does not include huge amounts of money that are going to payment of debts? At some point towards the end of last year, Kenya was at a level where monies collected in the morning were being used to pay debts in the evening. Going forward, we need to balance our Budget. We can work around it. This is where the role of Parliament comes in. Parliament is not just supposed to allocate money the way we are doing today. It is supposed to apportion money and say; “this ministry will have this amount of money. That Commission will have this amount of money.” But what do we do nowadays? We sit back and wait for the ministries to work on their budgets and bring them to us. We do not change anything on those budgets. The role of Parliament in Budget-making should be actual, practical and hands-on, and not the kind of things we do where the Cabinet Secretaries (CSs) come and tell us; “this is what we have decided will happen. This is how we are going to do it.”

Because of tyranny of numbers, we are hardly able to change anything even in areas where we should.

All of us from the constituencies know that the biggest problem in this country is access to school fees. We have set it in policy that we want Free Primary Education (FEP) and Free Secondary Education (FSE). However, our children still pay school fees. One day, it will be important for Parliament to put aside Kshs20 billion to ensure that all children in secondary schools do not pay a cent.

This Government keeps on telling us that they have done well in education because they now pay monies for the Kenya Certificate of Secondary Education (KCSE). Our primary and secondary schools continue charging school fees. I have heard many Members talk about counties this afternoon. Education from primary school to university is not devolved. It saddens me to hear that the Higher Education Loans Board (HELB) is talking about having lotteries. The HELB wants to do lotteries to raise money for university students. Why do so when we have money?

Today, I will not talk about corruption but wastage – the kind of money that we waste not through corruption but through overpricing and not doing the right things. A budget for Kshs100 million is put for this and yet we could do it at Kshs80 or Kshs70 million. In this Budget, if you go through what is going to come before us – you can look at the history of our budgets – you will find that our ministries are not frugal in the way they plan and budget. What you could buy at Kshs50 is bought at Kshs100. The level of wastage of public resources is too high. I wonder why you bash counties when this is the culture. Counties have been easy targets and yet the national Government retains 68 per cent of the monies in this Budget. You want to think that the counties are the only problems? The national Government must cut down on wastage. Like someone said, we should put our monies where our mouths are or vice versa.

We talked about creating jobs and having youths getting employment. You cannot create jobs if you have a project like the Standard Gauge Railway (SGR) which is worth Kshs0.5 trillion. You will find that Kshs100 billion is used for buying nuts and bolts only. What was difficult in requiring the Chinese to set up an industry to manufacture nuts and bolts in Kenya before we started construction of the SGR? We are exporting jobs that we needed yesterday.

Look at the Galana-Kulalu Irrigation Project, which will consume Kshs140 billion. Half of the money is being used to buy pipes. What was difficult in ensuring that the Israelis set up a firm to manufacture the pipes around? We are exporting jobs that we needed yesterday.

There is a level at which this country is being run by quacks. You cannot tell who the President's economic advisors are. During Kibaki's time, we at least knew that there was something called "the National Economic and Social Council (NESC)". Now, we do not know who advises President Uhuru Kenyatta on economic issues. That is why scandals like the ones involving the Eurobond, the NYS and the Youth Enterprise Development Fund happen. It is because no one is advising the President the right way.

The monies we approve will only help the country if we apply our best minds in implementing projects that we envisage. We cannot initiate huge projects just for collecting kickbacks from contractors. Let us work for Kenyans.

I could not stop wondering when I heard CSs say that we are doing well as a country. I wonder the prism from which they are looking at this country. From whose veranda are you looking? If your veranda is somewhere in Karen and you are looking through the Nairobi National Park you will, of course, see lions, Galleria and probably the junction. So, you will

think the country is doing well. If you see from the veranda that I sit in Ugenya, you will see people going through hunger. You will also see that people are not able to access medical service.

Let us work for things that matter to our people. This should be done, not only by the national Government and the county governments but by all of us. All of us must work towards achieving this. It is better when you carry the whole country and grow with it. As we are, you will find most of the allocated monies ending up in the Jubilee strongholds. Let us build the country equally and equitably. Let us ensure that all of us grow together. There is nothing as bad as the Government saying; “we must leave others behind because it is too heavy if we carry everybody.” We are in this together. You are better off growing, holding each other’s hands and moving together.

With those remarks, I beg to support.

Hon. (Ms.) Nyasuna: Thank you, Hon. Temporary Deputy Speaker. Whenever we debate the Division of Revenue Bill and the County Allocation of Revenue Bill, it serves as a true reminder that we are truly in a new constitutional dispensation. I sometimes get a bit concerned when we turn debate on the Division of Revenue Bill into a session for bashing county governments, like I heard the Leader of the Majority Party while moving this debate, and the Secorder, do.

Hon. Temporary Deputy Speaker, this is time for reflection by the authorities in both the county governments and the national Government. More seriously, it is time for reflection by the authorities in the national Government, where most of the revenue remains. We have to look much more at the national Government.

A lot has been said and I do not want to repeat what has already been said. I want to talk about equity because it is a key word when we debate this Bill. In fact, we talk about “equitable revenue sharing”. “Equity” is a key word. It is a key word within our Constitution as well. It begins all the way from Article 10.

Article 27 of the Constitution states:-

“(6) To give full effect to the realisation of the rights guaranteed under this Article, the State shall take legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.”

Article 201 says:-

“(iii) expenditure shall promote the equitable development of the country, including by making special provision for marginalised groups and areas;”

This Bill elaborately evaluates itself against the provisions of Article 203(1) of the Constitution.

I would like to say that marginalised areas are expressly provided for in the Constitution through the Equalisation Fund. The Equalisation Fund is given Kshs6 billion within the Constitution. What is more quiet is marginalised groups or affirmative action groups. Article 203 (1) states:

“The following criteria shall be taken into account in determining the equitable shares provided for under Article 202 and in all national legislation concerning county government enacted in terms of this Chapter—

(h) the need for affirmative action in respect of disadvantaged areas and groups”

As I have said, disadvantaged areas and marginalised areas have been provided for expressly through the Equalisation Fund. What I want to make a case on is the affirmative action groups or marginalised groups. The Bill mentions Affirmative Action Fund but puts it under “other national obligations.” Affirmative Action Fund is not just under other national obligations. It truly is a direct constitutional provision that should be put on a line of its own as provided for in the Constitution that we should allocate funds for the need of affirmative action groups.

There is a provision for Kshs37.343 billion which is a combination of Constituencies Development Fund (CDF) and the Women Affirmative Action Fund (WAAF). That was in the last financial year. In this year, it falls to Kshs36.635 billion. When we looked at the Budget Policy Statement (BPS), this combined allocation was Kshs38 billion but now there is a drop by Kshs2 billion to Ksh36 billion. In that combination it is difficult to tell which of those two is reducing. So, since we already know the standard amounts and they have been improving, the National Treasury and this Parliament should look at this area and make a definition. My perspective is, just like there is a clear section for the Equalisation Fund, there should also be a clear section for the affirmative action as provided for under Article 203(1)(h).

Having gone through that, I represent the Parliamentary Service Commission (PSC) in the Inter-Governmental Budget and Economic Council (IBEC). Having attended the IBEC meeting, my own view is that you cannot talk about the Budget without adequate representation of the National Assembly and the Senate particularly when you are talking about how revenue is going to be divided and how it is going to be allocated. What I would like to submit is that the representation in the IBEC through the PSC is inadequate and that representation by law should come from the Budget and Appropriations Committee (BAC) and the Finance Committee of the Senate.

There is a lot of focus if you look at the conditional grants on health. You will find Kshs 4.1 billion for free maternal health care, Kshs4.5 billion for leasing of medical equipment, Kshs 4 billion for Level 5 hospitals and Kshs 9 million for foregone user fees. What attracts my attention is Kshs200 million for access to emergency care.

There is a specialised purpose grant supporting specialised medical access of Kshs200 million. Emergency healthcare is a constitutional right that is provided for each and every person in this country. This provision of Kshs200 million only covers Lamu and Tana River counties. It is said that they border Somalia and are vulnerable to terror attacks, security threats and humanitarian crises. We have seen Garissa being attacked by terrorists. We also saw the centre of Nairobi being attacked. If we want to provide for emergency medical care, we should provide it across the board. I am not saying that it should be taken away from Tana River or Lamu but a provision should be made. Even in debating the Health Bill we have been agonising here how to bring into effect the provision of the Constitution and the right that is given to every citizen for emergency health care and yet we know that it is provided many times by private practitioners and they are not going to do this for free.

So, this should become a provision that is guaranteed for the entire country. If you look at the areas that have been put as national interest provisions, you will find that the National Youth Service (NYS) is one of them. How does NYS, again, feature with Kshs17 billion in our Budget? Are we even now creating an even bigger cash cow for campaigns next year? If we are looking at the youth as an area of national interest it cannot be NYS. I do not think this House should sit

again and allocate billions of shillings to the NYS when we know that it was the cash cow for this Jubilee Government that is being used to siphon money for purposes that we do not know.

Laptops have been awaited. My own son was in---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Let us have the Hon. Member for Bomet Central. He is not in and he left his card---

Hon. Kang'ata: Hon. Temporary Deputy Speaker---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): You can never be the Member for Bomet Central unless you are denying your own. Let us have the Member for Vihiga.

Hon. Chanzu: Thank you. From what we know from the Constitution and the requirement of Article 224, I support this Bill but the views that have been expressed by the Members have to be taken into account seriously. We seem to be talking about the money we need to allocate to various areas and yet there is one aspect that we do not seem to have done in this country and it has been going on and on until it has become a precedent. When you allocate money to various functions, the issues of accountability and reporting back to say that so much money was allocated and was used for such and such should be seen. Even here where we are sitting, at least, there was money that was allocated for a purpose and we can see that we are sitting on these chairs.

This has been the problem in this country. By the time we were coming up with the Kenya Rural Roads Authority (KeRRA) money to be spent in constituencies, we had an issue where the money that went to the constituencies *vis-a-vis* the work that was done--- We never got an account of how the money had been spent. This is a major problem that has been inherited by county governments.

In my county, I have seen instances where money is used just like petty cash and sometimes money is used on functions that it was never intended for.

Hon. Temporary Deputy Speaker, sometimes you find governors carrying money to give to a school and yet this is supposed to be done by the national Government. I want to look at the points that the seconder of this Bill, the Deputy Speaker, raised. Those are the issues that we need to address for posterity. Otherwise, we shall spend a lot of money, but a time will come when we will not see what that money has done. For example, if you take Kshs3 billion to Vihiga County where there are five constituencies--- If you give Kshs2 billion for administration and accommodation, that is two-thirds. When you divide Kshs1 billion among five constituencies, it will be about Kshs200 million per constituency. If you compare the money we get from the CDF, which is about Kshs100 million with what is done there, you will realise that totally nothing is done there. If you have Kshs200 million and you add Kshs100 million, I am sure that within five years from 2013 up to end of next year, you will see a lot of development in the constituencies and in the counties. That is not the case.

Parliament is supposed to legislate. Under Article 95(4)(c) of the Constitution, Parliament is supposed to oversee the expenditure of the national revenue and ensure that this money is put to proper use. Parliament, through legislation, is supposed to put measures in place to control spending in the county governments. After the last general election, there were supremacy wars between the Senate and the National Assembly. This made the Senate not to put in place measures to control expenditure of monies sent to the counties. For example, more than 70 cent of the money allocated to Vihiga County is spent on salaries. When we came up with this Constitution, we said that we wanted only a few people to be employed. We wanted the monies going to the counties to be used to create opportunities for as many people as possible. That is

why I am saying that the issues which were raised by Hon. Deputy Speaker, while seconding this Bill, are very important. We need to put in place measures to control how money is spent in counties.

My colleagues have discussed this Bill but there is one item which they did not talk about. That is about equitable sharing of revenue which is raised nationally. There is conditional allocation, which is Kshs3,870.67 million. These are loans and grants. For the sake of the National Assembly, it is important to have a breakdown of these allocations. You cannot give out money of that quantum in lump sum without breaking it down to show the loans and grants. How will we know what these loans and grants are meant for before approving them? It is important that the breakdown is given so that we know if there are loans in Nyeri, Kisumu, Kakamega or Mombasa and for what purpose because the other items are already provided, for example, health care. It is like a miscellaneous item which is given there. It is good that the conditional allocation money is broken down.

Article 6 of the Constitution is very clear. The Constitution meant very well but Government officials have taken advantage of it. Article 6 of the Constitution is very clear that the two levels of Government are independent but when it comes to functioning, they have to relate together. It is pathetic when you find the national Government working as if it does not know what is happening in the counties and the counties working as if they do not know what is happening at the other side. These are some of the things that need to be addressed out of the statement that was made by Hon. Deputy Speaker.

We know very well that Kenya does not generate money from any other source. Right now we are prospecting for oil. We started with the coastal part of the country. I do not know how it went. We are trying to get oil from Turkana County. We are prospecting where we could be having oil and some isolated areas where we could be having minerals which are not being exploited properly, like some parts of South Nyanza. The major source of this country's revenues is taxation through Income Tax, Value Added Tax (VAT) and Custom Duty. Every Kenyan pays VAT. It means that it is paid by poor people as well. From every Kshs100 spent to buy a vatable item, the Government takes Kshs16. This money is for the people. It is pathetic that some governors behave as if the money is theirs. That is why we must put in place measures to monitor spending in the counties. We must advise the Senate to put in place measures that will tame these people.

With those remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Yes, the Member for Bondo.

Hon. Ogolla: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill. There are a number of things that need to be looked into properly. One of them is the whole issue of public debt. I am not sure if some of us have seen the amount of debt that is projected here. We are talking about more than Kshs70 billion projected for servicing debt on top of the Kshs362 billion that we have accumulated in the previous years. This indicates that there are many things that are not working well.

I want to bring to the fore something that has been happening in this country in the last two months. There are elements of revenue-raising arrangements that are still not being looked at very adequately by the Government. For example, for the last two months, CMC motors has not been able to hand over 30 new tractors to the owners because there are no plates on which to fix the registration numbers. That means that all those tractors are not at work. Sometimes we do not pay the correct amount of levies that we are supposed to pay. This is an unfortunate and

disheartening experience because we are not supporting the factors that are supposed to help us enhance production for purposes of reducing public debt. We are happier moving forward to look for monies from both inside and outside because it is an easier option than making plates. I think something must be very wrong. I am raising this for us to know that the more we put into servicing debt, the more we are reducing our factors of production arrangements in the country. We are making our prices to be very high and in the end we are also lowering our own consumption.

The levels of public debt are going to be very high. In terms of projection, we are talking about over Kshs0.7 billion and this is not right when we have many other options. The other thing I want to bring to the attention of the House as we look at this is the whole issue of transfer of functions. In the Constitution, transferring of functions was supposed to have ended by August in the Third year, which was last year. At the moment, we need to be talking about functions that are completely transferred. We do not want to be talking about functions that are still elsewhere.

For example, look at the function like water. Water is a function of devolved county governments, but it is still being run by certain boards and authorities. When we talk about costing of functions of water services in the country, some of the functions are still with water authorities and boards and a bit with county governments. What is happening that we cannot put all these things together, cost them and see exactly the cost of providing water in each county? This is something that has not been done.

Look at the monies that we are still placing with regional authorities. Some of the functions they are doing are like growing fruits. Livestock and agriculture is transferred to the county governments. What are these other authorities still doing with functions that are devolved? This is exactly why when we talk about costing of real functions, there is still a problem. Added to that is the whole issue of staffing. There are staff who are still projected here as staff that were devolved. It is not said that they are staff who belong to county governments. They are not in the Civil Service of county government. This means that we have devolved functions and attempted to cost functions and we are still costing staff outside those functions. There is something that is not very right here.

To an extent that county governments have also recruited, we have three parallel civil services in the county governments. There is the staff that they have recruited, the public servants who were transferred or devolved and then there are certain staff that were with regional authorities or departments. We are talking about Recurrent Expenditure that is so huge and yet we are not making any attempt to bring it down. In this projection, there is a bit of money that is for the staff we are calling “devolved staff”. In my view, the costing needs to be revised although we are really late in doing the costing for purposes of what we are calling county government functions.

I want to bring out a number of issues that are outstanding. We are talking about arrangements of measuring the physical capacity and efficiency of county governments. What kind of instruments do we have to do this? This is still not there and yet it is a factor that needs to be looked at when we are allocating, giving revenue or resources to county governments. If you look at Article 203(1)(i) of the Constitution, and I want to bring this in a different perspective, it states:-

“the need for economic optimisation of each county and to provide incentives for each county to optimise its capacity to raise revenue.”

We are in the fourth year and there has been no indication from anywhere that we can reward good performing counties. This is the case and yet, the Constitution is telling us here that we needed to have packaged something for performing counties. That has not happened in three years. This is outstanding and is a criterion for purposes of giving revenue.

The Bill tells us that for purposes of sharing revenue, and resources across the counties a formula is supposed to be applied. We are working on the formula we lapsed in 2015. Here we are sharing resources across vertically. What is going to be used when we are going to spread the resources across the counties when it is indicated that Parliament has not approved a formula for sharing resources across the counties? This really behooves us as a Parliament.

I want to bring to the attention of the House that there are still very many things that are outstanding and need to be checked and looked at if we are to proceed the way we are doing. Another thing that needs to be checked in this is the whole issue of reference to obsolete institutions like TA, which has not been gazetted. This means that it will never happen because it is a moribund institution.

Finally, I want to say that the whole issue of debt and revenue generation must be revisited if this country is to move forward. We must lower our debt for us to be good consumers of our products. Otherwise, we will be in a situation where we will not be able to consume the products that we have and the prices of commodities will still be high. We will continue relying on borrowed money which is not good for our country.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have the Member for Mwatate, Hon. Andrew Mwadime.

Hon. Mwadime: Thank you, Hon. Temporary Deputy Speaker for the opportunity. This is an important Bill as it deals with Division of Revenue. From the outset, I am supporting with some few comments. Be it the national Government or county government, at the end of the day, what we need is service to common people. They want food on the table, water, electricity, medicine and many others. When we are talking about revenue we should emphasize county and national Governments. We should see how county governments and the national Government are spending money.

What is happening at the moment in county governments is that most county assemblies do not have the capacity to play oversight role. I am applauding this Revenue Bill because it has included money for Senators to enable them to oversee our counties. I have seen conditional grants. It is good enough but it could have been better if they included more especially in areas where basic needs are required like water.

At the moment, there is this programme going on with the Ministry of Energy and Petroleum where the World Bank is partnering with Kenya Power (KP). The Government is supposed to give some more money so that the project can be rolled out countrywide. We should emphasise on such projects.

At the end of the day, we should know how this money is spent. We keep seeing cases of corruption in counties and the national Government in the media. We should be proactive rather than reactive so that the money that is allocated is spent well.

My colleague has just talked about regional authorities. We are duplicating public service because some of these authorities have functions of county governments. This is because some of the functions which were supposed to be devolved have not been devolved. Clarity on the roles should be pointed out so that we know the roles of the counties and national Government.

Our statistics show that out of 5,000 schools only 300 have title deeds. An issue that has been pertinent for a while now should be finalised. All schools should be given title deeds to avoid the problems arising at the moment.

We have an increase in population but we should not forget that wild animals contribute to tourism. If we forget wildlife, in 30 years, some of the animals will be extinct. We should look for money to solve this problem.

What I wanted to say has been covered by my colleagues. I, therefore, support the Division of Revenue Bill.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you for saving time. As per our Standing Orders, Hon. Members, it is important to avoid repetition.

The Member for Suba, you have the Floor.

Hon. Ng'ongo: Thank you, Hon. Temporary Deputy Speaker. Hon. Wanyonyi is complaining but he should respect his party leadership.

I rise to contribute to this Bill. While Kenyans were giving themselves the 2010 Constitution, they decided to create two levels of Government; the national and the county governments. They went ahead, under Article 202 of the Constitution, to define that the two levels of Government must share revenue. What we are doing is in line with the requirement of Article 202 of the Constitution that revenue raised nationally shall be shared equitably among the two levels of governments.

The definition of 'revenue raised nationally' has been a point of disagreement. I remember when we were working on the Public Finance Management (PFM) Act, we had points of differences because the definition of 'revenue raised' initially included loans. We decided to exclude the loans because they are usually raised for specific purposes. However, I still feel that the national Government is underfunding county governments. This is because apart from ordinary revenue, the taxes raised such as Pay As You Earn (PAYE), Excise duty and Value Added Tax (VAT), there is Appropriations-in-Aid (A-in-A). There are two components of the same, for instance, money you get through donors or bilateral agreements. The notion that A-in-A is revenue raised and should not be shared, needs to be corrected.

I disagree with the contributors from the Jubilee side who said that the Jubilee Administration is supportive of devolution. The Jubilee Government is a threat to devolution. I say this with facts. Article 203 of the Constitution talks about national interest but the Jubilee Administration has created their own issues of national interest. They are now saying that national interests should precede the division of revenue. What is the definition of 'national interest'?

(Hon. (Ms.) Nyasuna consulted loudly)

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Hon. (Ms.) Wanga! I want to listen to the expert in finance.

Hon. Ng'ongo: Hon. (Ms.) Nyasuna is probably tired of listening to her Chairman. How can the National Youth Service (NYS) be a national interest? It is not. That is money to be stolen. Jubilee has been voting to steal that money and it cannot be put in the Budget ahead of the shareable revenue. If the Jubilee Administration wants to fund the NYS, they should fund it from the portion of the national revenue after allocating money to counties. I do not see why this

provision is taking precedent over the shareable revenue between the national and county governments.

Laptops for school children is not an issue of national interest. National irrigation and fertiliser is a county function and this allocation should go to the counties. It is our duty to ensure that those funds are used prudently. We should end corruption in the counties. We should not run away from giving money to counties for fear of it being stolen. It is equally stolen at the national level.

Hon. Temporary Deputy Speaker, I find interesting comments from the National Treasury. The public debt repayment is rising from Kshs362.4 billion to Kshs433.8 billion. That is an increase of Kshs71.4 billion or 20 per cent. At this rate, this country will be auctioned. We are burdening our future generations. The Jubilee Administration should rethink its priorities because you cannot start too many projects riddled with corruption at the same time. You are exposing our future generations to unnecessary burden by playing politics. The Jubilee Administration is playing roadside politics that we saw during the Moi and KANU era. Hon. Kibaki's polished administration is gone. The President is now moving around Rift Valley making roadside declarations at the expense of Kenyans.

The National Treasury is very mischievous on public debts. They say that the Bill has fully provided for all public debt-related costs. That is fine. It goes ahead to say that these comprise of the annual debt redemption cost as well as the interest of payment for both domestic and external debt.

In 2016/2017, the revenue allocation for payment of public debt-related costs is expected to increase to Kshs433.8 billion from Kshs362 billion in 2015/2016 primarily due to the shift to less expensive debt from international markets. If it is less expensive then why is it increasing? The debt repayment has increased and you are telling us that it is because of a shift to a less expensive loan. If you are going to a less expensive loan, then we should pay less. However, we are paying at 20 per cent and you are telling us that we have shifted to a less expensive loan. I am telling you as an expert in finance that by 2019, this country will not be able to finance its public debt. If we will be able, we will not be able to meet the expenses that are required for other services.

I see a lot of provision of money relating to other activities and functions. Political parties are supported by the State at 0.3 per cent. That has not been captured effectively in this Division of Revenue Bill. I want to say two things. One, we need to have the money going to counties to rise from the Kshs302 billion to Ksh332 billion that was agreed at the Inter-Governmental Budget and Economic Council (IBEC). The IBEC was created to harmonise any differences. The National Treasury is fully represented in that Council. Whatever comes out of that Council should be reflected in the Division of Revenue Bill. I do not see that here.

Hon. Wanga said it and we discussed it. Why are we reducing allocation to the Constituencies Development Fund (CDF) and women affirmative action by Kshs700 million? We need to be told what has been reduced. Is it the CDF money that has been reduced? If it has, why has it been reduced? Is it the affirmative action money? We need clarity why the figure has gone down from Kshs37.343 billion to Kshs36.6 billion. That is a difference of about Kshs700 million. I will talk on the projections of economic growth.

In 2015/2016, our projection was 7 per cent. We advised the National Treasury that, that was a higher projection than expected but they did not listen. Later on, they revised it to 5.8 per cent. I guarantee you that at the end of this Financial Year, you will not realise more than 5.6 per

cent of economic growth. Next year is even worse. The promise by the Jubilee Administration was that in the first year it was to realise 7 per cent economic growth rate. The second year was to be double digit economic growth rate. That promise has not been met. We are waiting for Jubilee at the right and opportune time. I am not going to debate that. It should worry Jubilee that this is the final budgeting year for the Jubilee Government and it has not fulfilled even 20 per cent of its promises. Chances that Jubilee is going home are very high and as a member of the opposition, I am very happy.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Let me reserve the remaining minutes for the Deputy Leader of the Majority Party.

Hon. (Dr.) Shaban: Thank you, Hon. Temporary Deputy Speaker. I also rise to support the Division of Revenue Bill, 2016. What is important is to note that the two levels of Government are going on as it was contemplated in the Constitution. This year, the county governments have been given a share of 30.4 per cent of the revenue collected in the year 2013/2014. I want to state from the beginning that as the money goes to the counties, it is important for the governors, who have the executive powers, to make sure that the money is utilised for the right purposes. As we go on with implementing devolution in our country, it is important for people to know that the meaning of putting devolution in our Constitution was because we wanted to see development at the county level. This is the fourth year and what is being witnessed out there is that most of the money is utilised for purposes which the people do not understand. I also want to state that---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, you can use your minute and then use the balance in the next sitting? Just plan your one minute and then I give you the remaining time in the next sitting.

Hon. (Dr.) Shaban: Hon. Temporary Deputy Speaker, we hardly seem to know where the monies or the revenues collected by the county governments go. We do not seem to know how much is collected and even when it is collected at the county level, there is no proper planning on how the money will be utilised.

As I wait for the rest of my allocation of the time that has been left, I would like to stop there.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Well spoken. Hon. Shaban will have a balance of eight minutes to contribute.

ADJORNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order, Members! Hon. Members, the time being 6.30 p.m. this House stands adjourned until Thursday, 24th March, 2016, at 9.30 a.m. Allow me to appreciate your contributions and requests.

I thank you all.

The House rose at 6.30 p.m.

