

**PARLIAMENT OF KENYA****THE NATIONAL ASSEMBLY****THE HANSARD**

Thursday, 11<sup>th</sup> March 2021

The House met at 2.30 p.m.

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

**PRAYERS****ADMINISTRATION OF OATH**

**Hon. Speaker:** Can you get the escorting party. Please make your way in.

*(Applause)*

Are you Christian, Muslim, Quaker or atheist?

*(Laughter)*

The Oath of Allegiance was administered to the following Member:

Mr. Nabulindo Peter Oscar

*(Applause)*

**Hon. Speaker:** Congratulations, Hon. Nabulindo. Next Order!

**COMMUNICATION FROM THE CHAIR****VISITING DELEGATION FROM THE MALAWI DEFENCE FORCES**

**Hon. Speaker:** Hon. Members, you may continue to congratulate the newly elected Member for Matungu but do not teach him bad manners. Members take your seats.

Hon. Members, I wish to introduce to you a delegation from the Malawi Defence Forces, seated at the Speaker's Gallery. The delegation comprises of the following:

1. Lieutenant General (Dr.) Paul Valentino Phiri - Deputy Commander of the Malawi Defence Forces;
2. Major General Saiford Kalisha - Chief of Operations & Training;
3. Brigadier Dan Kuwali - Chief of Legal Services; and
4. Brigadier Luke Yetala - Commandant, Defence Staff College.

The delegation is accompanied by Mr. Bernard Omondi from the Department of Defence in Kenya.

Hon. Members, the delegation is in the country on a visit to the Kenya Defence Forces specifically to share experiences on various aspects of mutual interest and defence cooperation. They are in Parliament on the invitation of some Members of the Departmental Committee on Defence and Foreign Relations.

On my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements during their stay in the country.

## MESSAGE

### APPROVAL OF THE MEDIATED VERSION OF THE EARLY CHILDHOOD EDUCATION BILL

Hon. Members, as you are aware, Standing Order No. 41(4) of the National Assembly Standing Orders requires the Speaker to report to the House any Message received from the Senate. In this regard, I wish to report that I have received a Message from the Senate regarding its approval of the Mediated Version of the Early Childhood Education Bill (Senate Bill No. 26 of 2018).

Hon. Members, the Message conveys that the Senate, by a resolution made on 2<sup>nd</sup> March 2021, approved the Mediated Version of the Bill. You will also recall that this House approved the Mediated Version of the said Bill on 4<sup>th</sup> March 2021 thereby concluding the bicameral consideration of the Bill. Pursuant to provisions of Article 113(3) of the Constitution, I will present the Bill to His Excellency the President for assent. The House is thus accordingly informed.

I thank you.

**Hon. Speaker:** Next Order!

## PETITIONS

### REPUDIATION OF THE NATIONAL DEBT

Hon. Members, Standing Order No. 225 (2) (b) requires the Speaker to report to the House any petition other than those presented by a Member. Further, Article 119 of the Constitution provides for the right of any person to petition Parliament to consider any matter within its authority, including petitioning the House to enact, amend or repeal any legislation. In this regard, I wish to report to the House that my office has received a petition from several residents identifying themselves as small-scale farmers led by one Mr. David Caleb Otieno of Postal Office Box No. 2160 Nairobi calling for the repudiation of the entire national debt and its diversion to social service provision.

In their petition, Hon. Members, the petitioners aver that the country's total debt has reached unsustainable levels propelled by, among other reasons, recent pressure from the International Monetary Fund urging the Government to include parastatal and county loans as part of the national debt. The petitioners approximate that the total debt will exceed Ksh12 trillion by June 2022, and decry the conditions and policy restrictions such as retrenchments, increased taxation and liberalisation that are normally attached to external loans and credit facilities.

Further, the petitioners are convinced that accumulation of debt drastically reduces public and social spending thereby hampering the Government's efforts of meeting its constitutional obligations such as healthcare, education, water and sanitation, and housing. Subsequently, the petitioners seek the intervention of this House in securing the repudiation of all national debt which

they describe as illegal, illegitimate, unsustainable and odious, and call for diversion of the money thereof towards provision of social services.

Hon. Members, having determined that the matters raised by the petitioners are well within the authority of this House, I order that pursuant to the provisions of Standing Order No. 227(1), this Petition stands committed to the Departmental Committee on Finance and National Planning. The Committee is requested to consider the petition and report its findings to the House and to the petitioners in accordance with Standing Order No. 227(2).

I thank you, Hon. Members.

**Hon. Speaker:** Next Order!

### PAPERS LAID

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Twenty First Bi-Annual Report of the Monetary Policy Committee for the period October 2018 from the Central Bank of Kenya.

The Twenty Second Bi-Annual Report of the Monetary Policy Committee for the period April 2019 from the Central Bank of Kenya.

The Twenty Third Bi-Annual Report of the Monetary Policy Committee for the period October 2019 from the Central Bank of Kenya.

Monetary Policy Statement for the periods June 2018, June 2019 and December 2019 from the Central Bank of Kenya.

The Kenya Yearbook Editorial Board on Food Security (How Technology and Innovation are creating efficiencies and jobs on today's farm) in partnership with the Ministry of Agriculture, Livestock, Fisheries and Irrigation.

Annual Report and Financial Statements of the Kenya Forestry Research Institute for the years ended 30<sup>th</sup> June 2014, 30<sup>th</sup> June 2015, 30<sup>th</sup> June 2016, 30<sup>th</sup> June 2017 and 30<sup>th</sup> June 2018.

Report from the Kenya Institute for Public Policy Research and Analysis as follows:

- a) Informal Sector's Response to Shock: Lessons from Kenya, for the year 2019;
- b) Effects of Household Environmental Characteristics on Child Health in Kenya for the year 2017;
- c) Determinants of Informality in the Informal Sector for the year 2019;
- d) The Determinants of Technical Efficiency in Secondary Schools in Kenya for the year 2017;
- e) Towards revitalising Kenya's Skins, Hides and Leather Industry for the year 2019;
- f) Factors that determine Choice of Products Market for Businesses in the Informal Sector in Kenya for the year 2019;
- g) Effects of Business Environment on Productivity of Informal Manufacturing Enterprises in Kenya for the year 2019;
- h) Gender productivity Gap in Kenyan Informal Enterprises for the year 2019;
- i) Technology Acquisition and Innovations in Kenya's Informal Sector;
- j) Assessment of Intuitional Structure Governing the Informal Sector in Kenya;
- k) Status of Access to Agri-Finance by Youth and Women in Kenya for the year 2019;
- l) Women's Access to Agricultural Finance in Kenya - Baseline Report 2019; and
- m) Kenya Economic Report, 2019.

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2019 and the certificates therein:

- a) Assets Recovery Agency; and
- b) Kirinyaga University.

Thank you, Hon. Speaker.

**Hon. Speaker:** Let us have the Chairperson of the Departmental Committee on Health. The report will be tabled by a Member, Hon. Martin Owino Peters, and Member for Ndhiwa.

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Health on its consideration of the Assisted Productive Technology Bill (National Assembly Bill No. 34 of 2019).

Thank you, Hon. Speaker.

**Hon. Speaker:** Next Order! Hon. Dennitah Ghati, you do not appear to have a card.

### NOTICE OF MOTION

#### PROVISION OF ASSISTIVE DEVICES AND MEDICAL ITEMS TO PERSONS WITH DISABILITIES AT CONSTITUENCY LEVEL

**Hon. (Ms.) Dennitah Ghati** (Nominated, ODM): Thank you, Hon. Speaker.

Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that according to the World Health Organization (WHO), an estimated 15 per cent of the world's population live with some form of disability or with different ability, with 80 per cent of them living in developing countries; further, aware that in Kenya, approximately 6.5 million people live with some form of disability out of whom nearly 3.8 million are women and girls, while approximately 85 per cent of the total number live in abject poverty; concerned that a majority of persons with disabilities face numerous challenges, including being denied their fundamental rights and freedoms, including the rights to education and opportunities to work, virtually guaranteeing that they will live their lives in poverty, which often exacerbates the vulnerabilities and dependency on other people, assistive devices and critical medical items and requirements; deeply concerned that lack of these devices, medical items and requirements make it impossible for persons with disabilities to live normal and dignified lives; this House urges the national Government to provide assistive devices and required medical items and requirements free of charge to persons with disabilities at the constituency level through Government hospitals or any other Government body and to put in place mechanisms for replacement of worn out devices to enable persons with disabilities live a dignified life, be more productive and to co-exist with other members of the society.

I thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Next Order.

### ORDINARY QUESTIONS

*Question No.092/2021*

DE-GAZETTEMET OF SUB-COUNTIES CREATED CONTRARILY TO THE CONSTITUTION

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**Hon. Peter Kaluma** (Homa Bay Town, ODM): Hon. Speaker, I beg to be allowed to ask this Question to the Cabinet Secretary falling under the charge of the committee in which I serve as Member. I have been pursuing this matter, but being a Member of the committee, sometimes it is thought that I am abusing my office as member. Allow me to raise this Question to the Cabinet Secretary in my representative roles as a Member of Parliament for Homa Bay Constituency.

Hon. Speaker, I rise to ask Question No. 092/2021 to the Cabinet Secretary for Interior and Coordination of National Government.

- (i) What steps is the Cabinet Secretary taking to de-gazette the sub-counties that were created contrary to paragraph 17 of the Sixth Schedule to the Constitution as read together with Section 48(1) (b) of the County Governments Act?
- (ii) What is the status of operationalisation of newly created administrative and service delivery coordination units in Homa Bay Town namely; Asego East Division, Kanyanjo Location, Simenya, Kanyabala Central, Kanyach Kachar North, Kabuda Kogwang South, and Kothidha South Sub-Locations vide *Kenya Gazette* Notice, Legal Notice No. 5853 of 21<sup>st</sup> June 2017?
- (iii) What steps has the Ministry taken to ensure that the administrative units specified in Legal Notice No.5853 of 21<sup>st</sup> June 2017 are operationalised including substantively appointing and/or posting requisite personnel so as to ensure efficient service delivery and provision of security in the constituency?

I thank you, Hon. Speaker.

**Hon. Speaker:** There is no conflict, Hon. Kaluma. So, the Question will still be responded to before your committee.

The next Question is by the Member for Nakuru Town East, Hon. David Gikaria, who requested that it be asked on his behalf by Hon. Walter Owino.

*Question No. 093/2021*

NON-COMPLIANCE OF PRESIDENTIAL DIRECTIVE ON  
ISSUANCE OF KCSE CERTIFICATE

**Hon. John Owino** (Awendo, ODM): Thank you, Hon. Speaker. I rise to ask Question No. 093/2021 on behalf of Hon. Gikaria David, Member for Nakuru Town East. The Question is directed to the Cabinet Secretary, Ministry of Education, Science and Technology.

- (i) Could the Cabinet Secretary explain why the presidential directive to all secondary school heads to release Kenya Certificate of Secondary Education (KCSE) certificates and seek for compensation of fee arrears from the Ministry of Education is being disregarded by many school heads?
- (ii) Could the Cabinet Secretary explain the circumstances under which Moi Secondary School in Nakuru Town denied Master Stephen Mukuui Mutaa, a former student, his KCSE in 2018?
- (iii) What is the Ministry doing to ensure school heads comply with the said presidential directive and ensure that Master Stephen Mukuui Mutaa is issued his KCSE Certificate?
- (iv) What action is being taken against school principals/headmasters who continue to treat the President's directive with contempt?

Thank you, Hon. Speaker

**Hon. Speaker:** Question will be replied before the Departmental Committee on Education and Research. The next Question is by Hon. Walter Owino.

*Question No. 096/2021*

IMPLEMENTATION OF THE UNIVERSAL ELECTRICITY ACCESS PROGRAMME

**Hon. John Owino** (Awendo, ODM): Hon. Speaker, I rise to ask Question No. 096/2021 to the Cabinet Secretary for the Energy.

- (i) Could the Cabinet Secretary explain what plans the Ministry has put in place, if any, to connect the more than 2.4 million households across the country to electricity at a subsidized cost as envisaged under the Achieving Universal Electricity Access Programme and the expected timeline for this?
- (ii) Could the Cabinet Secretary state sources and forms of energy the Ministry intends to use and the expected total megawatts required to achieve Universal Electricity Access, indicating how many megawatts each form will produce and how it will be connected to the national grid?
- (iii) Could the Cabinet Secretary explain how all rural based households in Awendo Constituency in Migori County will benefit from the Universal Electricity Access Programme and provide the number of Households expected to gain from the programme in the said constituency and county?
- (iv) Could the Cabinet Secretary further explain the difference between the Universal Electricity Access Programme and the Last Mile Connectivity Programme (LMC), and state how much has been expended on the LMC programme, considering that it has been under implementation for the last eight years across the country?

**Hon. Speaker:** Well. That will be replied to before the Committee chaired by the gentleman on whose behalf you asked a Question, that is, the Departmental Committee on Energy. The next Question is by the Member for Chuka/Igambang'ombe, Hon. Patrick Munene.

*Question 097/2021*

CRITERIA FOR RECRUITMENT OF PERSONS INTO KENYA DEFENCE FORCES

**Hon. Patrick Ntwiga** (Chuka/Igambang'ombe, JP): Thank you Hon. Speaker, I rise to ask Question No.097/2021 to the Cabinet Secretary for Defence: -

- (i) Could the Cabinet Secretary explain why Igambang'ombe Sub-County was left out during the recent concluded Kenya Defence Forces (KDF) recruitment despite having been granted Identification Code No. 1301 during the 2019 Kenya Population and Housing Census?
- (ii) Could the Cabinet Secretary state how many persons were recruited into the KDF, how the recruitment slots were distributed across all the sub counties and the criteria used in distributing the slots in the just concluded KDF recruitment exercise in the country?

- (iii) Could the Cabinet Secretary state how many persons were recruited into the Kenya Defence Forces in Tharaka Nithi County, and specifically from all the 15 wards during the February 2021 recruitment exercise?
- (iv) Could the Ministry consider carrying out fresh recruitment of youth into the KDF from Igambang'ombe Sub-county considering that the exercise was not done?

Thank you, Hon. Speaker.

**Hon. Speaker:** Question to be replied before the Departmental Committee on Defence and Foreign Relations. The next Question is by the Member for Teso South, Hon. Geoffrey Omuse. Press your intervention button.

*Question No.099/2021*

REPORT ON ELECTRIFICATION PROJECTS UNDERTAKEN BY RURAL  
ELECTRIFICATION AUTHORITY IN TESO SOUTH CONSTITUENCY

**Hon. Geoffrey Omuse** (Teso South, ODM): Thank you, Hon. Speaker. I rise to ask Question No.099/2021 to the Cabinet Secretary for Energy:

- (i) Could the Cabinet Secretary outline the implementation status report of the Last Mile Connectivity Programme in Teso South Constituency?
- (ii) Could the Cabinet Secretary provide details, including locations, of all electrification projects undertaken by the Rural Electrification Authority (REA) in Teso South Constituency since 2014?
- (iii) What plans does the Ministry have to ensure that all stalled projects undertaken by REA in Teso South Constituency that have since been surveyed, approved and awaiting implementation, are completed?
- (iv) Which projects are planned by REA in Teso South Constituency in the current financial year?

**Hon. Speaker:** The Question is to be replied to before the Departmental Committee on Energy. If you want to rise on a point of order, please press your intervention button. Do not shout. I can only see an intervention from Hon. Lentoimaga. What is your intervention?

**Hon. Alois Lentoimaga** (Samburu North, JP): Hon. Speaker, I currently do not have any issue. I was waiting for another matter that will come later.

**Hon. Speaker:** Let us have Hon. Mwinyi

**Hon. Omar Mwinyi** (Changamwe, ODM): Thank you, Hon. Speaker. In your wisdom, I would request you to allow Members to ventilate on the issue of the Kenya Defence Forces and police recruitment drive because it has elicited a lot of interest among very many Members. If you may allow even 10 minutes for people to ventilate, it would be appreciated.

**Hon. Speaker:** I have shut you out because you know how best to do this. If you want Members to rise, there are various avenues available, either during Statement Hour or move a Motion for the House to rise to discuss the matter. This is not the other House where people discuss anything at any time they wish. There must be order. We must follow our procedures. Hon. Mwinyi, as a ranking Member, you ought to know this. You can put in a request for that matter to be discussed. I have seen other Questions of a similar nature. The best thing is to come up with a Motion. It is a matter that can be qualified to be of national importance.

## COMMUNICATION FROM THE CHAIR

### DELEGATION FROM THE PARLIAMENT OF SIERRA LEONE

**Hon. Speaker:** Hon. Members, allow me to interrupt the proceedings at this point, although we are on Order No.7, to recognise two members of staff from the Parliament of Sierra Leone seated in the Speaker's Gallery. They are:

- (1) Mr. Ibrahim Jimissa - Director of the Parliamentary Budget Office; and
- (2) Ms. Fatmata Magaze - Budget Analyst.

The officers are on attachment in the National Assembly of Kenya to share experiences with their counterparts on the process of budget-making and approval by Parliament.

On my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements with their counterparts in the Parliamentary Budget Office during their stay in the country.

The next segment is Statements. There is an indication that the Chairperson of the Departmental Committee on Health was to respond to a request for a Statement by the Member for Igembe South, Hon. John Paul Mwirigi, regarding the high number of cancer cases in Igembe South Constituency. The Member has since requested that the response be deferred to some future date. I saw him consult the Member for Ndhiwa. Is that correct, Hon. Owino? You have agreed. Very well. Let us go to the next request.

The first request for a Statement is by the Deputy Speaker, Member for Kuresoi North.

## STATEMENTS

### FACILITATION OF VILLAGE ELDERS

**Hon. Moses Cheboi** (Kuresoi North, JP): Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding facilitation of village elders, also known as *wazee mtaa*, in the country.

Village elders play an integral role in the functioning of the national Government and even the county governments, at the village level, by assisting chiefs and assistant chiefs in facilitating national Government services, including promotion of education, handling security issues, solving disputes, promoting development initiatives and social services in their villages, through the *Nyumba Kumi* Initiative. It is disheartening that those elders discharge those important duties without any facilitation by the Government or even acknowledgment of the need to appreciate and motivate those village elders for the services rendered.

Despite the great sacrifices the village elders make while providing those services, majority of them are suffering since they do not have alternative sources of income. It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

- (1) Could the Chairperson provide details on the number of village elders engaged per constituency in the country?
- (2) Could the Chairperson provide details on the terms of service and the remuneration policy for the village elders in Kenya?

(3) What measures has the Ministry put in place to ensure that the village elders are adequately facilitated while they undertake these noble duties?

**Hon. Speaker:** Let us have the Chairperson. It is an indication that the Chairperson is not present. The Vice-Chair has not heard anything. Can you respond?

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Hon. Speaker, I have heard. We will respond within two weeks. Earlier on, I even discussed with the Deputy Speaker, so I am in the picture.

**Hon. Speaker:** It is good to be in the picture as well as the photograph.

*(Laughter)*

Hon. Deputy Speaker, it will be responded to in two weeks. The next request is by the Member for Awendo.

PROCUREMENT OF SECURITY SERVICES  
BY PUBLIC AND PRIVATE INSTITUTIONS

**Hon. John Owino** (Awendo, ODM): Hon. Speaker, pursuant to Standing Order No.44(2)(c), I seek to request a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding mandatory requirement for procurement of security services by public and private institutions in the country.

Firms seeking to undertake procurement of security services for various institutions in the public and private sector in the country are faced with a myriad of challenges, among them, specific requirements which should be obtained from an accredited institution authorised by the Kenya Private Security Regulatory Authority. In the absence of a prescription from the accredited institutions, the various certificates required to be obtained or authenticated by the said institutions are not available.

The House nullified the proposed Private Security Regulations on 19<sup>th</sup> November 2019, thereby rendering operationalisation of the Act incomplete. This therefore implies that there are no set requirements for procurement of security services based on any regulations.

Hon. Speaker, it is on this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

- (i) Could the Chairperson provide a list of security sector accredited institutions that are required to issue the requisite procurement certifications with details of their approved training curriculum?
- (ii) Could the Chairperson further state the number of security training certificates so far issued to security firms in the country and the duration it takes for one to be issued with certifications from the date of application?
- (iii) Could the Chairperson clarify the guiding framework for issuance of certificates in the absence of regulations?
- (iv) What measures has the Ministry put in place to ensure that private security firms that have not been able to acquire the said certifications for their directors and employees due to inordinate delays occasioned by the Kenya Private Security Regulatory Authority are not disenfranchised, in terms of participation in public tenders that require the said certifications?

Thank you, Hon. Speaker.

**Hon. Speaker:** Vice-Chair of the Departmental Committee on Administration and National Security.

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Hon. Speaker, we need two weeks to respond to this Statement.

Thank you.

**Hon. Speaker:** Even as you respond, it is important to bear in mind the point that was raised by the Member. This House, in its wisdom, annulled the proposed regulations. That does not mean that the regulation-making authority under the Private Security Regulation Act 2016 cannot come up with others. The House encourages all Government agencies to propose regulations. First of all, they should share with the Committee, to avoid them falling into pitfalls. Many of them do not have legally qualified people to draft letters. So, you they come up with regulations that cannot be passed by people in Gikomba Market. I request the regulation-making body to try and come up with fresh regulations. They need to implement the Act. The regulations are the avenue through which the Act will be properly implemented or operationalised.

Next is a response to various requests by the Chairperson of the Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing.

**Hon. David Pkosing** (Pokot South, JP): I thank you, Hon. Speaker. I want to respond to three Statements. At the outset, the Cabinet Secretary responded to the Statements yesterday. However, let me summarise for the purpose of the House. Before the Hon. Members, I am the Cabinet Secretary.

The first Statement was from Hon. Oundo who is the Member for Funyula. He brought a Statement on border point and a road. That Statement was responded to satisfactorily. We, as a Committee, intervened because Hon. Oundo wanted a road and a border point to be gazetted which is not within the purview of the Committee. It is the mandate of the Departmental Committee on Administration and National Security. We advocated for the people of Funyula Constituency to get a road and the Ministry committed to deliver it which was very good.

The second Statement was from a ranking Member of the House, Hon. Duale, about some roads in North Eastern. The Ministry responded yesterday. Hon. Duale has the Statement. He is satisfied.

Finally, the Member for Muhoroni, Hon. Oyoo, had a Statement which, by extension, I want to seek your direction. The question was about demolition of structures by the Kenya Railways Corporation (KRC). The question was taken to the Departmental Committee on Administration and National Security and the Office of the Clerk had referred it to my Committee. When Hon. Oyoo appeared before my Committee, and I want him to speak, he was of the opinion that you made a ruling that the Statement should be responded by three Cabinet Secretaries: CS for Transport and Infrastructure, CS for Interior and Coordination of National Government and CS for Lands and Physical Planning. He was supported by Hon. Olago Aluoch. When he appeared before my Committee, he requested us not to prosecute the matter because you had made a ruling which I did not have officially from the Office of the Clerk. We pended that Statement.

I ask the Office of the Clerk to furnish the Committee with your ruling, so that I am guided properly. Otherwise, the two Statements were responded perfectly. I am waiting for your direction on the KRC on whether you require the three ministries to appear before a committee. Which committee will they appear before? Is it before the Leader of the Majority Party, Departmental Committee on Transport, Public Works and Housing or Departmental Committee on Administration and National Security? You rule in this House that Members who raise Questions and Statements must be satisfied. I agree with Hon. Oyoo that we get a further ruling from you, so

that the Member and his people are satisfied. The other responses were done according to the proceedings of the House.

I thank you, Hon. Speaker.

**Hon. Speaker:** As you have rightly said it, the Clerk will furnish you with the earlier ruling, so that you can raise whatever other issues that you have. It is only 3.16 p.m. The Member for Muhoroni normally comes at 4.30 p.m. or 5 p.m.

*(Laughter)*

He is either in Muhoroni or somewhere on the road coming. Hon. James Oyoo cannot be here this early. Hon. Oundo, we have been told that you are satisfied with the response. You managed to get a road for your constituents.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. I appeared before that Committee with the Members of the Executive and we had a discussion. They made some undertakings. I hope and pray that they will live to their word. I hope that they were not empty promises. I got an assurance from the Chair of the Committee that he will assist in following up in resolving the matter at hand.

On the issue of the gazettelement of the border point, we were ably directed where to seek clarification. I will do it shortly in the course of some weeks to come.

Thank you, Hon. Speaker.

**Hon. Speaker:** When the Executive makes undertakings before committees, in order for them to be followed up by the Committee on Implementation, there is need for a Report to be made to the House so that it is adopted and it becomes a resolution of the House capable of enforcements. That is the best route.

Hon. Duale.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, the answer I was given was satisfactory. I am very happy with the CS, Mr. Macharia and his team, and the Chair of the Committee. I also want to thank the Office of the Clerk because they sent me the answer in advance and I read it. I spoke to the Chair and told him that I had no business appearing before the CS because the answer was satisfactory. If we get the answer early sometimes, Parliament can give us a written answer. If you are satisfied, that is good.

I thank the Committee and the Ministry.

**Hon. Speaker:** Very well. Member for Moyale, Hon. Wario, I can see that you have pressed your intervention button,

**Hon. Qalicha Wario** (Moyale, JP): Hon. Speaker, I asked for a Statement on 11<sup>th</sup> February 2021. I raised the same issue on Tuesday. It is exactly one month from that time. The issue is urgent. The information I have at the moment is that there is a reply but the Chairman is not satisfied with it. I have not received any answer to date.

**Hon. Speaker:** Is it from Hon. Fatuma Gedi?

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Yes.

**Hon. Speaker:** You can respond to him.

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Thank you, Hon. Speaker. The response from the Ministry is ready. However, as a Committee, we needed more information. We thought the answers we had were not sufficient to bring to the House. So, we have asked the Ministry to provide to us a more detailed response. In the meantime, I have discussed with Hon. Qalicha. There

are some administrative issues that, as a Committee, we commit to help with the situation as we wait for the response.

Thank you.

**Hon. Speaker:** Is it possible that we can encourage a similar way of doing this like what Hon. Pkosing does? Some of these things could be complex in nature. It is best that the Cabinet Secretaries themselves appear in person and then you invite the Member who is seeking the Statement. We do not want this thing of a Member saying something and you promise to find out and the Member says it is not satisfactory. It will ping-pong.

Hon. Fatuma, that mater still appears to be complex. Is it possible that you invite the Cabinet Secretary, or whoever it is that is responsible for the issues, to appear before your Committee and respond directly in the presence of Hon. Gufu so that the Member can raise any supplementary questions that he may wish? That may be an easier way so that you do not carry the burden.

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Hon. Speaker, I agree. We will be guided by your direction.

**Hon. Speaker:** You can even schedule the meeting for next week so that Hon. Gufu can also appear.

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Okay.

**Hon. Speaker:** Hon. Gufu, if you are invited, also be available.

**Hon. Qalicha Wario** (Moyale, JP): Hon. Speaker, what I am seeing is lack of seriousness.

**Hon. Speaker:** I am asking whether you will be available. Where are you seeing that lack of seriousness? I am suggesting an easier way so that you stop seeing things.

**Hon. Qalicha Wario** (Moyale, JP): I will be available anytime they are ready. What I am saying is that the schools are closed and even the idea of giving me the reply from the Cabinet Secretary is not there.

**Hon. Speaker:** Have you got that unsatisfactory reply? Would you want to be given that one?

**Hon. Qalicha Wario** (Moyale, JP): It could have been better if I...

**Hon. Speaker:** Hon. (Ms.) Fatuma Gedi, give him that response which you thought was unsatisfactory. Perhaps he will be satisfied. As a Committee, you may have thought it is unsatisfactory but maybe he wants to have that one.

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Should I give it to him now?

**Hon. Speaker:** Do you have it?

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Yes, I have it but I have said that, as a Committee, we told the Ministry... I have it here if he wants it.

**Hon. Speaker:** Actually, those Statements should be given to Members, through the Clerk's Office, as Hon. Duale said earlier on. This is so that the Member who has raised the issue is able to read through. If there are any issues that they wish to raise, then they can do so. If you keep it to yourself and he does not have a copy, he has a right to complain. What is wrong with the Ministry of Interior and Coordination of National Government?

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Hon. Speaker, I will give him a copy but I discussed with him before I came to the Chamber.

**Hon. Speaker:** He is saying he has not been given a copy.

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): I discussed with him and even offered administrative solutions that we took, as a Committee. We finished on that as we wait for the...

**Hon. Speaker:** Just give him a copy of the Statement then he can raise the other issues.

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Okay, thank you.

**Hon. Speaker:** Hon. Wario, you will get the Statement.

**Hon. Qalicha Wario** (Moyale, JP): Hon. Speaker, I will get the reply but as you earlier suggested, I will be happy if the Cabinet Secretary will appear so that I raise my issues as required. Thank you.

**Hon. Speaker:** You have not seen the Statement. Just see it and find out whether you are satisfied. I see other interventions. Hon. Mboya, Member for Nyatike.

**Hon. Tom Odege** (Nyatike, ODM): Thank you, Hon. Speaker. I asked a Question last year on...

**Hon. Speaker:** Questions of last year died with the Session.

**Hon. Tom Odege** (Nyatike, ODM): Hon. Speaker, I just want you to pick my concern.

**Hon. Speaker:** No. If you start by saying that it was a Question for last year...

**Hon. Tom Odege** (Nyatike, ODM): Hon. Speaker, it was cleverly killed.

**Hon. Speaker:** No, not cleverly unless you have not read the Standing Orders. The Standing Orders are very clever or cleverly done.

*(Laughter)*

**Hon. Tom Odege** (Nyatike, ODM): I was twice invited by the Committee and for the two occasions, nobody represented the Ministry.

**Hon. Speaker:** Are we discussing about a Question of last year?

**Hon. Tom Odege** (Nyatike, ODM): I just wanted to register my dissatisfaction.

**Hon. Speaker:** No, do not register. There is no place to register about Questions raised last year.

**Hon. Tom Odege** (Nyatike, ODM): Okay, I will raise it again.

**Hon. Speaker:** Just go and revive it. That is what we agreed. Hon. Mboya, revive it so that you now give it feet on which to stand.

**Hon. Tom Odege** (Nyatike, ODM): I will, but the Committee should show some commitment. It is very frustrating to appear twice before the Committee without the Ministry's representation.

Thank you.

**Hon. Speaker:** Members, we must always be alive to the very immense powers that you have. If you have appeared before a Committee and the person invited does not appear, you can come and raise the matter here. You can even move an appropriate Motion for the House to deal with whoever it is. You keep complaining yet you have all the power to deal with these people. You want to go to them, you have tea with them then you come here and say that they did not appear.

Hon. Members, if people are not appearing before Committees, without giving satisfactory reasons, when they have been invited to appear; please raise those issues here. However, do not raise the matter by way of complaint. Do the usual thing that will move the House. There will be particulars that the person was invited to come on a particular day and they failed to appear without giving any reasons and the House will deal with the person. Please, do not complain.

Hon. Kamket, what is your intervention about?

**Hon. Kassait Kamket** (Taity, KANU): Hon. Speaker, I sympathise with my colleague, Hon. Qalicha. It seems the...

**Hon. Speaker:** Have you risen on a point of order to sympathize or to express sympathy?

*(Laughter)*

We do not have a Motion on sympathy.

**Hon. Kassait Kamket** (Taity, KANU): Hon. Speaker, it is the frustration that we are facing. I have heard what you have said. However, it looks like the Cabinet Secretary for Interior and Coordination of National Government has become very notorious in terms of ignoring Members of this House. The time is coming when we shall exercise our power as a House. However, it looks like even the Committee itself has gone to bed with the Cabinet Secretary. The kind of answers we get from this Committee make it look like the Committee is in itself compromised by that Ministry.

Hon. Speaker, you even remember the issues I have been raising. We are now going on recess for the next 10 days yet the Cabinet Secretary wants to appear before the Committee in April, as they continue doing very bad things to the people. Some Members here have lied to the Cabinet Secretary that he is some sort of presidential material. I do not know in which country he wants to be president. What the Cabinet Secretary is doing is unfortunate. He is treating this House with a lot of contempt, and he must be called out. That time is coming very soon.

**Hon. Speaker:** That is why I told you not to just complain. I cannot respond, Hon. Kamket. Of course, if a Committee is not working, as Hon. Members, you have what it takes to deal with it.

Hon. Limo.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Speaker, I want to add to the issues that have been raised about Cabinet Secretaries not taking this House seriously. I want to repeat what the Hon. Member who has just spoken has said.

It is now time we reminded Hon. Members once again that the House has all power equivalent to that of the Judiciary to take action on Cabinet Secretaries who do not take the House seriously. We have a situation where some Members are made to believe that we play second fiddle to the Executive. This is an independent House and we have clear roles we play in the House. One of the roles is to check on the excesses of the Executive and more so the Cabinet Secretaries. Other than attending the Committee meetings, you find some Members going to the offices of those officers and are taken for a ride. They are left there because they do not take this House seriously.

I urge that, as a House, we must rise. We have even seen letters being sent to this House to the extent that the Cabinet Secretaries can break the law. For instance, once money has not been released by the same Cabinet Secretaries to funds which are ring-fenced by law like the National Government Constituencies Development Fund (NG-CDF), they have guts to write to us that the money will not be provided. We forget that this is a budget-making House. We have the right to put any amount of money we need. We have to rise to the occasion and ensure that if there is no provision for the NG-CDF as provided for by the law, we must ensure we protect our constituents.

*(Applause)*

We cannot play with our constituents. Remember, without anticipating debate, Hon. Speaker, as we debate the Division of Revenue Bill, we must take into account the fact that the most successful devolved fund is the NG-CDF and we must rise to the occasion and defend it in this House.

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I want to end by saying that as we wait to debate the Supplementary Budget, we want to send a message to the Budget and Appropriations Committee that if they bring Supplementary Estimates without full provision of the NG-CDF to this House, let them count it as dead on arrival.

Thank you, Hon. Speaker.

*(Applause)*

**Hon. Speaker:** Hon. Limo, you have taken advantage of the provisions of the Standing Orders to debate something which is not on the Floor. I hope the Member for Nyali will not also do the same with his intervention.

Please, do not engage in a debate.

**Hon. Mohamed Ali** (Nyali, Independent): Shukrani sana Mhe. Spika. Hili ni Bunge la heshima. Ni mahala ambapo sheria ya taifa inaundwa. Ukiona Wabunge wakizungumza kwa hamasa na hasira, ni kwa sababu Bunge hili limeanza kudharauliwa na baadhi ya Mawaziri katika Serikali. Nimesikia Wabunge wakisema ya kwamba kila mara wanapoleta masuala yao mbele ya Wizara, hawasikizwi kwa sababu tumedharauliwa. Wizara mbili zinazo matatizo sana ni ya Usalama wa Ndani na Wizara ya Uchukuzi.

Jana nimemsikia Waziri wa Usalama wa Ndani Bw. Fred Matiang'i akisema ya kwamba mahakama ni sharti ifanye vile wanataka. Huyu Matiang'i binafsi amekataa kuheshimu sheria za hii nchi.

**Hon. Speaker:** You cannot discuss .... You must move a substantive Motion, please. Hon. Mohamed Ali, it is against the Standing Orders of the House. If you have anything against any State officer, please, bring a substantive Motion here. The officer has no opportunity to defend himself here. If you tell me you heard him speak in some village somewhere, how do I get to know what is happening in all the villages in Kenya?

*(Laughter)*

Hon. Mohamed Ali, unless there is something specific you want to raise... Finish but be specific

**Hon. Mohamed Ali** (Nyali, Independent): Mhe. Spika, kauli mbiu ya mimi kuzungumza ni kusema kwamba Bunge hili la 12 limedharauliwa sana kiasi cha kwamba hata sheria zikiundwa humu, hazifuatiliwi wala kutekelezwa. Tunaloliuliza ni kwamba iwapo Mbunge yeyote atauliza maswali yake kuhusiana na eneo lake ama suala lolote linalohusu nchi hii, ni sharti mawaziri waheshimu Bunge hili.

Shukrani sana, Mhe. Spika.

**Hon. Speaker:** You are absolutely right. When that does not happen, as I advised earlier, Hon. Ali, the House has recourse. It has power and authority given by the Constitution and in the Standing Orders. So, please, when that happens, just feel free to bring appropriate Motions.

Leader of the Majority Party.

BUSINESS FOR THE WEEK COMMENCING 23<sup>RD</sup> MARCH 2021

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), I rise to give a Statement on behalf of the House Business Committee (HBC) which met on Tuesday, 9<sup>th</sup> March 2021 to prioritise business for consideration.

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As Members are aware, the House is scheduled to proceed on a short recess commencing tomorrow, in accordance to the resolution of the House on Tuesday, 9<sup>th</sup> March 2021 amending the 2021 Calendar. In this regard, the HBC has not scheduled any business for next week.

However, upon resumption from recess on Tuesday, 23<sup>rd</sup> March 2021, the following business will be prioritised at both the Afternoon and Evening Sittings:

1. Committee of the whole House on the following Bills:
  - (i) The Referendum (No.2) Bill (National Assembly Bill No. 14 of 2020).
  - (ii) The National Aviation Management Bill (National Assembly Bill No. 18 of 2020).
2. Second Reading of the following Bills, if we do not conclude them today:
  - (i) The Kenya National Blood Transfusion Service Bill, 2020.
  - (ii) The County Governments (Amendment) Bill (Senate Bill No. 13 of 2018).
  - (iii) The National Cohesion and Peace Building Bill (Senate Bill No. 35 of 2018).
  - (iv) The Narcotics, Drugs and Psychotropic Substances (Control) (Amendment) Bill, 2020.
  - (v) The Constitution of Kenya (Amendment) (No.3) Bill, 2019.
  - (vi) The County Statutory Instruments Bill (Senate Bill No. 21 of 2018).
  - (vii) The Impeachment Procedure Bill (Senate Bill No. 15 of 2018), and
  - (viii) The County Law Compliance and Enforcement Bill (Senate Bill No. 25 of 2018).
3. Second Reading of the Business Laws (Amendment) (No. 2) Bill, 2020 and
4. Consideration of the Budget and Appropriations Committee on the First Supplementary Estimates for the Financial Year 2020/2021;
5. Consideration of the following Reports, should we not conclude them today:
  - (i) Report of the Committee on Parliamentary Broadcasting and Library on the Formulation of Parliamentary Broadcasting Channels and
  - (ii) Report of the Committee on Implementation Status on a Petition Regarding Working Conditions at Kwale International Sugar Company Ltd.

We shall also prioritise consideration of the Constitution of Kenya (Amendment) Bill, 2020 popularly known as the BBI Bill, within the course of that week. We anticipate the Report of the Joint Committee on the Bill to be tabled on 23<sup>rd</sup> March 2021. Thereafter, the Bill shall be considered at Second Reading, Committee of the whole House and Third Reading.

In accordance with the provisions of Standing Order No. 42A(5) and (6), I wish to convey that the following Cabinet Secretaries are scheduled to appear before the Departmental Committees as follows, and I hope the affected Members are paying attention:

- (a) The CS, Ministry of Energy, will appear before the Departmental Committee on Energy on Tuesday, 16<sup>th</sup> March 2021, to answer Question No. 027/2021 from Hon. Gitonga Murugara on status of electrification of public schools in Tharaka Constituency.
- (b) The CS, Ministry of Industrialisation, Trade and Enterprise Development will appear before the Departmental Committee on Trade, Industry and Cooperatives on Thursday, 18<sup>th</sup> March 2021, to answer the Question by Hon. Kimani Ichung'wah.
- (c) The CS, Ministry of Environment and Forestry will appear before the Departmental Committee on Environment and Natural Resources on Tuesday, 16<sup>th</sup> March 2021, to answer to Question No. 001/2021 by Hon. Godfrey Osotsi on the de-gazettement of the Shiru and Shaviringa Settlement Schemes in Kakamega Forest.
- (d) The CS, Ministry of Defence, will appear before the Departmental Committee on Defence and Foreign Relations on Tuesday, 23<sup>rd</sup> March 2021, to answer:
  - (i) Question No. 029/2021 by Hon. Joshua Kimilu on the death of Major Raphael Kyalo Mbithuka

- (ii) Question No. 058/2021 by Hon. Omar Mwinyi on the Recruitment of officers to the Kenya Defence Forces (KDF).
- (e) The CS, Ministry of Labour and Social Protection will appear before the Departmental Committee on Labour and Social Welfare on Wednesday, 24<sup>th</sup> March 2021, to answer:
  - (i) Question No. 009/2021 by Hon. Wilson Sossion on check-off deductions and remittances to trade unions.
  - (ii) Question No. 065/2021 by Hon. Janet Sitienei on non-payment of *Inua Jamii* dues to Ms. Dorcas Njeri Mwangi.
  - (iii) Question No. 081/2021 by Hon. Gathoni Wamuchomba on the criteria for identification of beneficiaries generally and in Kiambu County in particular.
- (f) The CS, Ministry of Tourism and Wildlife will appear before the Departmental Committee on Sports, Culture and Tourism on Wednesday, 24<sup>th</sup> March 2021, to answer Question No. 034/2021 by Hon. John Munene Wambugu on why Mr. Victor Nyaga Gathithi was denied admission to the Kenya Utalii College.

Lastly, the House Business Committee will reconvene on Tuesday, 23<sup>rd</sup> March 2021, at 11.00 a.m. to schedule the business for the coming week. I now wish to lay this Statement on the Table of the House.

*(Hon. Amos Kimunya laid the document on the Table)*

**Hon. Speaker:** We had left out the request for Statement by the Member for Githunguri, Hon. Gabriel Kago.

#### OUTBREAK OF FOOT AND MOUTH DISEASE IN THE COUNTRY

**Hon. Gabriel Kago** (Githunguri, JP): Thank you, Hon. Speaker. Pursuant to the Standing Order No. 44(2) (c), I wish to request for a Statement from the Chairperson, Departmental Committee on Agriculture and Livestock regarding the outbreak of Foot and Mouth Disease in the country, particularly, Githunguri Constituency.

As I stated in my Statement request made on 2<sup>nd</sup> July 2020, the disease, which was first reported in September 2019, has claimed thousands of livestock, and to date, it is yet to be contained. Regrettably, even with the undertaking by the CS, not much has been done to eliminate or suppress the disease. As a result, there is yet another outbreak of the disease in the country, and in particular, dairy farmers in Githunguri Constituency have suffered huge losses as result of death of their livestock. This has greatly affected the livelihood of thousands of farmers who rely on dairy farming as their main source of livelihood.

The outbreak has been confirmed amid revelations of an acute shortage of vaccines against this contagious disease. In this regard, steps to contain this disease have been frustrated by the Kenya Veterinary Vaccines Production Institute (KEVEVAPI), the institution mandated to coordinate and take charge of all veterinary vaccines production in the country for it lacks the vaccines, it is too bureaucratic and the quality of vaccines is questionable.

In the period of 2019 to 2020, vaccines worth Kshs5 million expired, and therefore, rendered unfit for use due the bureaucracy at the institute. Worse is that the regulator, that is, the KEVEVAPI, and the Kenya Veterinary Services appear not to be working to ensure the diseases are contained. This has led to compromise on the quality of vaccines.

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It is against this background that I seek for a Statement from the Chairperson, Departmental Committee on Agriculture and Livestock. In the Statement, the Chairperson should address the following:

- (ii) What policy measures have been put in place to urgently contain the outbreak of Foot and Mouth Disease in the country, and particularly, in Githunguri Constituency?
- (iii) What urgent steps are in place to ensure that KEVEVAPI delivers on its mandate and ensures that there is continued production and availability of quality Foot and Mouth Disease vaccines countrywide?
- (iv) What policy measures have been instituted to address the role of the regulators with regard to vaccine production?

Thank you, Hon. Speaker.

**Hon. Speaker:** The Chairperson, Departmental Committee on Agriculture and Livestock. The Chairperson is Hon. Tiren. Is he still a Member of Parliament?

*(Loud consultations)*

Hon. Kanyuithia, do you want to respond?

**Hon. John Mutunga** (Tigania West, JP): Hon. Speaker, let me take this opportunity to thank you for the opportunity to contribute to this Statement.

**Hon. Speaker:** What do you mean by “to contribute”?

**Hon. John Mutunga** (Tigania West, JP): Hon. Speaker, I would like to say that the Chairperson...

**Hon. Speaker:** No, no, no! Please, Hon. Members, if we continue behaving this way, we will no longer be a House of Parliament, where we do not follow our own Standing Orders. A request for a Statement is not an opportunity for debate. I am sure maybe you have been watching that in some other places where this happens, but unfortunately, that does not happen here. Do you have a message from the Chairperson?

**Hon. John Mutunga** (Tigania West, JP): Yes, Hon. Speaker. He left me a message.

**Hon. Speaker:** Okay.

**Hon. John Mutunga** (Tigania West, JP): Hon. Speaker, the Chairperson has had an emergency. His mother has had an accident so, he has rushed to Eldoret. He is trying to catch up the afternoon flight. So, he requested that the House gives him leave. We will respond to this issue in two weeks' time.

**Hon. Speaker:** Hon. Kago, I can see you are instantaneously agitated.

**Hon. Gabriel Kago** (Githunguri, JP): Yes, Hon. Speaker, because this is a matter of urgency and should be treated as an emergency because animals are dying across the country.

**Hon. Speaker:** The House is going to recess later this evening, so, are you suggesting that this should happen before 9.00 p.m.?

**Hon. Gabriel Kago** (Githunguri, JP): Hon. Speaker, at least, a maximum of five days.

**Hon. Speaker:** Five days from now will be Monday next week.

**Hon. Gabriel Kago** (Githunguri, JP): Hon. Speaker, animals are dying.

**Hon. Speaker:** Even human beings are dying.

*(Laughter)*

**Hon. Gabriel Kago** (Githunguri, JP): Hon. Speaker, at least, human beings have vaccines. Animals do not have vaccines.

**Hon. Speaker:** Hon. Kago, what do we do because the House will not be sitting within those five days? Is it that Hon. Kago would want to get the response just in his private capacity? What is your response, Hon. Kago?

**Hon. Gabriel Kago** (Githunguri, JP): Since this is a matter of urgency, I request you rule that we have the response in seven days.

**Hon. Speaker:** As soon as the House next sits. You are safer that way. Not tonight's 7.00 p.m. to 9.00 p.m. sitting.

**Hon. Gabriel Kago** (Githunguri, JP): I do not want to agree to that, Hon. Speaker. I know the magnitude of this.

**Hon. Speaker:** It is because the House will not be sitting tomorrow and the whole of next week, until 23<sup>rd</sup> March 2021. That is the Motion you passed.

**Hon. Gabriel Kago** (Githunguri, JP): I agree.

**Hon. Speaker:** We sympathise with what you are saying, Hon. Kago but the House is rising to proceed on a short recess up to Tuesday, 23<sup>rd</sup> March 2021. That is why I suggest the response be given on the day the House next sits.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): *Off-record.*

**Hon. Speaker:** Hon. Wamunyinyi, you cannot be doing that. Let us just clear this one. We cannot have that. Help who now? I do not require any help at this time.

**Hon. John Mutunga** (Tigania West, JP): Hon. Speaker, the Chairman will get in touch with the relevant ministry to find out what can be done. You know the Foot and Mouth Disease (FMD) is one of the notifiable diseases which means it is very dangerous and spreads very fast. So, the ministry must do something about this although it all boils back to the support to the ministry, especially support to KEVEVAPI. So, we shall have a Statement on what can be done urgently because we need a disease-free environment to keep our animals.

**Hon. Speaker:** Hon. Mutunga, can we suggest to you that you get a copy of this request and deliver it to the ministry even as we await the normal parliamentary processes? You appear to appreciate the dangers posed by the spread of this disease.

**Hon. John Mutunga** (Tigania West, JP): I understand the situation. It is not only the Foot and Mouth Disease. There is also an outbreak of the Lumpy Skin Disease (LSD). There is another one called Contagious Bovine Pleuropneumonia (CBPP). So we have a serious problem in this country.

**Hon. Speaker:** Absolutely. Hon. Pukose, what is your intervention?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker. Without anticipating what Mutunga and team will say, I confronted the Chairman here two days ago because the country has not had a vaccine of Foot and Mouth for the last one year. I do not know whether they have new information on any availability of the vaccine. I think that is the direction that we are all seeking. That is what farmers want. It is a serious thing and many farmers are approaching us as their representatives. They are asking us what will be done. When Hon. Mutunga tells us they are going to give a Statement in two weeks, this problem has been there for the last one year. What are the interventions already in place? That is what we are interested in, not giving us a Statement that does not have any bearing, in two weeks.

**Hon. Speaker:** So, when would you want to come? Is it on Sunday?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): This is a problem they have had for the last close to two years and you can see the Member is agreeing with me. What we want is what the

Government has done or information whether there is any new development. We confronted the Chairman here and he told us there is no vaccine. When Hon. Mutunga gives a promise that he is going to give a response in two weeks, is there any new development? As far as we know, there is no vaccine.

**Hon. Speaker:** Hon. Pukose, you are wrong. You have said Government has told you, but Government is not here. Hon. Mutunga is not Government. In fact, he cannot even speak on behalf of it. If you have been told by the Chairman, let him come and confirm that because the Government is not here.

*(An Hon. Member raised his hand)*

Do not raise up your hand. You know the way we work here. It is not by raising hands. Let us not go to that method we see in county assemblies where people just speak because it is fashionable to open mouths and say something. Do not just throw up your hands. Are these interventions on anything? Is it on Foot and Mouth Disease? Whose foot?

Hon. Fatuma Gedi, what is it?

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): Hon. Speaker, I want to report progress and invite Hon. Qalicha and Hon. Kamket. The Cabinet Secretary will come to the Committee on Tuesday. Since they are in the House, and any other Member...

**Hon. Speaker:** They have left. At least for the Member for Tiaty, because he is of some interesting height, I noticed him as he walked out. Hon. Wario Gufu Qalicha, you heard that now. Tuesday what time?

**Hon. (Ms.) Fatuma Gedi** (Wajir CWR, PDR): It will be at 10.00 a.m. They will get an invitation from the Clerk.

**Hon. Speaker:** Tell the Member for Tiaty to also appear or, if he fails, to forever shut his mouth about those issues on rustling, roadblocks and the rest. It is too much.

Hon. Rachael Nyamai, you said it is about foot and mouth.

**Hon. (Ms.) Rachael Nyamai** (Kitui South, JP): Thank you very much, Hon. Speaker, for giving me this opportunity. The community members from where I come from are not able to tell whether what the animals are suffering from is Foot and Mouth Disease or another bacterial or viral infection. What has been reported to our offices is that animals have symptoms that have not been very common within the area of Ukambani where I come from. The animals have blisters in the mouth and also on the foot. So, this is an important matter that needs to be taken seriously bearing in mind that these animals are sharing water points with other animals and also with wildlife. This is a matter that is likely to spread to other domestic and wild animals.

So, I would like to say to the Chair that let this matter be taken seriously. We used to have vaccinations being coordinated by the national Government. It is important that they also support county governments, especially concerning the Foot and Mouth Disease issue. There is a problem. Thank you.

**Hon. Speaker:** By the way, is there a Vice Chair to that Committee? Does that Committee have a Vice Chair? You know some of these Chairs and Vice Chairs have already taken leave, they have gone on recess. Who is the Vice Chair of that Committee? Certainly, it is not Mr. Wanyonyi. No, not him. Who is the Vice Chair of that Committee?

**Hon. Members:** It is Hon. Waruguru.

**Hon. Speaker:** Oh! Hon. Catherine Waruguru. Is she aware that she is the Vice Chair?

(Laughter)

Surely, it is very surprising. Honestly, Hon. Members, from here I am able to tell which Chair comes to the House — even those who sit at the back where it is not very easy to be noticed. Like now my good friend, Hon. Opiyo Wandayi, the Chair of the Public Accounts Committee (PAC), has resorted to sitting right at the back. I do not know why. I can see you.

Honestly, Hon. Members, even if we discuss this matter, there is no response or answer. You just want to talk because it is fashionable to talk. You should have brought a Motion of Adjournment to discuss the matter instead of discussing issues without a resolution. This House cannot operate in vain.

Hon. Mutunga, do you have new information?

**Hon. John Mutunga** (Tigania West, JP): Thank you, Hon. Speaker. We are sure something is happening. We need to find out exactly what is happening at the Ministry and at KEVAPI. Not that I have any different information, but notifiable diseases cannot be left to ravage our livestock. I know something is happening, so we will get the correct report in the shortest time possible and circulate it to Members.

**Hon. Speaker:** Hon. Mutunga, even if something is happening, because we do not know what it is, given what Hon. Kago and Hon. Rachel Nyamai have said, you can see the urgency of this matter. Without the Chair and the Vice-Chair of the Committee, all we know from you is that something is happening. We do not know whether it is happening behind trees or in the oceans.

Member for Kwanza, I know you have a lot of interest in agriculture.

**Hon. Ferdinand Wanyonyi** (Kwanza, JP): Hon. Speaker, this is a very serious case. The Clerk of the Departmental Committee on Agriculture and Livestock is here. You can direct that she moves fast. In the absence of the Chair and Vice-Chair, the Committee Clerk can move fast because this is an emergency. The outbreak is not only in Machakos and Central. I have heard reports this afternoon that it is also happening in Western Kenya. I suggest that we take immediate steps to direct the Committee Clerk to liaise with the Ministry so that we can get some money to deal with this matter.

**Hon. Speaker:** You are wrong. We do not operate that way as Parliament. Those Committee clerks give information to the Clerk of the National Assembly. Letters cannot just be signed by everybody who has joined the Parliamentary Service Commission. Hon. Wanyonyi, I have always encouraged you to know where your colleagues come from. Hon. Rachel Nyamai is the Member for Kitui South, not Machakos. I am sure she knows you are the Member for Kwanza in Trans Nzoia County. It is good that we know where everybody comes from. Anyhow, Hon. Wanyonyi, your point is noted. The Deputy Clerk is here and she has heard the concerns. She is going to immediately write to the relevant Ministry.

Can we deal with something else apart from the issue of foot and mouth disease? Hon. Chachu, is your intervention about the foot and mouth disease?

**Hon. Chachu Ganya** (North Horr, FAP): Thank you, Hon. Speaker. I really want to make a statement on this matter because it is an emergency. It is about life and death for our livestock, and it is all over the country, not just in the central part of Kenya.

This House has two powers. Could you command that even though we will be on recess for a couple of days, the Committee takes charge and something is done, so that by the time we are back from recess, there will be a report in the House to allay the fears of Kenyans that our livestock might perish.

I thank you, Hon. Speaker.

**Hon. Speaker:** That is exactly what we did. Hon. Wanday, you have the Floor.

**Hon. Opiyo Wandayi** (Ugunja, ODM): Hon. Speaker, I want to weigh in on this matter. It must be understood clearly that the matter that has been raised by Hon. Kago is not a laughing matter. Foot and mouth disease is a highly contagious viral disease in livestock. It does not only affect cows. It affects sheep and goats and it has no boundary. It can spread like bush fire. Therefore, even as we contemplate taking action, it is important to understand where the national and county governments come in. This matter cannot be left to Kitui and Kiambu counties, for instance. It is a serious matter of national importance. It needs to be addressed seriously by the Ministry concerned.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Member for Kimilili also wants to say how contagious it is?

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Speaker. This is a very important matter and this House cannot be held hostage because the Chair and the Vice-Chair are not here. You need to issue direction. Wherever they are, they should be communicated to. We need to take action so that we can arrest this situation before it gets out of hand. It does not matter whether the Chair is available or not, he will get communication from the Chair and we will move forward.

I thank you.

**Hon. Speaker:** They will get communication from the Clerk of the National Assembly, not from the Chair. Chairs do not write letters. This is why I have always encouraged Members to look at the Standing Orders more regularly.

The Member for Mosop seems to suggest that there is some voodoo medicine.

**Hon. Vincent Tuwei** (Mosop, JP): Hon. Speaker, while I appreciate the concerns expressed by my colleagues. It is true the vaccine is not in the country. This disease infected livestock in our area. We have the African way of dealing with it which is *kupea ng'ombe busaa na kumpeleka mtooni asubuhi*. That is the best way of dealing with the disease. That is how we treated our livestock. I am talking from experience.

**Hon. Speaker:** Then Hon. Kevin Wanyonyi should have dealt with that disease very easily because what you prescribe is readily available.

Let us have the Member for Yatta.

**Hon. Charles Kilonzo** (Yatta, Independent): Thank you, Hon. Speaker. I am concerned because we have the leader of Government business and he is sitting pretty. Even if the Chair of the Committee is not here, surely the Government is here. I talked to my county veterinary officer and drugs for the disease are not available. You cannot find them even in agro vets. The Leader of the Majority Party is just sitting pretty. Surely, we would have had a statement from him.

**Hon. Speaker:** The request for Statement has been made just now, and we have given direction that the Clerk writes to the Ministry concerned. The Ministry will be instructed that we need a response in the shortest time possible. If Hon. Kago had raised the matter by way of Question by Private Notice, it would be faster.

Traditional liquor has been proposed as a cure. This is what I keep cautioning you against: You have now turned a request for a Statement into a debate. Those who want to give their livestock traditional liquor can do so. Let us move on to the next Order.

**BILL***Second Reading*

## THE DIVISION OF REVENUE BILL, 2021

**Hon. Speaker:** The Chairman of the Budget and Appropriations Committee.

**Hon. Kanini Kega** (Kieni, JP): Thank you, Hon. Speaker. I beg to move that the Division of Revenue Bill (National Assembly Bill No.7 of 2021) be read a Second Time.

Hon. Speaker, the Bill seeks to provide for sharing of revenue raised nationally between the national Government and the county governments for the Financial Year 2021/2022, in accordance with Articles 202, 203, 205 and 219 of the Constitution. The enactment of the Division of Revenue Bill, 2021 is critical in paving the way for introduction of the County Allocation of Revenue Bill, 2021, which provides for the sharing of revenue raised nationally among county governments and thus forming the basis of preparation of the annual Budget Estimates for the 47 county governments.

At this juncture, I wish to highlight the provisions under the Division of Revenue Bill, 2021, in line with the House's Resolutions on the Budget Policy Statement and the Debt Management Strategy for the Year 2021/2022 and the medium-term. This is in accordance with the provisions of Standing Order No.232 (8)(a).

I just want to give a general overview of the Division of Revenue Bill, 2021. The remedy you shared is calculated on the basis of the most recent audited accounts of revenue received as approved by the National Assembly and is distributed equitably between the two levels of Government. It is then shared among the county governments based on the third basis formula for sharing revenue approved by Parliament under Article 217 of the Constitution.

The projected revenue collection for Financial Year 2021/2022 is Kshs1.77562 trillion. The amount is shared amongst the national Government, the county governments and the Equalization Fund as follows:

- |                             |   |                       |
|-----------------------------|---|-----------------------|
| (i) the National Government | – | Kshs1.39 trillion;    |
| (ii) the county government  | – | Kshs370 billion; and, |
| (iii) the Equalization Fund | – | Kshs6.8 billion.      |

The Division of Revenue Bill, 2021, seeks to allocate Kshs409.8 billion to the county governments for the Financial Year 2021/2022 based on the last audited and approved revenue for the Financial Year 2016/2017 worth Kshs1.358 trillion. This represents Kshs38.3 billion or 10 per cent increment in resource allocation to the counties and is broken down as follows:

*(i) Equitable share of revenue amounting to Kshs370 billion*

The equitable share of revenue allocations takes into account the fiscal framework set out in the BPS, which was approved by Parliament. This is further shared out amongst the county governments based on the third formula for sharing revenue approved by Parliament under Article 217 of the Constitution.

*(ii) Conditional grants amounting to Kshs7.5 billion*

(a) A sum of Kshs7.2 billion has been allocated for leasing of medical equipment. This is a grant which was initiated in the Financial Year 2015/2016.

(b) A sum of Kshs332 million has been set aside to supplement county allocations for construction of county headquarters in Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi. At the inception, these counties did not have county headquarters.

(c) Additional conditional grants from proceeds of loans and grants by our developing partners amounting to Kshs32.2 billion has been spread across 12 Government agencies as per the attached list to the Statement that I have already tabled. However, one thing is clear, that these are grants to assist in urban and rural development in all parts of this country.

Hon. Speaker, in line with Article 202(2) of the Constitution, the national Government has been allocating additional funds to county governments from the national Government share of revenue raised nationally. However, in the Financial Year 2021/2022, there seems to be a policy shift from the past practice. In a meeting called Intergovernmental Budget and Economic Council (IBEC) chaired by the Deputy President of the Republic of Kenya, together with all the governors and county executive committee members (CECs) in charge of finance, they agreed that the Division of Revenue Bill 2021 shall seek to convert into equitable share status most of the previously allocated conditional grants from the national Government equitable share worth Kshs17.02 billion. These include the following:

(i) Allocation from the Fuel Levy Fund amounting to Kshs9.4 billion or 15 per cent of the fuel meant for maintenance of county roads as published by the Kenya Roads Board Act, 1999. The conversion should, however, be taken in line with the provisions of Article 206 of the Constitution and defined as revenue.

(ii) Compensation for user fees foregone, which amounts to Kshs900 million, to compensate public dispensaries and health centres for loss of revenue or abolishment of user fees. This was meant to cushion and ensure sustainable Government policy of not charging user fees in public health facilities. This has now been converted to equal shareable of revenue.

(iii) A sum of Kshs4.3 billion was going to five Level 5 hospitals. In the wisdom of that summit, it was decided that other counties have become of age and should also have their own Level 5 hospitals. They decided the money would be shareable revenue across the entire country. However, it is a high time that these regional blocks came together, if they deem it fit. I come from Nyeri. If they feel they have patients coming from outside Nyeri County, it is the responsibility of the economic block to sit down and agree on what they can do to support or supplement what the Nyeri County Government would be giving to the Nyeri Provincial Hospital, and they are all over the country.

(iv) Rehabilitation of youth polytechnics at a cost of Kshs2 billion was introduced during the Financial Year 2017/2018 and was aimed at enhancing access to quality and relevant skills training to youths across the counties.

Finally, we want to note and, maybe, remind the Senate that the issue of accountability has not been forthcoming, especially from the county level. In fact, it is a challenge that we are throwing to the Senators. Instead of the many instances that we have seen them interrogating parastatals and other national Government agencies, it is high time we saw them interrogating the county funds, especially donor funded projects.

There is also a tendency by some county governments to rely so much on donor funded projects. Some of them have dried up. There is the Kenya Urban Support Programme (KUSP), for example, whose taps have dried up. It was building roads and healthcare facilities, and

implementing quite a number of projects in urban areas. The county governments should also try as much as possible to raise their own revenue as opposed to relying on donor funding.

Finally, the Bill introduces four new additional conditional allocations from proceeds realised from our development partners.

Hon. Speaker, these are the following:

(i) Emergency Locust Response Project (ELRP) Kshs800 million financed by the World Bank to prevent and respond to the threat to livelihoods posed by the desert locust outbreak. This is a seasonal project until the locusts are eradicated.

(ii) The United Nations Population Fund (UNFPA) – 9<sup>th</sup> Country Programme Implementation, Kshs73.87 million, intended to address the national priorities under the Third Kenya Medium-Plan under the Big Four Agenda.

(iii) Kenya Informal Settlement Improvement Project II, Kshs2.8 Billion funded by the World Bank.

(iv) Primary healthcare in devolved context at a cost of Kshs701.25 Million, a grant from the Danish International Development Agency (DANIDA).

(v) Finally, the IDA-Kenya Devolution Support Program (Level 4 Grant) worth Kshs4.6 billion. It is important to underscore this grant because it is based on the fiscal prudence of each county. Counties that have better fiscal prudence get this fund. It is good because it is encouraging counties to also compete amongst themselves.

Hon. Speaker, the Committee made the following observations:

(i) The conversion of the allocation to county governments from the Fuel Levy Fund (15%) - Kshs9.4 billion, is in contravention of the statute establishing the Fund and whose intention was to ring fence critical financing for road maintenance by both national and county governments.

However, the counties have become of age. The county chiefs are also now responsible enough such that we do not need to tell them that this money is for a particular project. They also have to be responsible that if funds are sent to them for roads, that money should purely go for roads. It is in their discretion now if they feel that their priority is paying salaries... Of course, there are those who are going to do that, but they should know that there is a cap on how much they should spend on salaries. It is calling for fiscal prudence.

We also have a concern of possible inability to oversee use of the conditional grants allocated to counties. Conversion of the conditional grants to equitable share will not address this problem. We have had in the past, including in the county where the former Hon. Leader of the Majority Party comes from, a big issue on some conditional grants being diverted to do other things. It is a huge issue. We also ask the Senators to focus on their legislative and oversight role.

Hon. Speaker, I have not seen serious Senators working on these conditional grants and interrogating. We want to see them more in the counties. I am hoping and looking forward to see the seats reserved for Senators in county assemblies especially when they are doing their budgets, occupied by Senators.

It is important to note that there has been an ongoing practice by county governments of utilising conditional grants for purposes other than that stipulated under the law in disregard of the Division of Revenue Act and the County Allocation of Revenue Act and should be investigated. Conversion of health related conditional grants to equitable share without prior tabling of a report indicating the extent of development of county related health institutions could lead to health burden to affected county governments during a pandemic period and affect service delivery.

Hon. Speaker, given that the revenue shared are projections, it creates a fiscal risk that could necessitate borrowing, and the national Government budget implementation process will be negatively affected. Ideally, any revenue shortfall should be shared equitably between national and county governments.

Hon. Speaker, as I conclude, we made these recommendations:

Having considered the above matters, the Committee recommends that this House approves the Division of Revenue Bill 2021, specified as follows:

- i. National Government equitable share worth Kshs1.398 trillion;
- ii. County Governments equitable share worth Kshs370 billion;
- iii. Equalization Fund allocation worth Kshs6.8 billion;
- iv. The Government of Kenya conditional allocation worth Kshs7.5 billion; and,
- v. Additional conditional allocations from proceeds of loans and grants by development partners worth Kshs32.34 billion.

Therefore, the Committee recommends to this House that the Division of Revenue Bill, 2021, be read a Second Time.

Hon. Speaker, with those many remarks, I request the Leader of the Minority Party to second.

I thank you, Hon. Speaker.

**Hon. Speaker:** Let us have Hon. Mbadi.

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Speaker. In trying to comply with Articles 217 and 218 of the Constitution, the people of Kenya decided to create those articles to help divide revenue between the two levels of Government; the national and county governments.

In the year 2021/2022, as the Chair of the Committee who has moved the Motion has ably put it, the Government is projecting to collect upwards of Kshs1.775 trillion. Out of this, Kshs370 billion will go to counties as sharable revenue and Kshs6.8 billion is going to the Equalization Fund. The first question one would ask is: Every year, we vote for the Equalization Fund, but it has never been actualised.

So, this Committee is calling upon the Cabinet Secretary, National Treasury, who is responsible for the administration and management of this Fund to ensure that those issues that have not been resolved around the Equalisation Fund are quickly addressed because this is a Fund that has a sunset clause. If the Building Bridges Initiative (BBI) Bill was not there, we would have barely nine years to the end of the life of this Fund and so, something needs to be done.

The sharable revenue that goes to the national Government is Kshs1.358 trillion. Looking at the sharable revenue that is going to counties compared to the constitutional provision of the last audited and approved revenue based on the last audited and approved accounts, which is the year ending 2016, is 27 per cent. However, that is why I think BBI has come in handy because we keep on referring to historical figures and data of 2015/2016 when we already have audited accounts for 2018/2019.

Something else that needs to be mentioned is that the Chairman has alluded to it that we have the Executive as in agreement with the county governments to convert and commute funds that were originally or in the previous years treated as conditional grants to sharable revenue. I think this is in realisation that the Government cannot collect enough revenue to meet the enhanced revenue requests.

Hon. Speaker, the question that, therefore, begs and which needs to be addressed is when you convert the Roads Maintenance Levy of Kshs9.4 billion, which is the 15 per cent of the levy going to counties and this money has been religiously gone to counties... When you convert it to sharable revenue, you are giving counties a blank cheque to use it as they so wish. Therefore, the net effect is that our roads may have a challenge in being maintained. How sure are we that county governments are going to be responsible enough? The county assemblies in conjunction with the county executive are going to do their budget in a smart way to ensure that this money goes towards the maintenance of our roads. There is a law in place which regulates the usage of this Fund.

This Fund was specifically created to maintain roads. When you make it a shareable revenue, you run the risk of having money spent outside the legal statutes. This is a concern that needs to be addressed.

Something else we need to talk about is the projection of revenue. The Government is projecting to collect Kshs1.7756 trillion. How realistic is this. This is a question that the Budget and Appropriations Committee is concerned about. Chances are that we are not likely to collect beyond Kshs1.5 trillion this financial year. This means there will be a shortfall of over Kshs200 billion. This will be shouldered by the national Government which is remaining with Kshs1.39 trillion.

If you take into consideration the possible revenue shortfall, then you are going to collect not more than Kshs1.1 trillion. This is the amount we will spend in paying loans, interest on loans and meeting all Consolidated Fund services requests, which we know is not cheap. Again, we will pay salaries. By the end of the day, chances are very high that we will end up borrowing money to meet recurrent expenditure. This is not very good for this country. This is something we have talked about and we must repeat.

There is need for the Executive and more particularly the National Treasury, which has been tasked with the responsibility of managing our economy, to ensure that economic growth is stimulated. They can only do this by focusing a lot more on the most critical sectors of our economy. The Small and medium-sized enterprises (SMEs) have been talked about, but we also need to stimulate demand. We need to have money put into economic stimulus projects; money that would go to people who will spend it.

If you want to stimulate economic growth, take money to those who want to spend it, not people who will receive it and keep it. We need to take money to the grassroots. That is why I support the initiative of putting money in projects that are in the rural areas. I do not understand why the National Treasury has a problem with the National Government Constituencies Development Fund (NG-CDF). In fact, we should have more stimulus packages going directly to the grassroots to stimulate growth.

If counties were utilising the resources effectively, we would have more invigorated economic activities in the villages. This would help us realise more revenue. But we know what is happening in our counties. I think something needs to be done in terms of holding the county managers to account.

Something I want to talk about regards the Government's borrowing strategy. I am sure this House is aware of reports that have come out from the media that the Kenya Government is planning to get Eurobond loans. That they will commission markets to borrow money. I want to say, as a Member of the Budget and Appropriations Committee, that if this is the case, then it will be unfortunate. The information we have, which is on record from the National Treasury, is that they are not likely to borrow commercial loans. This is not in the plan. There is information that our country is planning to borrow money from the World Bank, the International Monetary Fund

(IMF), the African Development Bank (ADB) and other concessional loans. There is a plan to borrow Kshs78 billion from the IMF at zero interest rates and with very considerate terms of repayment going for 30 years. This is information provided by the CS. We have the World Bank to loan this country Kshs85 billion at 1.4 per cent interest rate. There is the African Development Bank, which is likely to give this country Kshs22 billion and many others. If it is true that the Government is planning to borrow money through the Eurobond, then they are concealing information from us which would be very interesting.

I do not expect the Executive to conceal information from the Budget and Appropriations Committee. I think when we next meet the CS, National Treasury, which is possibly next week, I am sure the Committee will take him to task about this report which I pray is fake news. How can the CS, National Treasury, appear before the Budget and Appropriations Committee and give wrong information about the borrowing strategy?

I want to again repeat here as I conclude that in as much as we want to agree with this Division of Revenue Bill, which I fully support, we need to have more money to the grassroots. But something that needs to be repeated a thousand times for those who are responsible to listen is that mismanagement of resources in this country is causing problems big time.

I know there is also mismanagement at the national level. We are seeing what is happening at the Kenya Medical Supplies Agency (KEMSA). I want to repeat this again. When you look at that lady, you really wonder whether she can move close to where a contract of Kshs7 billion is being discussed. This lady has no knowledge of the bank accounts of the company. I do not want to go there.

If we want to move forward as a country, corruption must be condemned at whatever level. Corruption in the counties is costing this country big time. The money going to counties could help this country get out of the economic mess we are in. We will our young people who are energetic the moment we take money to the grassroots. Kenya is No.48 in the world out of 193 countries recognised by the United Nations in terms of population, but we are No.29 in terms of percentage of youthful population. This tells you clearly how exposed this country is. If we engage the youth effectively and put money in their hands, these are people who will definitely have increased expenditure because they need the money to spend. They are not people who will keep it. They will spend it whether on *busaa* or *chang'aa* and the money will circulate in the economy. The net effect of this is economic growth.

You see we have a few individuals in the counties misappropriating the resources. They are putting up hotels which have no people to sleep in. This is because COVID does not allow us to sleep in those hotels. So, the hotels become huge white elephant projects. Everywhere in the villages people have huge houses which they do not even need. They have put them up using public resources. This is money that is supposed to help our youth come out of poverty. This is a crime that is bad in the eyes of God.

I want to ask those people who are managing our resources at that level to please change their habits. On those who are responsible for oversight, personally, many of my colleagues and I have given up on county assemblies. What you see happening does not inspire any confidence. The Senate needs to come in and fill the gap where county assemblies should have been taking the lead. I see attention shifted entirely to the Senate, but the truth of the matter is that the people who have the advantage to continuously and on daily basis monitor what is going on in the counties are members of our county assemblies.

Members of our county assemblies going forward take your responsibilities very seriously. If Kenyans have been electing people without capacity, it is high time we thought about the people

we vote for to become members of county assemblies. We do not need these people who are bag carriers and flower girls. We need serious people to be in those county assemblies. Even the nominated ones, I have said about them before. There was a time I said it and I almost faced riot and demonstration from incited ladies, but I had said those who had not gone to school.

We need basic education for these people whether you are nominated or elected. I know in the National Assembly we do not have that minimum academic qualification. It should be there. Those of us who have not got basic degree, please you have a few more months. Get it so that in 2022, we have people who can do oversight. You cannot have a Standard 8 dropout, because you are too popular in your place, overseeing a professor. That is why a professor will come to you and look at you and feel that you are wasting his time and address you with a condescending attitude. This is because you have no capacity to oversee him. So, I just want to plead with those of us who still want to represent people that if you do not have that minimum qualification, I do not think this House will be willing to extend it further. We extended it to 2022 and I think we should be reluctant this time to extend that minimum academic qualification requirement.

With those remarks, I second and support the Division of Revenue Bill.

**Hon. Speaker:** I think Hon. John Mbadi touched the raw nerve which, I think and as you know Hon. John Mbadi, apart from appearing in the Constitution, is also anchored in Section 22 of the Elections Act.

*(Question proposed)*

Hon. Duale, you have the Floor.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. The Division of Revenue Bill proposes Ksh370 billion as the equitable share. That has led to about 27.3 per cent of the 2016/2017 audited and approved by the National Assembly accounts. That time the audited accounts was Ksh1.357 trillion. Cumulatively, the county governments are getting Ksh409 billion. They comprise the following: the equitable share of Ksh370 billion, the conditional allocation from the share of the national Government revenue of about Ksh7.53 billion and the conditional allocation from proceeds of loans and grants by development partners of about Ksh32 billion. That gives the county governments Ksh409 billion. That is what they are getting but there are a number of salient issues in this Division of Revenue Bill and in overall county financial management.

To start with, there is no substantial increase to counties. I say this without fear of contradiction. What this Bill has just done is to convert the four existing conditional grants to counties into unconditional grants by allocating to their respective amounts totalling to about Ksh17 billion in this current financial year. Which ones are these? This is the Road Maintenance Levy, the Level 5 hospitals, the compensation for the user fees foregone and this is the money that is supposed to go to rehabilitate the village polytechnics. So, if you look at that, there is no substantial increase that has been given to counties. The Bill has just converted conditional grants. What is the implication of doing that? The implication is that it is going to affect counties and that a number of projects will remain incomplete and they will stall.

The second salient and important point I need to raise is there is lack of criteria for conditional allocation to counties. This House has been passing the Division of Revenue Bill. This is the eighth year but there is no criterion how the conditional allocations to counties is done. For example, if you look at the Division of Revenue Bill 2020, it proposes to allocate about Ksh7.2 billion for the leasing of equipment and another Ksh332 million for the construction of headquarters in Isiolo, Tana River, Tharaka Nithi, Nyandarua and Lamu counties. It is very sad

and strange that there is no policy criterion in identifying these counties. What happens? If this continues, then there will be serious marginalisation of some counties. So, this person who says Isiolo, Nyandarua, Tana River and Lamu must be funded to build its own county headquarters, what criteria are you using? Why not fund Kiambu, Garissa or Marsabit? So, there is absolutely no policy criteria. I think the Budget and Appropriations Committee has been giving. I do not know why people are getting agitated. I have just read the report and the Budget and Appropriations Committee...

**Hon. Speaker:** There is a point of order from Hon. Chachu Ganya.

**Hon. Chachu Ganya** (North Horr, FAP): Hon. Speaker, I want to tell the former Leader of the Majority Party that Marsabit County under the able leadership of Ukur Yattani, when he was the governor, built the county government offices and the county assembly. We do not need that fund.

**Hon. Speaker:** That appears like a point of information. Hon. Kioni, what is it?

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Speaker. I want to let the former Leader of the Majority Party know that the county headquarter for Nyandarua was taken by Laikipia and he is totally out of order to mislead the House and the nation that there was no policy. The policy was that Nyandarua having lost its county headquarter to Laikipia and any county that did not have a county headquarter done by the former national government required to have been provided with a county headquarter. This has been in the budget for the last eight years. I do not know why he is complaining about it now.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I do not want to go into village politics. If your headquarters have been built, I just only...

**Hon. Speaker:** The Chair of the Budget and Appropriations Committee wants to perhaps raise the issue... Hon. Duale is raising the point of policy.

Let us have Hon. Kanini Kega.

**Hon. Kanini Kega** (Kieni, JP): Hon. Speaker, thank you for this opportunity. I want to clarify because the former Leader of the Majority Party said there is no criteria. I want to clearly state that even in our statement, we have said that the ones that have been identified are the ones that did not inherit adequate facilities from the defunct local authorities. So, it is specifically for the ones that did not inherit. So, there is a criterion.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, if you listen to all my colleagues, what I am saying is; eight years down the line after the implementation of the devolved system of government, there must be criteria and a policy to identify which county requires extra resources. Whether the defunct county councils left infrastructure or not, you have a budget. Hon. Chachu, I think what you wanted to say was that you have a county headquarter. I was just giving an example. Hon. Speaker, I still maintain that there is no criteria or policy.

The next item I have an issue with is this animal called the leasing of medical equipment. There must be justification on this significant increase. In the last financial year, this amount was Ksh6.2 billion, but if you look at what has been allocated in 2021/2022, it is Ksh7.2 billion. There is an increase of over Ksh1 billion. There must be justification. You remember the mystery behind the leasing of equipment. In some of our counties, those equipment are not even working or they are not even there.

The personnel are not there and we really ask the Committee of this House to do an audit. The Senators have failed. They had a report. We must have an audit. We are seven years down the line. If you ask me, this is a criminal enterprise shrouded on a fake procurement process. The project is associated with high operational cost on consumables and reagents. If you look at the

reagents, they are inadequate and fluctuating with electricity challenges. If you go to far flung counties like Isiolo Marsabit and Garissa, you will find that these equipment are not working. There is also increase in the level of pending bills and high expenditure on personal expenditure.

The PFM Act is very clear. Let me start with expenditure on salaries. Counties continue to spend a significant share of their allocation on emoluments contrary to the Public Finance Management (PFM) Act. Regulation 25(1)(b) of the County Government Regulations sets it at 35 per cent of the counties total expenditure. Today, I am quoting a report from the Controller of the Budget that they are at 44.8 per cent. The Controller of Budget is supposed to crack the whip. She is not doing it. She is bringing a report to this House saying that the counties are spending 44.8 per cent on salaries. The essence of devolution was to bring service namely, health, water, education and roads to our people.

*(Hon. Aden Duale spoke off record)*

**Hon. Speaker:** I will give you extra two minutes.

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Speaker. These pending bills affect our economy. There is high corruption. Governors are asking for close to 20 per cent to be paid in advance for them to pay pending bills particularly pending bills from their predecessors.

As I support this Bill, I have the following submissions to make, that to achieve even the BBI proposal of at least 35 per cent nationally and raising the amount going to counties, functions must be domiciled. Agriculture and health are functions that ought to be with them yet they are still with the national Government. We are not saying which functions are going to follow as we give them 35 per cent. We must first discuss the functions, then go to the increment in allocation. The national Government should also guarantee counties that have utilised the medical equipment facilities for the project duration of seven years. These contracts must be relooked. The Government must address the ballooning wage bill at the counties. The pending bills at the counties have led to deterioration of financial positions in our businesses and that must be relooked.

Finally, the Cabinet Secretary in charge of the National Treasury and Planning should bring into this House a policy framework to guide conditional allocation. I am sitting next to the former and the current Chairs of the Budget and Appropriations Committee. We said it in subsequent years that the Cabinet Secretary must bring a policy to guide conditional allocations and conditional grants to counties. Money is being given to counties with no criteria and policy. Donors funded some of them, yet he has no powers to do that. If he does this, it will reduce the use of conditional allocation, and this will marginalise certain parts of this country. I support.

**Hon. Speaker:** Hon. Kimunya, you have the Floor.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. I rise to support the Division of Revenue Bill. I thank the Committee because it has done a good job within a very short period. As Members will be aware, this Bill is a prerequisite. It is one of the conditional precedence for the formulation and tabling of the estimates. So, we cannot do anything until we have passed this law. Due to some advisory that was given, it still has to go to the Senate. I would like to urge Members that this is a straight forward thing. We do not need to spend a lot of time on it, but we should just focus on the division. We discussed this when we were discussing the Budget Policy Statements (BPS). In fact, it was clearly stated that once we passed the BPS, natural progression would be the Division of Revenue Bill. It follows in exactly the same figures that we passed. Perhaps, we could save ourselves a lot of time as a House, by limiting to just a few comments if any. It is not the kind of thing we even change. The Senate will endorse so that we can go to the

County Allocation of Revenue Bill, which is what my predecessor was talking about in terms of apportioning how much goes to recurrent and how much goes to expenditure. In the Division of Revenue Bill, we are just doing the vertical division between how much remains in the national Government and how much goes to county governments.

Hon. Speaker, it is not true to say that the amount indicated here has not increased over the last year. Last year, we appropriated about Kshs370 billion including the conditional grants. This year, it is clearly put in the Schedule, for those who have cared to read, that we are appropriating Kshs409 billion. This is Kshs30 billion over and above what they received last year. So, it did not make sense to have money for recurrent expenditure for roads being given as conditional grants, yet roads are devolved. So, you are giving some money as part of sharable revenue and on top of that, you are giving others as conditional grants through the Kenya Rural Roads Authority (KeRRA), yet it is the same money to be used across the same roads. It is important to get counties to budget in totality for their money except programmes that are funded separately through development grants and anything else that the national Government will do, which is not of recurrent nature. Roads will forever be maintained by counties. It is something that was foreseen and was included in the Schedule among the 14 that were devolved, which is very different from the medical equipment scheme which was a temporary measure.

I was surprised to hear my predecessor talk about the construction of county headquarters as if it is a preferential grant to some counties to the exclusion of others. Indeed, Members may remember that at the passage of the Constitution of Kenya, 2010, the Transitional Authority was set up by this House that went round the entire 47 counties to establish their state of readiness to operate as devolved units. They checked whether counties had facilities or headquarters. Those that were identified as not having headquarters were five including Nyandarua. As the construction started, challenges came in, in terms of the slow disbursement of funds and issues with contractors. As I speak, Nyandarua County Headquarters is on a temporary basis, eight years into devolution. The construction was only resuscitated last year because of issues with contractors following the slow disbursement. So, it is important that people put some of these things into context because we might be misleading the public and giving the impression that this Budget is sending funds to specific areas to the exclusion of others. All the other donor funded projects are itemised here in terms of why and where they are happening. It is not the last to happen. More will happen in future.

If you look at those figures, we are talking of about 30.2 per cent being given to the counties compared to the percentage of disbursement in the 2016/2017 Financial Year. Without even getting into the debate that we will have after the 23<sup>rd</sup> when we discuss the BBI Report, one can now see that the Constitution requires a 15 per cent disbursement. However, His Excellency the President, in his own wisdom and magnanimity, decided to double the amount disbursed to the counties because he believes in devolution. There will come a time when there will be some people who do not believe in devolution and they could stick to 15 per cent.

Everyone is saying that they need more money. If we were to give 15 per cent, we would be giving counties Kshs200 billion. They receive Kshs370 billion yet they are still crying for more. We are giving about Kshs200 billion, which is hardly enough to execute the 14 functions that were anticipated they would be doing when the 15 per cent was put in the Constitution in 2010. This explains the wisdom of looking into the Constitution - the discretionary giving of money to counties by the President, as a revision to the Constitution. The reality has shown that 15 per cent is not enough. It is currently Kshs200 billion. By increasing it to 35 per cent, the counties can have predictability. As they do their county integrated development plans, they will know that they are working with a certain figure, which is not less than Kshs400 billion, and can even secure their

long-term planning in terms of what roads to do, where to do water projects, what to do with the nursery schools and polytechnics, and all those things we expect them to do, including taking care of the youth and training facilities as well as trade and industrialisation. They need to do all that at that level, so as to spur development that will create some momentum towards the generation of greater gross domestic product (GDP).

This is really straightforward. We do not need to spend a lot of time on it. I urge Members to pass this Bill in minimal time, so that we can get into other issues that we also need to debate as a House, especially given the limited sitting time we have.

Members have been raising the issue of the NG-CDF delays. We are all concerned that the flow of funding has not been in tandem with the expectations of Members and the commitments they have at the grassroots. I have been engaging with the Treasury, including this morning and I can report that there is some agreed-upon framework in terms of the release of money between now and April. We have agreed on a release of Kshs2 billion per week, which means that by the end of April, they would have released all the Kshs41 billion for this financial year. The balance of the arrears will be released within May and June. We must accept that the flow of funds into the Treasury has not been as good, partly because of COVID-19 and other challenges that have affected revenue generation. This week's disbursement of Kshs2 billion has already been released. So, we have Kshs28 billion that is already with the boards.

*(Loud consultations)*

I am giving you information that is good for you.

**Hon. Speaker:** Hon. Kajwang', what is your point of order?

**Hon. T. J. Kajwang'** (Ruaraka, ODM): Hon. Speaker, the Leader of the Majority Party is giving us critical information. However, he is touching on very important issues, which are very sensitive to this House, such that rising in his place to give us that information does not help much. That is the kind of information that we want in a written report, so that the Cabinet Secretary can be held accountable. If that information is not acted upon as the Leader of the Majority Party is saying, we have recourse as a House to hold him responsible through an implementation procedure. Rising to respond to what the Member had said and to quieten - so to speak - the mood of the House, is misleading. Whereas that information is good, if it cannot be reduced to a report that we can hold the CS accountable, we are being "softened".

**Hon. Speaker:** Let us have the Member for Samburu North.

**Hon. Alois Lentoimaga** (Samburu North, JP): Hon. Speaker, I also have a concern on the issue. What is in public domain among Members is that Kshs18 billion, which represents arrears for the NG-CDF in previous years, is eating into the money that is meant for NG-CDF for this financial year. That also needs to be clarified. Money that was in arrears should not be part of this financial year.

**Hon. Speaker:** What is that now? What was out of order?

**Hon. Alois Lentoimaga** (Samburu North, JP): The Leader of the Majority Party is trying to explain the issue of the NG-CDF. What is disturbing us is the fact that...

**Hon. Speaker:** You can be disturbed, but if there is nothing out of order, just sit quietly and get disturbed. Just continue to be disturbed, Hon. Lentoimaga.

**Hon. Amos Kimunya** (Kipipiri, JP): Hon. Speaker, Hon. T. J. Kajwang' is a seasoned Member and knows whatever I am saying is in the HANSARD. It is part of the permanent record of the House. The same discussion is taking place within the Budget and Appropriations

Committee and is part of the records of that Committee. We had said that that should be captured as part of the proceedings of the Budget and Appropriations Committee for follow-up.

Just so that we do not get into a debate on the NG-CDF, I am raising the issue of the NG-CDF within the context of demonstrating what has happened with devolved funds. We are talking of the division of revenue. This is money that we are taking to the counties. It is exactly the same way we are devolving another 2.5 per cent through the NG-CDF for operations at the constituency level. We expect the same veracity and oversight of the two Funds. If there is a delay in getting money to the counties, which has been witnessed because of the challenges we are facing... You have now witnessed what happened. That part of our oversight on that money is getting the Treasury to ensure that we have more money going to the counties and our constituencies, in a timely manner, so that activities do not get jeopardised.

You will see the same thing happening when you go to the counties. There are small and micro enterprises which have contracts with the county governments and some which have been funded by banks through tender financing. If there is a mismatch between the flow of money, the capital commitment, the contracting they have done with the counties and the repayment by the counties, they are not able to pay the banks. That is why you get all those issues out there.

Even as we pass the Division of Revenue Bill, as the Member for Kipipiri, I want to see the money flowing to the counties and constituencies, so that activities can take place. As the Leader of the Majority Party, on behalf of all of you, or at least the side I lead, next time I should also carry John Mbadi with me, so that we can tell the Treasury that there are 290 Members out there who need their NG-CDF funds. We now have a commitment. It has been honoured so far. I hope we can honour it even more. If the situation improves, we will try to fast-track the disbursement of that money. At least we have...

**Hon. Speaker:** Give him the microphone.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Speaker. This is something that we will continue doing. I will not stop, so that we can ensure that your funds flow. I am also affected. It has nothing to do with passage of Bills here. We have commitments to the people. There is Kshs41 billion that is supposed to go out there to implement primary schools to do all those things that we are doing. Having the money in Nairobi does not help the issues in Kipipiri, Kisii and in all the various areas. That is my commitment to you. I will do that as part of my service to you. We also have our constituencies development committees which will also do it.

I know Hon. (Dr.) Pukose will be happy. The Members will go on recess next week and do something with the little money. We also need to put some pressure on our board. It is one thing for money to move from the National Treasury to the NG-CDF Board, and then from there to the constituencies. So, it is an integrated process that we need to work on together. I agree that we still have some challenges, but we will work on them.

With those few remarks, I support the Bill.

**Hon. Speaker:** Member for Funyula.

**Hon. John Mutunga** (Tigania West, JP): Hon. Speaker, on a point of order.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Speaker. I stand here to support the Division of Revenue Bill.

**Hon. Speaker:** Give me a minute. There is a point of order from Hon. Kanyuithia.

## QUORUM

**Hon. John Mutunga** (Tigania West, JP): Hon. Speaker, we are discussing a very important matter, but we are not properly constituted. We do not have the numbers.

**Hon. Speaker:** Clerks-at-the-Table, can you count the Members?

*(The Clerks-at-the-Table counted the Members)*

Hon. Members, we are only 32. Can you ring the Quorum Bell? Having drawn Hon. Speaker's attention to lack of quorum, Hon. Mutunga is not allowed by our Standing Orders to leave the chamber. I want that part of our Standing Orders to be implemented at all times. The Member who draws the Speaker's attention to lack of quorum cannot leave the chamber. That was put in the Standing orders deliberately. Hon. Eseli and Hon. Wangwe will whip the Members. Some Members have taken leave.

*[The Quorum Bell was rung]*

**Hon. Speaker:** Hon. Members, I will extend the time for the Quorum Bell to be rung by another 10 minutes.

The Budget and Appropriations Committee has 27 Members. If they were all here, we would only need another 23 Members. Obviously, when we are discussing a matter of finance, I would expect the Members of the Departmental Committee on Finance and National Planning to be here in their droves. Those are only two committees. Is there any chance, those of you who are here, that we could go over 42?

Order! Members, take your seats. The Whips have tried their level best. The Budget and Appropriations Committee, on a matter of this nature, should take the lead.

## ADJOURNMENT

Hon. Members, the time is 5.35 p.m. but for lack of Quorum, the House stands adjourned until this evening, at 7.00 p.m.

The House rose at 5.35 p.m.