

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 3rd July 2018

The House met at 2.30 p.m.

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

PRAYERS

PETITION

Hon. Speaker: Member for Tigania West, Hon. Mutunga.

LOWERING OF ENTRY GRADE TO DIPLOMA COLLEGES

Hon. John Mutunga (Tigania West, JP): Thank you, Hon. Speaker.

I, the undersigned, on behalf of concerned citizens of Kenya, draw the attention of the House to the following:

THAT, over the years, diploma-offering teachers' training colleges and universities have been admitting students with grade C+ and above who do not meet the cut-off points to join public universities to pursue diploma courses in teaching;

THAT, the performance of students in the KCSE for the years 2016 and 2017 was quite low thus all students who scored C+ and above were admitted to join public universities by *Kenya Universities and Colleges Central Placement Service*;

THAT, this change has greatly reduced the number of students interested in joining diploma-offering teachers' training colleges and universities to train as teachers and is bound to adversely affect the teaching profession both in the medium and long term;

THAT, this deficit in the number of admissions can be utilised by allowing students with grades C plain an opportunity to join diploma-offering teachers' training colleges and universities;

THAT, the matter presented in this Petition is not pending before any court of law, tribunal or constitutional body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Education and Research:

1. Inquires into and reports on the matter with a view to ensuring that the Petitioners' plight is addressed;

2. Recommends the lowering of entry points to diploma-offering teachers' training colleges and universities; and,
3. Makes any other order or direction that it deems fit in the circumstances of the case.

And your Petitioners will ever pray.

I thank you.

Hon. Speaker: Hon. Wandayi.

Hon. James Wandayi (Ugunja, JP): Hon. Speaker, this Petition is timely and it needs to be looked into expeditiously by the relevant committee. As we are all aware, most of the times, many Kenyan children have been disenfranchised and denied a chance to pursue post-secondary education on the basis of grades. Grades are things that happen on the basis of the state of mind that one is in, at the time they are doing exams. They, therefore, do not mean a lot in terms of the capacity of a student or a kid to continue with further education. The Committee can look at this Petition and, perhaps, draw some guidelines that will enable children who have gone through secondary school to get a second chance in life, rather than condemning them on the basis of mechanical issues such as grades.

I support.

Hon. Speaker: Member for Igembe Central.

Hon. Kubai Iringo (Igembe Central, JP): Thank you, Hon. Speaker. Let me thank my brother, Hon. Mutunga for bringing this Petition. This Petition is timely and will cure a lot of problems we have with students, particularly those who may not be in a good state of mind when they are doing their exams. They could be bereaved, sick or have other problems. Whatever grades they get may not be commensurate with their ability and, in the process, they get frustrated. If this Petition is pursued and those grades are lowered, there are students who might not have made it for one reason or the other, but could get a chance to pick up from where they left.

I support.

Hon. Speaker: The Leader of the Minority Party.

Hon. John Ng'ongo (Suba South, ODM): Thank you, Hon. Speaker. As I support this Petition, I just hope that the Committee will look at all aspects of it, including why our children have been failing in exams since the so-called Mاتيangi system came into place. It is important to fix exam cheating which was becoming a cancer in this country. Everyone is agreeable to the fact that some action needed to have been taken, but we need to explain why all our children cannot attain grade C+ and above. I thought the Ministry was changing the system of examining our children. This is in line with what the Hon. Member has just spoken about.

Finally, we need to be cautious as to lower the entry point to the higher learning institutions because we are not an island. We are operating in a global world where other countries are watching us. I would hate to see a situation where other countries downgrade the value of university degrees from this country just because we are admitting children with lower grades. Instead of lowering the grade, we need to find out why our children are failing. If it is the method of examining our children that is faulty, we need to look into it.

Also, we have to do something that is not going to disenfranchise children from poor backgrounds. Some of us are where we are because of a fair system which allowed us to compete. If the system was compromised in any way, many of us would not have reached where we are today. So, the system that we would come up with needs to take care of any method of manipulation. We have been very comfortable with the way exams have been conducted in this

country. Even though there have been cheating, it is not attributable to some senior forces in this country where, if I am a Member of Parliament, I would influence grading for my children and yet a peasant cannot influence his or her child's performance.

Hon. Speaker, I thank you.

Hon. Speaker: Member for Pokot South.

Hon. David Losiakou (Pokot South, JP): I thank you, Hon. Speaker, for giving me this opportunity to add my voice to this very timely Petition by our colleague. I am hoping, and it is my addition to the Committee on Education and Research, that this is a serious matter. This issue of qualifications is really a serious matter in this country, particularly now that there are so many people who went through university in this country, were awarded degrees, but they had a C (plain) at Form IV. When they seek jobs with the TSC, they are told: "You do not have a C+, which is the minimum qualification to go to university." The question is: Was that a problem of the student? It is not. Universities which train people are our universities. Why did the university not say: "Because you do not have a C+, you cannot be admitted for this programme." People have invested a lot of money to qualify only for them to find that they cannot get jobs in our country.

In the same light, I urge this country to proceed further than considering this Petition and propose some laws and regulations so that students who have qualified with a degree in education, but had a C (plain) in the Kenya Certificate of Secondary Education, can also get jobs like any other Kenyan. Then we can say: "From here onwards, you cannot get a degree in education if you do not have a C+."

If we allow that, then we have condemned so many Kenyans. I take the example of somebody from West Pokot who had a C from a very rural school - where you went with me one day - coming to the University of Nairobi and obtaining a degree and then TSC cannot recruit him. What will that poor boy do? He did not create the UoN. It was created by Kenya. Was it offering an illegal degree? No, it was not. I think this can be expanded at that level so that we do not disenfranchise many Kenyans. I thank my colleague, but he can move further to bring amendments to the Basic Education Act so that all these people can get jobs.

I thank you, Hon. Speaker.

Hon. Speaker: Deputy Minority Whip.

Hon. Chrisantus Wakhungu (Kimini, FORD-K): Thank you, Hon. Speaker. I want to thank the Member for this Petition. But I was wondering whether it should have been a petition or a Motion, because the issues he has brought up are very critical. In any environment you do an exam, it must conform to the normal distribution curve. Once an exam has been set—and I speak with authority having been a lecturer in a serious university—it must be moderated and once it has been marked it must conform to the normal distribution curve, whereby we have few people failing and few people passing highly. The majority of the people are supposed to be in the middle. But looking at the Matiang'i rules and the examination setup in this country, it does not conform to the normal distribution curve. This tells you there is something wrong with KNEC. When you do an exam, whether it is difficult, it must conform to the normal distribution curve.

When it comes to going to university, it is very unfortunate...I have even seen people who got an E or who never did Form IV doing a degree and getting to master's level. You wonder how they upgraded from nowhere and you are told that they now have certain degrees. It is the highest time that KNEC and the Commission for University Education (CUE) looked into these aspects. You even see some people speaking English and expressing themselves is a problem but they tell you they have a degree. You do not know where they got the degree from. I

am saying this because I do not want to term it when it comes to political positions. For a governor, you must be a graduate. Because of these issues, we see many governor aspirants having degrees overnight. You wonder where that degree came from, which university that person went to and whether those universities have external examiners. After you have been examined in a university, you need an external examiner to ascertain whether you passed the exams very well and, in that particular population, whether the normal distribution curve was there. It is something which is very critical. We must look into it.

Now that nowadays we do not get good grades, it is the responsibility of the Kenya Universities and Colleges Placement Service (KUCCPS) to lower the university entry points. You must see what university entry vacancies are there. If the entry point is a C+ and people have failed, it is important to lower the entry marks. You do not even need a Motion or a petition. This is something that KUCCPS should put in place. We do not want our people to fail exams, to get Es. Where are they going to go? This is something that the Committee on Education and Research should be able to look into and come up with recommendations that can streamline the education system in this country. I hope they will be able to finish this within the period of 60 days as per your earlier advice.

I thank you, Hon. Speaker.

Hon. Speaker: Finally, Member for Kitui South.

Hon. Rachael Nyamai (Kitui South, JP): Thank you, Hon. Speaker, for giving me an opportunity to comment on this Petition. It is a very important Petition and it is timely. I believe this Committee will be able to handle this matter within 60 days, as Hon. Chris has said, because we have many students in our constituencies who got C and they are not being placed even in teacher training colleges. Last week we also read in the newspapers that the Kenya Medical Training Colleges have challenges with having enough students to admit to their colleges. So, it is a matter that is affecting us within our constituencies and it is important that it be concluded as fast as possible, so that those students can be placed in institutions of higher learning within the shortest time possible.

Thank you, Hon. Speaker.

Hon. Speaker: The Petition stands committed to the Departmental Committee on Education and Research. Now that we are through with the budget considerations, the Committee should apply itself appropriately and bring to the House a Report that captures not just the prayers in the Petition but also some of those views that have been expressed here.

Hon. Members, before we proceed, allow me to recognise the presence in the Public Gallery of students and pupils from the following institutions:

Muthale Girls Secondary School, Kitui West Constituency Kitui County, Catholic University of Eastern Africa (CUEA) students, Langata Constituency, Nairobi County, Benson Institute of Professionals, Westlands Constituency, Nairobi County, Legacy Mixed Secondary School, Embakasi East Constituency, Nairobi County and those from Nthare Secondary School, Igembe Central Constituency, Meru County. They are all welcome to observe proceedings in the National Assembly this afternoon.

Next Order.

PAPERS LAID

Hon. Speaker: The Hon. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

Annual Reports and Financial Statements in respect of the following institutions for the Financial Year 2016/2017:

- a) Salaries and Remuneration Commission;
- b) The Commission on Administrative Justice;
- c) The Ministry of Education and
- d) Kenya Reinsurance Corporation Limited.

The Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30th June 2017 and the certificates therein:

- a) Communications Authority of Kenya - Universal Service Fund;
- b) Communications Authority of Kenya;
- c) Parliamentary Mortgage Scheme Fund and
- d) State Department of Culture and Arts.

Hon. Speaker: Chairperson, Departmental Committee on Communication, Information and Innovation Hon. Kisang.

Hon. William Kisang (Marakwet West, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House...

(Loud consultations)

Hon. Speaker: Hon. Member for Gem, your consultation with the Member for Embakasi East and Member for Nyando is too loud. You can consult but do it in low tones so that other Members can follow proceedings.

Hon. William Kisang (Marakwet West, JP): Thank you for your protection.

Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Communication Information and Innovation on the Consideration of the Copyright (Amendment) Bill 2017, National Assembly Bill No. 33 of 2017.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Departmental Committee on Justice and Legal Affairs, Hon. Cheptumo.

Hon. William Cheptumo (Baringo North, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Report of the Departmental Committee on Justice and Legal Affairs on the Consideration of the Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bill No. 12 of 2018) together with the compendium reports of the following 12 departmental committees on the consideration of the said Bill, namely:

- Departmental Committee on Administration and National Security.
- Departmental Committee on Transport, Public Works and Housing.
- Departmental Committee on Education, Research and Technology.
- Departmental Committee on Trade Industry and Cooperatives.
- Departmental Committee on Labour and Social Welfare.
- Departmental Committee on Environment and Natural Resources.
- Departmental Committee on Finance and National Planning.
- Departmental Committee on Lands.

Departmental Committee on Sports Culture and Tourism.
 Departmental Committee on Defence and Foreign Relations, and
 Departmental Committee on Agriculture and Livestock and Departmental
 Committee on Communication, Information and Innovation.

Thank you, Hon. Speaker.

Hon. Speaker: I recall that I had approved a Report to be tabled by the Nominated Member, Hon. Kamanda. Member for Kieni, do you have a Report to table? It does not appear to be on the Order Paper. Do you have any report or you just have the Paper.

Hon. Kanini Kega (Kieni, JP): Hon. Speaker, I was given a Report to table which is almost close to what my colleague has also read.

Hon. Speaker: Very well. The one that attaches reports from the other committees?

Hon. Kanini Kega (Kieni, JP): Yes. Hon. Speaker, I beg to lay the following Paper on the Table of the House:

The Report of the Departmental Committee on Trade, Industry and Cooperatives on the Consideration of the Statute Law (Miscellaneous Amendments) (No. 2) Bill, (National Assembly Bill No. 13 of 2018) together with the compendium reports of the nine departmental committees on the consideration namely:

Departmental Committee on Sports Culture and Tourism.
 Departmental Committee on Lands.
 Departmental Committee on Labour and Social Welfare.
 Departmental Committee on Transport, Public Works and Housing.
 Departmental Committee on Health.
 Departmental Committee on Education and Research.
 Departmental Committee on Finance and National Planning.
 Departmental Committee on Agriculture and Livestock and
 Departmental Committee on Energy.

Thank you, Hon. Speaker

Hon. Speaker: Hon. Members, the reason I explained last week as to why these reports are laid in the manner that they have is because at least we wanted one departmental committee to take the lead but pronounce itself as to the various other committees that have looked at the various aspects of various laws proposed to be amended in the Statute Law (Miscellaneous Amendments) Bill for avoidance of doubt so that nobody argues later that there was no public participation.

Next Order.

NOTICES OF MOTIONS

EXTENSION OF TIME FOR CONSIDERATION OF NOMINEES FOR APPOINTMENT AS CHAIRPERSON AND MEMBERS OF THE COMMISSION ON ADMINISTRATIVE JUSTICE

Hon. William Cheptumo (Baringo North, JP): Thank you, Hon. Speaker I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011, relating to extension of period for consideration of nominees for appointment to State and public offices and Section 11(7) of the Commission of Administrative Justice Act, 2011,

this House resolves to extend the period for consideration of the nominees submitted by His Excellency the President for appointment to the offices of Chairperson and Members of the Commission on Administrative Justice by a period of fourteen (14) days from 18th July 2018.

Hon. Speaker: Hon. Wamalwa, this is notice of Motion. You cannot just be shouting from your place. Why are you doing that? Or was it the Member for Suna East?

The Chairperson, Departmental Committee on Finance and National Planning.

EXTENSION OF TIME FOR CONSIDERATION OF NOMINEES FOR APPOINTMENT AS CHAIRPERSON AND MEMBERS OF THE SALARIES AND REMUNERATION COMMISSION

Hon. Joseph Limo (Kipkelion East JP): Thank you, Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011, relating to extension of period for consideration of nominees for appointment to public office and Section 7(11) of the Salaries and Remuneration Commission (SRC) Act 2011, this House resolves to extend the period for consideration of the nominees submitted by His Excellency the President for appointment as the Chairperson, SRC by a period of fourteen (14) days from 11th July 2018.

Thank you Hon. Speaker

Hon. Speaker: Hon. Members, you may be aware part of the reason is because last week we passed a Motion altering the Calendar of the House so that you will not be proceeding on recess on 12th and instead thereof on 5th July. The Movers will move the Motions.

Next Order.

STATEMENT

Hon. Speaker: Member for Kimilili, Hon. Didmus Barasa. The Member being absent and knowing well the time of sitting, his purported request for Statement is accordingly dropped, not to be entertained again.

(Request for Statement by Hon. Barasa dropped)

Next Order.

BILL

First Reading

THE SACCO SOCIETIES (AMENDMENT) BILL

(Order for First Reading read - Read the First Time and ordered to be read the Second Time tomorrow)

Order Members, if you could take your seats briefly...

COMMUNICATION FROM THE CHAIR

GUIDANCE REGARDING CONSIDERATION OF THE SACCO SOCIETIES (AMENDMENT) BILL

Hon. Speaker: Order Members! Please take your seats briefly. Hon. Members, this particular communication is to offer guidance regarding consideration of the Sacco Societies (Amendment) Bill (National Assembly Bill No.18 of 2018).

Hon. Members, I wish to give some guidance relating to the said Bill which has just been read out a First Time. In terms of our Standing Orders, it stands committed to the relevant Departmental Committee namely, Finance and National Planning.

Hon. Members, you may wish to note that this Bill has been published under the name of the Chairperson of the Departmental Committee on Finance and National Planning in line with proposals announced in the 2018/19 Budget Statement. The Bill seeks to provide for the usage of ICT in collecting and receiving statutory reports by Saccos among other things. Hon. Members, it is also an earlier Sacco Societies (Amendment) Bill (National Assembly Bill No.1 of 2018) which was published in the name of the Leader of the Majority Party on 19th January 2018. This first Bill seeks to provide for the registration and licensing of Sacco Societies as deposit-taking savings and credit cooperatives and already undergoing public participation under the Departmental Committee on Finance and National Planning.

Hon. Members, you will appreciate that it is unusual to have two Bills from the Executive on the same matter being considered in the same Session. I am informed by the Departmental Committee on Trade, Industry and Cooperatives, that it had already tabled a Report on the first Sacco Societies (Amendment) Bill, 2018.

As such, I direct that the Seconding Reading of the latest Bill be stayed until the Committee has undertaken public participation on it, with a view to incorporating its proposals, into the first Bill when it is considered in Committee of the whole House. This will in effect, imply that the second Bill will stand withdrawn, upon incorporation of its contents into the first Bill sponsored by the Leader of the Majority Party when it is passed after Committee stage and Third Reading. Should that not happen, then I will allow the Second Bill to proceed for consideration in the Second and Third Reading.

Hon. Members, the Committee should therefore expedite its consideration of the latest Bill and submit its Report to the House before the Second Bill is schedule for Committee stage.

Thank you, Hon. Members.

First Readings

The CAPITAL MARKETS (AMENDMENT) BILL

THE FINANCE BILL

THE INSURANCE (AMENDMENT) BILL

(Orders for First Readings read - Read the First Time and

ordered to be referred to the relevant Departmental Committees)

Hon. Speaker: Order Members, I know there is a Member who had brought a legislative proposal seeking to bring a stand-alone amendment to the Insurance Act. I have since directed that the Member be at liberty to make his proposals when considering this Bill, so that we do not have a lot of mix-up.

Indeed, I am aware that there is yet another Member who is proposing to bring another amendment to the Health Act. However, looking at the Order Paper, Order No.18 is on the Health Laws (Amendment) Bill (National Assembly Bill No.14 of 2018). Similarly, that Member should feel free to incorporate any views he has and present them before the Committee concerned so that they may or may not be considered. In which case, the Member will be at liberty if he so desires to bring his stand alone amendment to the Health Act.

Next Order!

MOTION

REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS ON THE INQUIRY INTO ALLEGED LAND IRREGULARITIES

THAT, this House adopts the Report of Departmental Committee on Lands on the inquiry into the alleged irregularities in the compensation for part of Land LR. No. 7879/4 to M/s. Afrison Import Export Ltd and Huelands Ltd by the National Land Commission, laid on the Table of the House on Thursday, 7th June 2018, “subject to –

- (i) deletion of paragraph 6 of the Recommendations on page 31 of the Report”; and
- (ii) insertion of the words “and Ethics and Anti-Corruption Commission” immediately after the words “Director of Criminal Investigations” wherever they appear in Recommendations 2, 3, 4 and 5 of the Report.”

(Hon. (Ms.) Rachael Nyamai on 26.6.2018)

(Resumption of Debate interrupted on 28.6.2018)

Hon. Speaker: Hon. Members, I direct that debate on this Motion must conclude at least within 30 minutes from now. Several Members, have contributed and it is fair that when contributing you read the Report since it has been amended. So debate is continuing on the Report as amended.

Hon. David ole Sankok (Nominated, JP): On a point of order.

Hon. Speaker: Many of the Members who...Nominee 001, I know you had contributed to this Motion. Let us hear your intervention.

Hon. David ole Sankok (Nominated, JP): On a point of order, Hon. Speaker. I am standing on Standing Order No.95. This Motion has been debated for a long time and we will just repeat ourselves. I request that you call upon the Mover to reply.

Thank you, Hon. Speaker.

Hon. Speaker: Well your point is made but since you have already spoken to this Motion it will be considered unfair to the other Members. The following Members have spoken to this Motion moved by the Chair, Hon. Rachael Nyamai and seconded by the Vice-Chair, Hon. Mwashetani. The third person to contribute was Hon. David ole Sankok, fourth was Hon. Kositany Caleb, Hon. Robert Mbui, Hon. Chris Wamalwa, Hon. Aden Duale, Hon. Rindikiri Murwithania, Hon. Waruguru Wanjiku, Hon. John Mbadi, Hon. Wanga Nyasuna, Hon. Junet Mohamed, Hon. Hulufu Oda, Hon. Ndindi Nyoro, Hon. Kimunya Muhinga, Hon. Kimani Ichung'wah, Hon. Omboko Milemba, Hon. WafulaWamunyinyi, Hon. Naomi Shaban, Hon. King'ara Nganga, Hon. Kirima Nguchine, Hon. Mugambi Gichuki, Hon. Mbai Mbithuka, Hon. Ahmed Shabbir, Hon. Muragara Gitonga, Hon. Mutua Barasa, Hon. Kiai Githiaka, Hon. Kilimo Joshua, Hon. Oyula Maelo, Hon. Lodepe Nakara, Hon. Waihenya Ndirangu.

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Speaker.

Hon. Speaker: Hon. Members, I am reading these names so that should I pick out a Member who has...Hon. Omboko Milemba, what is your point of order?

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Speaker. Thank you for this chance. I am not saying you are out of order. Just to inform the House, midway during debate on this Motion an amendment was introduced and some of us only spoke on the amendment. I sought the permission of the Chair to speak on the amendment and then the main Motion because speaking on the amendment did not make me lose my organic jurisdiction to speak to the main Motion. So, I would wish that you guide us on that given that I did not speak on the main Motion.

Thank you, Hon. Speaker.

Hon. Speaker: Proceed to contribute. I confirm that you only spoke to the amendment.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Speaker. I had gone through the Report and I thank the chairlady, Hon. (Dr.) Rachael, together with the petitioner who raised this matter, Mr. Harrison Muema. The players involved in the parcels of land in question, that is, Drive-In Primary School and Ruaraka High School had the intention of taking money from the taxpayers. This process was initiated by the National Land Commission (NLC). The NLC acted on the complaints that were provided by two companies, that is, Afrison Import and Export Limited Company and another one. These two companies claimed that there were historical injustices which made them require to be paid. So, I realised that everything was done at the behest of the NLC. It is true that there are several injustices about land in this country which the NLC has not addressed.

From the Report, we realised that there was no valuation of the land in question except payment of stamp duty. The land was over-valued compared to the value of neighbouring land. There was no evidence of public inquiry into the matter that the NLC was bringing forth. There was also no evidence that there have been historical injustices in the said matter. The schools have been occupying the said land for more than 33 years now. Therefore, the land belonged to the schools. After reading this Report carefully, I realised that the Ministry of Education, Science and Technology seemed to have been sucked in to help choreograph an emergency that was not there. There was no emergency that the schools mentioned in this Report, that is, Ruaraka High School and Drive-In Primary School were being evacuated. If, indeed, the schools were being evacuated from that particular land, we would have known. I, specifically, would have known because of my background in the teaching fraternity. We would have known that two schools in this country were under threat of evacuation.

The leadership of the Ministry of Education, Science and Technology appeared before our Departmental Committee on Education, Research and Technology. They misdirected the Committee that this was a matter of urgency and that the schools would be evacuated or removed from that place if money was not paid. This was at the time when there were serious emergencies in this country. I remember during that period many schools in this country had been washed away by flood waters. Good examples I can give are the schools around Suswa area and Tana River that were either swept away or could not open.

The Report shows very clearly that there was a syndicate in the NLC involving officers in the Ministry of Education, Science and Technology and the National Treasury, which moved very fast to release this money to the said companies. Because of that move the Government, and by extension Kenyans, lost money. If the money, Kshs1.5 billion, was to be used to build classrooms in our schools at the National Government Constituencies Development Fund's (NG-CDF) proposed rate per class, then we would have built 3,000 classrooms in the country. We know that infrastructure in our schools is not good.

I support the Report which advises that the NLC and the National Treasury take responsibility. I note that the Report did not come clear in stating that the benefiting companies or firms should be pursued to repay the money. That is a recommendation that is glaringly missing in the Report. The fact that the money was taken and, perhaps, used elsewhere does not mean that it cannot be traced back. I support the Motion as amended. The companies that received the money be pursued with a view of them returning the money which they took illegally.

Hon. Speaker: Member for Roysambu.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Speaker. I had five minutes to finish my contribution which I was making last Thursday. So that Members can appreciate the problem we have in...

Hon. Speaker: Actually, you have a balance of four minutes.

Hon. Isaac Ndirangu (Roysambu, JP): This question of Ruaraka land brings to the fore the problem that is facing almost all public secondary institutions in this country. When a proprietor of a piece of land seeks its subdivision, one important policy he or she has to comply with is to surrender 10 per cent of the said land so that it can be dedicated to public utility. This is what Ruaraka Secondary School and Drive-In Primary School had to go through. The 13.5 acres were surrendered as public utility. It indicates that the Nairobi City Council, which was then the trustee of public utilities, did not take responsibility to issue a title in the name of those schools to the owners of the public utility land, which is the secondary school. So, I wish to inform the Chair of the Committee that it was important also to make a finding that there was irresponsibility on the part of the Nairobi City County in not safeguarding the title deed of this property.

This problem is not only restricted to Ruaraka Secondary School. You will find that almost every other public secondary school and primary school, particularly in Nairobi County, has no title deed yet it is only a few years ago when the Head of State ordered the NLC and the Ministry of Lands to ensure that all public schools in this country are issued with title deeds. I have many examples in my constituency. I can only mention here Garden Estate Secondary School, which we have been building over time. The land was grabbed. Although the school exists, the title belongs to some private Kenyans. Even as we look up to the Ethics and Anti-Corruption Commission (EACC) to help us in those investigations, I will tell you of an example of a parcel of land in my constituency which was misappropriated by a proprietor because he had

connections with some commissioners at the EACC. That is where we go to seek help. It is important that the Ministry of Lands and the National Land Commission ensure that all public facilities in Nairobi have been issued with title deeds.

Hon. Speaker: Let us have Hon. Seroney or Hon. Atandi.

Hon. Samuel Atandi (Alego-Usonga, ODM): Hon. Speaker, I would like to contribute to the next Motion.

Hon. Speaker: Let us have Hon. Kaunya.

Hon. Edward Kaunya (Teso North, ANC): Thank you, Hon. Speaker, for giving me this opportunity.

I support the Report by the Departmental Committee on Lands on the inquiry into alleged land irregularities. It is important that we include the amendment. We should also look into the overall policy as the Member who has just spoken said. We know for sure that quite a number of schools do not have title deeds. If this particular Report is implemented, we should also take cognisance of other public utilities that are subject to grabbing.

We know that there are institutions that must be provided for whenever we subdivide land. In this particular case of Ruaraka, if we do not adopt the recommendations in this Report, it will have greater implications in other institutions. The EACC alone may not really help us a lot. The Commission and the Ministry need to computerise. Even as we try to secure those parcels that belong to our schools and institutions by giving them title deeds, we should also consider the aspect of computerisation so that there is no room for those people who are bent on grabbing any public land they see around. I agree that it is critical that this matter is considered according to the recommendations of this Report. We should take further measures by ensuring that the computerisation of documents is adopted.

I beg to support this Motion.

Hon. Speaker: Let us have the Member for Wundanyi.

Hon. Danson Mwakuwona (Wundanyi, WDM – K): Thank you, Hon. Speaker, for giving me this opportunity to add my voice to this matter. Mine will be brief because you have only given us 30 minutes to conclude this debate.

I want to speak on the matter of the NLC by supporting the Report of the Departmental Committee on Lands. When we drafted the new Constitution and it was passed in 2010, Kenyans were excited that matters land would now find a solution through the NLC. However, up to today, we have issues with land. The NLC, as the independent body that advises the Government and everyone in this country on issues land, is riddled with scandals like the Ruaraka land. The NLC which we expected would be an independent body that will help this country solve the historical injustices on matters land, finds itself at the centre of controversies every time. Therefore, coming from an area where land matters are very sensitive and we are victims of historical land injustices, currently, a lot of communities in my county of Taita Taveta, particularly in my constituency, have very big issues around land. Sometimes we have parcels of land that have been issued with titles that are contested. The Ministry of Lands goes ahead to issue a title in an area and at the same time the NLC comes up and says that the title was issued irregularly. Therefore, as the people of this country we feel that we do not have a place to run to. This august House needs to rethink this matter and laws around land so that we can have a one-stop shop when it comes to issues of land.

Last weekend, I was at a place called Mlilo in my constituency. Apparently a title was issued to Mbulia Ranch without public participation. The NLC has issues with that title. The Ministry of Lands went ahead and issued a title. A market place has been acquired by an

individual. Therefore, people are supposed to relocate and get away from there. That market has been in existence for many years. The same thing happened with Kishushe Ranch where a title deed was issued and today it is being contested because the Ministry of Lands issued a title deed but the NLC comes up and says that the title was issued irregularly.

It is incumbent on this House to relook at the laws of land in this country and come up with amendments. If the NLC is not doing its work, let us get a way of correcting that so that we can give hope to this country.

Hon. Speaker: Let us have the Member for Taveta.

Hon. (Dr.) Naomi Shaban (Taveta, JP): Asante sana, Mheshimiwa Spika. Nasimama kulingana na Kanuni ya Kudumu ya 95 ya Bunge hili kumwomba Mwenyekiti wa Kamati ya Ardhi, ambaye ameleta mjadala wa Ripoti hii ya ardhi inayozungumzia cheti cha kumilika ardhi Nambari 7879/4, asimame amalize mjadala huu ili tuweze kusonga mbele.

Hon. Speaker: Very well. There are about three or four minutes left before the time I had indicated. I will donate those three minutes to the Member for Ruaraka, Hon. Kajwang', where the schools are situated.

Hon. Tom Kajwang' (Ruaraka, ODM): Hon. Speaker, thank you for giving me an opportunity to add my voice to this matter.

I am the Member for Ruaraka and people are busy stealing my schools. As a Member, under Articles 95 (1) and (2) of the Constitution, my duty is to oversee only two things – education and security. I oversee Ruaraka Primary School and Ruaraka High School. A gentleman who knows how to go around Nairobi is busy saying that the school which I oversee and which I built classes for using the National Government-Constituencies Development Fund (NG-CDF) is somehow on his land. I have just constructed a hall which I will commission on Thursday. I cannot put money in a place if I knew it was stolen property.

Hon. Speaker, we need to talk about corruption. There are people out there who are on the loose. They work very closely with City Hall, look for documents here and there and cheat unsuspecting Kenyans. The Speaker resides in a house which is funded by the Government of Kenya. It will go to these people very soon. If we are not careful, even this Chamber will go to them. I want to warn that fellow, if he is looking at me. I am sure he is watching the proceedings of the National Assembly. Ruaraka is not up for sale and nobody will steal it. It is not just those two schools which are going to the same fellow but also the estates in Mathare North and the General Service Unit (GSU) houses. I am glad that this fellow thinks that his name is very good for stealing purposes. The other time there were corruption cases, I was glad that there was a lady who was called Ms. Omollo. Sometimes some names also need to appear in such cases, so that everybody is in the issue of taking property. There is a name in the Report. Some of those names are consistent. You find them because they are always there. There are always Waweru and Kamau. When Omollo is there, you also know that this thing is now a national issue which we need to tackle.

I am saying that some of these people are hiding behind prejudices that we have had. They are stealing as we watch. So, the fight against corruption must start from this Chamber. We will get rid of them. If you come to Ruaraka, we know how we will sort you. You will never get those schools. Even if you steal them, pay for them and put your name on the title deed, you will still not get them. I am talking as the Member for Ruaraka.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, we had already agreed that the debate would last for 30 minutes. So, I call upon the Mover to reply.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Speaker, I would like to take this opportunity to thank all the Members of this House, from the Leader of the Majority Party to the Leader of the Minority Party, for the support they have given to this Report. I would also like to thank the Hon. Members who belong to the Departmental Committee on Lands. They took a lot of time to come up with this Report. We perused documents together. They put a lot of energy to make sure that this Report succeeded. They did not accept to be swayed on the side. They were focused and decided to work for this country but not for anyone.

I would also like to extend my appreciation to the Office of the Clerk. We have tabled this Report because we have very good officers, like the advocate who is assigned to this Committee and the Clerks who put a lot of energy. That is why we came up with this good Report. I would also like to appreciate the amendments that were brought to this Report. They did not make it weak but strong. I would like to thank Hon. Ichung'wah and the Member for Kathiani, Hon. Mbui, who brought amendments. This is a Report that was difficult in the process of writing. I would like to state that when we brought it to this Floor, we did not expect it to get the kind of support that it got. No Member on this Floor stood to oppose it. So, I would like to thank you for the support that we got from the leadership of the House: the Office of the Speaker, the Office of the Clerk, the Leader of the Majority Party and the Leader of the Minority Party.

Hon. Speaker, with those many words, I beg to reply.

Hon. Speaker: Order Members who are on their feet. You can take a seat that is close to you.

(Question of the Motion as amended put and agreed to)

Resolved accordingly:

THAT, this House adopts the Report of Departmental Committee on Lands on the inquiry into the alleged irregularities in the compensation for part of Land LR. No. 7879/4 to M/s. Afrison Import Export Ltd and Huelands Ltd by the National Land Commission, laid on the Table of the House on Thursday, 7th June 2018, "subject to –

- (i) deletion of paragraph 6 of the Recommendations on page 31 of the Report"; and
- (ii) insertion of the words "and Ethics and Anti-Corruption Commission" immediately after the words "Director of Criminal Investigations" wherever they appear in Recommendations 2, 3, 4 and 5 of the Report."

Next Order.

BILL

Second Reading

THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to move that the County Governments Retirement Scheme Bill, 2018 be now read a Second Time.

We have a similar Bill by Hon. Njagagua, which the Committee is looking at. I am sure that we will look at it at a certain stage. However, after looking at the Report of the Committee of the Departmental Committee on Finance and National Planning, the Leader of the Minority Party has reservations.

As Members are aware, the Constitution of Kenya, 2010 established a devolved system of Government which comprises of 47 county governments and one national Government. At the same time, the Fourth Schedule of the Constitution assigns specific roles and functions to county governments. In order to ensure that the county governments are able to perform the functions which are assigned to them, the national Government transferred the requisite human resource portfolios to county governments alongside the financial resources and other resources. It is at the backdrop of this that this Bill is before the House.

Key requirements in the smooth transfer of staff to county governments are needed. This Bill is very important in terms of safeguarding the interests of the members of staff in the county governments, so that they can benefit in their remuneration, allowances and pensions. That is why I want to tell my colleagues, hon. Members, and the Departmental Committee on Finance and National Planning that, together, we can bring the necessary amendments to make sure that this law is in place, so that we safeguard the interests of the staff who work in the county governments.

I want to give the highlights of this Bill. Part I of this Bill is mainly on preliminary provisions, which include the title, interpretation of the Bill, application and the scope of this Bill as well as the objective and purpose of the Bill. Part II, which is very important, talks about the establishment and the management of the county governments retirement scheme. This Bill proposes to establish a county governments retirement scheme. We will look at it as the defined contribution pension scheme for the staff of the county governments.

Part III of the Bill is on the establishment of the board of trustees and County Government Retirement Scheme Fund. Part III is very important because it brings on board all the key stakeholders at the county. That is why Clause 7 of Part III of the Bill proposes to establish the board of trustees of the Scheme. These are the people who will be the board of trustees as envisaged in the Bill subject to amendments, deletion and addition: a representative of the Council of Governors, two representatives of the county service boards, a representative of the county assembly service board and two trustees nominated by umbrella trade unions representing public servants. I am sure Hon. Milemba is very comfortable with that clause. We have somebody from the Council of Governors, county service board, representative from the county assembly service board, two persons representing umbrella trade unions representing public servants and three trustees nominated by employees of county governments. So, even employees of county government are represented here. Lastly, the Chief Executive Officer shall be an *ex - officio* member.

Hon. Speaker, there are members to be appointed by the Cabinet Secretary responsible for finance while the chairperson is to be elected by the trustees. They will pick the Chair among themselves.

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

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

Clause 8 of the Bill of Part III proposes to establish the County Government Retirement Scheme Fund to be administered by the board of trustees established under Clause 7.

Part III of the Bill also provides for the qualification of the trustees: their academic qualifications, tenure of office, the procedure for removal or vacation from office as well as filling of a vacancy in the event it arises in the board. Of course, there are also the powers and function of the board of trustees, committees of the board, how much allowances they should be paid as well as the conduct of the board.

Clause 8 talks about the administrative aspect of the board of trustees. Members should be aware that one of the key functions of the board in the Bill includes formulation of policies relating to the scheme. The board has a function to ensure efficient management of the Scheme. It must be managed in a free, transparent and efficient manner in accordance with Public Finance Management (PFM) Act and relevant statutes. The board must ensure prudent management of the Fund's assets and investments. These are savings of workers. They must ensure prudent use of the funds, management of the assets and investments among others.

Clause 20 of the Bill provides for the appointment of a Chief Executive officer (CEO) through a competitive recruitment process. He will be the accounting officer of the Scheme and he will be the secretary to the board. Members should look at Part IV of this piece of legislation. It talks about the administration of the County Government Retirement Scheme, how it will be administered. We have talked about the composition of the board, the CEO, functions and their tenure of office and the requirement to protect workers' investments and resources.

Part IV provides for the appointment and function of a fund manager, appointment of a custodian and administrator of the Scheme. The Bill provides for the functions of the fund manager, how different it is from that of the CEO. His work will be to implement the investment policy of the Scheme as approved by the board. In most pension schemes all over the world including our country, pension funds are invested in portfolios. So, the fund manager must protect the implementation of the investment policy of the Scheme. They should not invest workers' money or the pension of workers in an investment that will not bring the required returns in terms of resources.

The fund manager will also be in charge of the management of the Scheme funds in accordance with the Retirement Benefits Act. So, he must use the Act to manage the scheme funds according to the Act. Finally, the fund manager must maintain the books of accounts and report on investment to the board on a quarterly basis.

What are the functions of the custodian? We do not want to have duplication of functions. We have said the functions of the fund manager and now we are going to spell out the functions of the custodian of the fund. The custodian has been defined in Clause 24 of the Bill. His function is to receive the total contributions remitted by employers and members. He is also to inform the administrator and the fund manager of such receipt once he receives the money. His other function is to collect dividends for the Scheme, keep safe custody of all title documents, securities and monies of the Scheme in trust of the members and beneficiary. So, the custodian....

(Hon. Makali Mulu consulted loudly with several Hon. Members)

Hon. Deputy Speaker, Hon. Makali is trying to hold a Kitui Parliamentary Caucus. There are facilities provided for that at the back here.

Hon. Deputy Speaker: Order Members. Hon. Makali, Order.

Hon. Aden Duale (Garissa Township, JP): He is with the Member for Ruaraka.

Hon. Deputy Speaker: Order Members. Hon. Makali, you cannot hold an illegal gathering inside the Chamber. You might attract very punitive actions. Proceed, Hon. Leader of the Majority Party. Should you do it, take it as a warning, Hon. Makali and whoever the other Member. I cannot see him clearly. The gentleman in brown

Hon. Aden Duale (Garissa Township, JP): And Hon. Maanzo. Member for Kitui Central. There are two sets of Members. There are Members who really want to listen and contribute to the Bill and there are those who are maybe collecting signatures and money. They have not seen their colleagues for some time.

Hon. Deputy Speaker: I notice.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, this Member has a history. In 2007, he is the man who disappeared with our party certificate.

(Laughter)

If you are with Hon. Maanzo in the same political party, you have to be extra vigilant.

Hon. Deputy Speaker: I can see he looks like he is carrying a document. It could be a certificate.

Hon. Aden Duale (Garissa Township, JP): But, now he can only steal his party, the Wiper Democratic Party from his region. At one time he was with us in a very popular party, ODM-K and three months to the elections we had no party.

(Laughter)

We had no party. Hon. Mbadi is aware and those of us who were in the 10th Parliament. So, when you see Hon. Maanzo with a document, if you are a secretary general or a chairman of a political party, you have to be very vigilant. It might be your document.

Hon. Deputy Speaker, Section 25 lists the functions of the custodian. The custodian plays a very important role. He keeps custody of all the title documents, securities, and monies of the scheme in trust on behalf of the members. Section 25 also provides for the functions of an office holder called administrator. The functions of an administrator are to...

Hon. Benson Mulu (Kitui Central, WDM-K): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it Hon. Makali?

Hon. Benson Mulu (Kitui Central, WDM-K): My name was mentioned.

Hon. Deputy Speaker: It was definitely not you but the Member for Makueni. Anyway, what is it, Hon. (Dr.) Makali Mulu?

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, this is total distraction. He is distracting the House. He has no card.

Hon. Benson Mulu (Kitui Central, WDM-K): Thank you, Hon. Deputy Speaker. I am a very serious Member. When you mention my name, and Kenyans are listening, you might start sending the wrong signal. It is not Makali, mention the other names.

Hon. Deputy Speaker: That is true. It was not Makali; it was the Member for Makueni. But your name being a popular one, sometimes it gets into... Obviously, it is not you. Hon. Makali Mulu is a very serious Member of this House.

(Laughter)

In fact, I was surprised that there was a slip of tongue towards your direction. You are one of the serious Members in this House.

Hon. Aden Duale (Garissa Township, JP): You are very unfair to the Member for Makueni. People are watching. You are saying Hon. Makali is a serious Member imputing that the Member of Makueni is not a serious Member of this House.

He is more serious than Hon. Makali. He contributes to every petition that is read in this House. You only see Hon. Makali when it comes to budget issues.

Hon. Deputy Speaker: Hon. Leader of the Majority Party, you are actually the one who mentioned Hon. Dan Maanzo. The speaker had not at all mentioned him. In fact, you brought history that is between you and him. Obviously, Hon. Maanzo is an extremely serious lawyer who deals with all matters, including political party documents. That is a very serious person. In fact, Hon. Leader of the Majority Party, the only person we can compare him with is a certain lawyer called Mugambi Imanyara. He is very good in things that have to do with parties. Those are very serious people. Proceed.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, the Standing Orders allow a Member to make a statement of fact. What I have made in reference to Hon. Maanzo was a statement of fact.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): That he is a thief!

Hon. Aden Duale (Garissa Township, JP): I did not say that. My deputy sometimes talks without a microphone. Mine was a statement of fact.

Hon. Deputy Speaker, I am not implying improper motives on you. When you said Hon. Makali is a serious guy and not Makueni MP... This man served with us in the Grand Coalition Government. He was secretary for co-operatives. He is waiting for the Co-operative Bill. Anyway, those were light moments.

Section 25 of the Bill talks about an administrator.

Hon. Chrisantus Wakhungu (Kiminini, FORD-K): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: What is it Hon. Wamalwa? Give the Leader of the Majority Party time to finalise.

Hon. Chrisantus Wakhungu (Kiminini, FORD-K): Thank you. I have a lot of respect for the Leader of the Majority Party. I am paying a lot of attention to the Bill. May we get direction? When you look at Section 9 of this Bill, which talks about the tenure of the trustee, it talks about a three-year contract which can be renewed. Going to the memorandum of the objects, it talks of four years. So, there is that lack of consistency. This is something serious.

Hon. Deputy Speaker: Hon. Deputy Minority Whip, those are issues that you can raise during debate. By the way, being a very keen observer as you have shown, you can also pick out something like that and propose the relevant amendments. Obviously, you will get an opportunity.

Hon. Leader of the Majority Party, proceed but it is good that we know that there are Members who can look at documents with toothcomb. That is good.

Hon. Aden Duale (Garissa Township, JP): The essence of the Second Reading of a Bill is to critique even the typographical errors and areas where there is overlapping. I am happy Hon. Wamalwa has picked out a very serious matter. I am sure the Chairman of the

Departmental Committee on Finance and Planning, who listened to stakeholders and is going to second, has noted that one.

Let me go to Section 25 of the Bill because I have defined the CEO's functions, those of the fund manager, and the work cut out for the custodian. Let me now speak about the administrator of the fund in this law. The administrator of the fund has specific functions which include opening and maintaining members' accounts, receiving contribution and crediting members' accounts, paying retirement benefits and, above all, providing updates to members.

The custodian, the administrator, and the fund manager have distinct roles and functions. Section 26 has issues that this House must address itself to. It is about contribution to the Fund. This is where we need the input of our colleagues who have a background in trade unions and pension funds. The section sets the employees contribution at not less than 7.5 per cent of the employee's pensionable emoluments, that is, the basic salary excluding housing, transport and any other allowances of fluctuating emoluments. So, 7.5 per cent of that will be the contribution. The same section allows the employer's contribution to be set at 15 per cent of what is pensionable for the employee's emolument, of course, plus the necessary amounts to cover the premiums for the insured benefits.

Let me go to Part V of the Bill which should be the third-last part of the Bill. It deals with financial provisions. It specifies the source of the monies for the Fund that is supposed to be established under Section 8 of the Bill. This includes the contribution...

(Loud consultations)

Hon. Deputy Speaker, can you ask the Member for Kisumu East to consult with the Leader of the Minority Party in low tones unless they are speaking Gujarati which I know Hon. Mbadi does not speak.

Hon. Shakeel Shabbir (Kisumu East, Independent): Dholuo.

Hon. Aden Duale (Garissa Township, JP): Dholuo, yes. They have a common language. In Luo, you speak in low volume so that Hon. Wamalwa can listen.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): They are speaking Suba!

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, there are so many ethnic groups in this House. We are told we have left Gujarati and we are now in Suba, a very serious community to which a very serious Member, Hon. Millie Odhiambo, belongs. I served with her in the 10th Parliament. We support her community.

Part V deals with the source of monies for this Fund that is being established under Section 8 of the Bill. This mainly is the contribution from employees and employers. The income that would come from the investment that the pension firm would be involved would be monies from grants, gifts, donations, or any other endowment given to the scheme and, of course, the fees and charges authorised by the board as well as the monies due to the Fund from any other source. The source of the money is well documented under the financial provisions of Part V.

Section 40 of that Part V provides for the establishment of what we call revenue account by the board which maybe paid special contribution from employee of Government for the purpose of improving members' benefits and any income of the scheme which the board sets aside to stabilise the returns to members subject to a maximum of not more than 10 per cent of such income.

Part VI of the Bill talks about general provisions. If you have the Bill you can look at it. The general provisions include protection of the board from liability, offences and penalties relating to non-compliance of the Act, as well as the powers of the Cabinet Secretary responsible for National Treasury to make regulations for better carrying of the provisions in this Bill. That talks about two functions. One of them is to allow the Cabinet Secretary in the National Treasury to bring regulations to the House to ensure that carrying out of these provisions is better.

Part VII which is the last part provides for savings and transitional provisions. The current and existing funds out there should not worry us. This Bill talks about how to create savings and a transitional clause which clarifies who qualifies to join.

Section 55(A) exempts from the scheme, employees of the National Government whose remaining period of service is five years or less. So, if you have five years or less to retirement, then you will be saved from being a member of this scheme. Of course, employees of local authorities who are members of the Local Authorities Pensions Trust Fund (LAPTRUST) and those whose remaining years of service is five years or less shall instead have their pension paid under the provisions of Legal Notice No.50

This Bill has a schedule which provides for the procedure for the conduct of business and affairs of the board of trustees. This Bill also provides for a more superior regulatory framework for county pensions and facilitates pooling funds that can provide financing for the Government's Big Four Agenda. Resources found at pension funds are part of the funds that are available to Government and even to the private sector in making sure that we have enough resources to draw from, to finance the Government's Big Four Agenda.

I therefore urge Hon. Members to support this Bill. I beg to move and ask the Chair of the Departmental Committee on Finance and National Planning who had one on one contact with all the representative of the existing funds and key stakeholders and has tabled a Report before this House, to second and speak for stakeholders because I spoke for Government.

Hon. Deputy Speaker, we have former mayors of the defunct municipalities and county councils. Hon. Shakeel Shabbir is one of the mayors celebrated during his tenure for improving Kisumu City. The Governor for Kisumu, a man I have a lot of respect for should hire him as a part time consultant, to help him deal with many other issues except garbage. He cannot train him on anything garbage.

With those many remarks, I beg to move and ask Hon. Limo to second. We will see whether when we come back from recess, the House will be in a position to merge those two Bills or deal with them separately because the Chair has dealt with both the Private Member's Bill and the Government Bill independently. Either way, we will agree with the Committee on which way to go, whether we support this Bill, harmonise or allow both of them to move.

Thank you, Hon. Deputy Speaker.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Deputy Speaker. I rise to second the County Governments Retirement Scheme Bill 2018 as moved by the Leader of the Majority Party. This is one of the Bills that have been brought to this House in an attempt to bring a pensions scheme for the county governments.

Hon. Deputy Speaker, for purposes of bringing Members to speed, allow me to explain to them. Since the county governments were started, there is no clear pension scheme for the employees of county governments. This is not the first time this Bill is coming to Parliament. In the 11th Parliament, there were around two Bills which were brought to the Senate but never saw the light of day. During public participation, most of the employees of county governments were

of the opinion that these particular Bills should be moved with speed so as to ensure that they have a pension scheme which will give them peace of mind that in retirement they will have something to go home with. Several attempts did not reach the National Assembly. In the 12th Parliament, without anticipating debate, I wish to bring to the attention of the Members that we have three Bills, two in the National Assembly and one in the Senate. All of them are trying in a way, to bring a pension scheme to the county governments. This particular one before the National Assembly today, is a Government Bill sponsored by the Leader of the Majority Party, Hon. Aden Duale. We also have another one called the County Pension Scheme Bill 2017 sponsored by Hon. Njagagua which is before this House in the Departmental Committee on Finance and National Planning. The other one is in the Senate and it is sponsored by Hon. Sakaja. You can therefore see the kind of positive attempts in place to bring a scheme to the county governments that they can call their own.

As we contribute, I want to encourage Members that we do so bearing in mind that this Bill is going to build a pension scheme which the county governments will be proud of. In the Second Reading, we are going to dwell on the particular proposals in the Bill and the various views given by the stakeholders which are captured in the Report of the Departmental Committee on Finance and National Planning which is readily available. At the same time, you will also find that there are obvious clauses in this Bill which are not very good as pointed out by some of the Members. As the Leader of the Majority Party mentioned, we are also proposing some amendments which will make it workable and reasonable. Most of these amendments were received from the stakeholders.

I want to bring to the attention of the House that this particular Bill was forwarded to our committee in April and we conducted public participation. We received a total of 17 memoranda from different stakeholders. We went ahead and engaged the stakeholders. We had a retreat where they appeared before us with various views which were going to have an impact of improving the Bill. Among the stakeholders who appeared before us are the Local Authorities Provident Fund which is popularly known as LAPFUND, the County Pensioners Association, the County Pension Funds Financial Services Limited, the Clinical Nursing Society of Kenya, the County Public Service Boards who are calling themselves the National Consultative Forum, the National Social Security Fund (NSSF), the County Government Workers Union, the Kenya National Union of Nurses, the popular Hon. Joe Donde - you know he is very popular especially in the capping of interest rates - Mr. John Bii who was representing the nurses union, the MCAs of Nairobi, the Former Councillors Association, the Union of Kenya Civil Servants, the State Corporation Advisory Committee, and the Council of Governors.

All these stakeholders came with a raft of proposals. Some of them were in support of the Bill. Some were not in support of the Bill in full but they were recommending some amendments to make it better. The Committee also engaged the National Treasury accompanied by the Retirement Benefits Authority (RBA).

In consideration of this Bill, we took into account the views of these particular stakeholders. As the Leader of the Majority Party went through the Bill, there were several clauses which you may find are not appealing in your view, but in our report you will find various amendments which we will take care in the Committee of the whole House. Of course, Members are also at liberty to come up with amendments which will make this Bill better.

In the current dispensation of devolution, county governments have inherited previous pension schemes which were operating during the time of county councils. To bring Members to speed so that you will not assume that maybe the county governments entirely do not have a

pension scheme, I want to explain that in the previous dispensation of county councils, we used to have two schemes: LAPFUND, which was designed through an Act of Parliament for the purpose of taking care of employee who were working on contract terms, and then there is another fund which is called LAPTRUST, which was formed through a *Gazette* Notice by the then Ministry of Local Government. This particular scheme was for the employees who were working in local authorities throughout the country on permanent terms. These two schemes operated until the new structure of county governments came in. There was a proposal by the National Treasury that we move away from defined benefit schemes so that we embrace defined contributory schemes. Therefore, those schemes which fell under defined benefits were advised to fold and operate a new scheme. When the new structure of government came in, there was no clear procedure on who would then become a member of LAPTRUST and who would become a member of LAPFUND. What happened is that they started competing, recruiting members from one county to another, which caused confusion. Therefore, it was a view of the county governments, under the umbrella of the CoG, that there should be order. There were consultative meetings by the county governments and they finally settled in Naivasha where they came up with a taskforce which recommended that these county governments should move in one direction.

What we observed during the presentations by the stakeholders is that there is still a lot of competition. They are competing for attention. One side is competing to have a county governments pension fund and another side was fronting the one in the Senate, which culminated to the one which we have now - the government came up with a Bill. During public participation, we found out that whereas county assemblies were supporting the current Bill as proposed by the Leader of the Majority Party, the CoG were in opposition and supporting the other one which is called the county pension scheme, which the Leader of the Majority Party said will still come to the Floor of this House for us to determine. But the leadership must give direction whether we are going to support this one or the other, or we amalgamate the two, or we have one managing one side of the county governments and the other one managing the other side. It was clear that there is a push and pull between the county assemblies and the county governors represented by the CoG.

In this Bill there are pertinent issues which we must tackle. One is that whereas this Bill proposes to transition the LAPTRUST and LAPFUND into one fund, there are issues which are very serious on what happens with the assets and liabilities of the old schemes. If the assets and liabilities of the old schemes are balanced, there will be no problem. The main problem is that there are a lot of unremitted deductions from the pensioners to the tune of over Kshs20 billion, which is owed by the various county governments together with the defunct county councils. Therefore, it will be very difficult to amalgamate two funds together if one has liabilities which cannot be recovered. Therefore, the proposal on this Bill is to have the existing funds closed for new members but allow them to operate separately, side by side, until the last member of that particular scheme is paid off. That means the proposed new pension scheme will be such that it will not inherit the liabilities of the previous ones. So, the new Members who join especially the young people employed by the county governments will not carry the burden of the past.

Therefore, in the proposed amendments we will be making, we are proposing to ensure that there will be no mix up between the old schemes and the new schemes. We would love to have the new scheme start afresh with fresh assets and liabilities. So, the old Members who are in the old schemes will have an option of joining the new scheme so that when they retire they will have benefits from the old scheme together with the benefits from the new scheme upon

closure. That is a practice even when the Government proposed a departure from defined benefits scheme to the current contribution schemes including but not limited to the Central Bank of Kenya and Kenya Power, who abandoned the old scheme and embraced the new scheme.

I had the benefit of working for Unilever which is a multinational corporation. It used to have defined benefits scheme but it was stopped and they started defined contribution. The old employees were allowed to continue with the old one as well as join the new scheme so that upon retirement, one gets the benefits from the two. In any case, most of the old schemes were operating a providence fund which was a one off thing. You would get one benefit and that is it as opposed to the current one where Members retire, get a one off and continue earning monthly payments.

So, we will be proposing an amendment. To stop county governments from running down the pension funds in future, this Bill under clauses 48, 49 and 50 is proposing very stiff penalties. In fact, it is proposing a penalty which in the opinion of our Finance Committee, is low. We are proposing stiff penalties so that we force the county governments who will then be the owners of this particular Bill to ensure they remit contributions by their employees. If they fail, there will be serious penalties which will be meted upon them. There is another proposal to reduce contribution by employees. An employer under the current pension scheme contributes 15 per cent. In the current one they will continue contributing 15 per cent. The bad side of it is that the current Bill is proposing a reduction of employees' contribution which is currently at 12 per cent to 7.5 per cent. The impact of that is that at the end when the employee retires, they will have very little to take home because of that reduction.

Currently, they contribute 12 per cent and they are taking into account the various allowances. That is not a good practice and so if you reduce the rate to 7.5 per cent and you have reinstated them, it will be a percentage based on basic pay and they will be worse off. So, we will be proposing that we retain the rates at 12 per cent but revert to the normal basic pay. We cannot take allowances that have variations.

As I end so that other Members have an opportunity to contribute, there is another group of Members who I want to speak to; the former Councillors Association. It is not within the scope of this pension scheme to cover them. However, we sympathised with them. The former councillors went home with no retirement benefits, and they were not Members of any pension scheme just like the former Members of Parliament. The previous Parliaments had a recommendation at some point to have a one off payment for the former MPs. If you look at the former councillors, they are in trouble and yet they immensely contributed to the development of this country.

At a later stage, this House must look for a way out. This is because they will not be incorporated here. This is a contributory scheme and they will not have a chance to contribute to this one. Maybe at a later stage they were proposing that they will bring a petition to this House. I will ask this House at a later stage without anticipating debate that we support them so that they can even get a one off payment to help them settle their domestic needs.

Finally, if we want the county governments to remunerate and help their employees in future to have a good life, it will be good that we move with speed and ensure we have a Bill and an Act of Parliament to manage pensions in county governments in one way or the other.

I beg to second.

(Question proposed)

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Deputy Speaker for giving me this opportunity to speak on this Bill. I want to say that...

Hon. Deputy Speaker: Did the Hon. Leader of the Minority Party want to speak? Now Hon. Atandi has taken the Floor. I could not see your card but you will have your time. Let us hear what he has to say.

Hon. Samuel Atandi (Alego-Usonga, ODM): Thank you, Hon. Deputy Speaker. I am a Member of the Departmental Committee on Finance and National Planning that went through this Bill. Going through these two Bills as have been highlighted by the Hon. Leader of the Majority Party, they were all dealing with one thing - the pension schemes for the county government staff. We had the same stakeholders meeting us on two different Bills over one matter. I support this Bill before us.

First, as opposed to the others that will be brought before us, this is one of the Bills where we tried to find consensus on most of the key items. It is one of the most inclusive Bills that we went through. Look at the composition of the board of trustees, you will notice that there is the Council of Governors, the County Public Service Boards, the representatives from County Assemblies, trade unions and even the staff of counties

Secondly, you will realise that matters of this nature involving employees require strong leadership. This Bill has tried to capture and specify the qualifications of trustees. It states that for one to be a trustee one must have a degree and experience in the relevant field, either in finance, law, economics or actuarial science. I found this important because we want a pension scheme which will be run professionally and employees of county assemblies will trust the leadership.

Another important aspect is the administration of the scheme. We have a fund manager who has been provided for to act as the Chief Executive Officer (CEO). He will take care of the funds and assets of the scheme. Then, there is a custodian to receive contributions from members and ensure they are invested properly. Importantly, this Bill is capturing the contributions aspect. The members are going to contribute 7.5 per cent of their total emoluments and their sponsors will contribute 15 per cent. In the private sector, employees contribute less and the sponsors contribute more. However, in the banking sector where I was, we had our sponsors contributing between 10-12 per cent. Here we are providing a contribution of 15 per cent and I think in the final analysis our retiring county staff will get good pension amounts.

My Chairman has already made a presentation. The truth of the matter is that as a Committee we made a decision on this Bill because our previous Bill was a Private Members' Bill. Therefore, as a Committee we decided based on the consensus from the stakeholders that this is the right Bill this House should look at. This is because we have factored the issues which were trying to bring disagreements between the stakeholders. One of which was the cost of administration of the fund. The Private Members' Bill was proposing that the cost of administration be pegged at 3 per cent of the total fund value. That is a humongous amount which we thought would eat into the members funds. Therefore, we proposed that the cost of administration should be capped at not more than 1.5 per cent of the total fund value.

This is one of the areas where we got a reprieve. The Council of Governors had their opinion about the cost of administration. They supported a higher amount which we felt would not auger well and would eat into the fund. In a nutshell, lack of consensus on this Bill is one of the reasons why five years down the line, and since the promulgation of the new Constitution, this House has not yet established a retirement scheme for employees of county governments. It

is not appropriate to have employees who are not sure of how they will manage their retirement life.

I want to plead with this House to adopt this Bill without amendments because as far as I am concerned we have done extensive consultations. If we bring amendments we will bring further confusion. We will end up not having a pension's scheme established to take care of the interests and welfare of employees of county assemblies.

I support.

Hon. Deputy Speaker: Let us have the Vice-Chair, Hon. Waihenya Ndirangu.

Hon. Isaac Ndirangu (Roysambu, JP): Thank you, Hon. Deputy Speaker. I rise to support this Bill. In so doing from the outset, let me indicate this is a culmination of consensus from all stakeholders involved in county government retirement scheme. It is also a product of the Cabinet sitting under the leadership of His Excellency the President. The most important and critical stakeholders in this Bill are the workers of the county assemblies, the Members of the County Assemblies (MCAs), the County Executives (CECs) and governors themselves.

In the past, the key players of retirement benefits in the local scheme have been LAPFUND and LAPTRUST who have been involved in a lot of unfair and disastrous competition. We brought on board all stakeholders during public participation and they agreed that we can make a harmonious law to guide the running of the pension benefits. The stakeholders themselves formed an inter-agency technical committee which comprised of the representatives of the national Government, county governments and others. It is on the basis of these technical committee recommendations and also those of the National Treasury that the Cabinet sat and drew a policy guideline.

As you know from the economies world over, pension schemes are very important sources of capital even for infrastructure development. For example, our Agenda Four plan. If we had very good and solid retirement benefit schemes, we would borrow heavily from their assets. The truth of the matter is that the pensions industry in Kenya controls over Ksh800 billion worth of assets which is almost 12 per cent of Kenya's Gross Domestic Product (GDP).

This Bill seeks to provide for the establishment of County Governments Retirement Scheme to provide for payment of retirement benefits to members of the scheme. Every member of the scheme will receive his benefits as and when they are due. It also seeks to assist in the improvement of social security for members and for them to save for their later livelihoods. It also establishes a uniform set of rules, regulations and standards for the administration of pensions and retirement benefits.

One of the important aspects envisaged in this Bill is its clear policy of governance. It is clearly guided by the *Mwongozo* spirit which is the policy guidelines of all parastatals in Kenya Government bodies and Semi Autonomous Government Agencies (SAGAS).

This Bill provides for specialisation in all matters of management from human resources to finances *et cetera*. It seeks to create the function of fund manager who will specialise in the implementation of investment policy of the scheme as approved by the board. We will also have a custodian as created by Clause 24 who will be charged with receiving all contributions remitted by employers. We will also have an administrator who will ensure that this fund is well taken care of in matters of administration and, of course, the CEO who will be the chief executive of the board. On the composition of the board, this Bill ensures that all stakeholders will be represented in the board of trustees. The Treasury will be represented. Trade unions, the workers, the service boards and all people who need to be involved will be involved.

While we were listening to the stakeholders, very important recommendations were brought to our attention, particularly touching on the transition and the handling of liabilities when these companies are folded up and wound up into one. So, at a later stage, Members will be able to pronounce themselves on these recommendations so that we can grant the workers of all the 47 counties of Kenya a reliable futuristic pension scheme that will be fresh and free from liabilities and burdens of the past.

With those few words, I beg to support.

Hon. Deputy Speaker: Let us have the Leader of the Minority Party.

Hon. John Ng'ongo (Suba South, ODM): Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute to the County Governments Retirement Scheme Bill. I start by saying that this is a Bill that should have actually been dispensed with earlier after the enactment of the new Constitution. We have had the county governments in place from 2013 to date yet there is no legally protected scheme that would help in managing the retirement contributions and benefits that would accrue to the members who are working or those who are employed by county governments. This is discriminatory because at the national Government level, we have different pension schemes managing the contributions of members.

I think we need to be very clear and understand what it is. You have heard that there are about three Bills that are likely to be with us in Parliament. There was a Private Member's Bill. There is this Bill which is a Government sponsored Bill that has actually come from the line ministry of finance or the National Treasury. Probably there is another one at the Senate which I do not want to refer to. I want to confine myself to the two Bills that probably found their way to the National Assembly. I have taken my time to look at these Bills and I want to be very categorical and clear that the first Bill that was a Private Member's sponsored Bill was actually a Bill that was working in the interest of one of the schemes which, in my view, is a private fund – the LAPTRUST. We have a scheme which is under LAPFUND and LAPFUND is a State corporation. The other one is a private company. You cannot merge a private institution with a public institution. If there are problems with public institutions we resolve them. I have heard Members complain about liabilities and I agree that, probably, this fund has about Kshs25 or Kshs26 billion as liabilities that need to be settled. What has occasioned the liabilities is because of those employers or sponsors who are not remitting the funds that they deducted to the fund. If you use that as an excuse to dissolve schemes, I would tell you that no scheme will operate in this country. What if we start this one that we are now creating and again employers or sponsors refuse to remit? Are we going again to start another one and dissolve the previous one? I plead with this House to really look at these Bills critically, particularly the Government sponsored Bills. For a government to introduce a Bill in this House, it must have gone through a lot of stakeholder engagement. One problem that I had with the other Bill now that we are discussing both of them – and Hon. Speaker gave a ruling that the two will be considered somehow – I want to say that in the other Bill, even the way of funding the activities and operations of the other Bill, and Hon. Atandi has mentioned it and eloquently put it, you cannot charge a percentage of members' contributions for administration and you pay that to employees. You will encourage laziness because then these people will just sit there and start eating members' and sponsors' contributions without growing the fund. If there is anything that must be objected is any scheme which is coming with a possibility of charging a particular percentage to the fund.

I also wanted to say that what you need to do if there is an existing institution or if you have an existing organisation is to transition it. In fact, in my view, LAPFUND is a parastatal. For you to dissolve a parastatal you have to come out clearly on the grounds and they must be

convincing. So, the best thing to do if you want to create a bigger parastatal, a merged parastatal or a more efficient parastatal, is you transition the one that exists and provide safeguards in law to encourage it to deliver. So, those are my preliminary and opening remarks where I disagree with the Chair of the Departmental Committee on Finance and Planning. I have looked at their Report and it is a little different from what he is actually saying. I do not know why. If you look at their Report, to me, it is very clear. It is being persuaded by stakeholders' presentations on this other Bill that was a Private Member's Bill. However, I want us to confine ourselves more specifically to the Bill that is before us.

I have the following issues: First, it is on Clause 7 about the constitution of the board of trustees. It is clear that there will be a representative from the Council of Governors. I support that. There will be two representatives from the county public service boards. I support that. I also support the representation from the county assemblies and trade unions. However, there is a line ministry, which is the National Treasury. I strongly believe that we need a representative in the board of trustees from that ministry because then how would that ministry be offering oversight if you exclude it entirely? Actually, as a matter of fact, if you look at the State Corporations Act, it is actually a requirement under Section 6 of that Act that the line ministry needs to be represented in the boards where it has interest in overseeing. I also have a problem on the election of the Chair. If you allow the Chair to be elected by trustees, the problem is that you are likely to compromise the independence of that Chair. This is debatable. I think we need to really look at this matter critically and see if it is better if this Chair is appointed in some way, maybe, by the Cabinet Secretary to protect his or her independence or we need the Chair to be elected by other trustees. My fear is the moment you allow the Chair to be elected by other trustees you are likely to compromise his or her ability to perform.

I do not know whether there is need really to have vice chair of a scheme like this. In my view, I think you need to have a chair and the rest remain as trustees. We also need to be very clear on the appointment of the CEO and what he needs to do. I forgot to say that when you compare this Bill to the other one, you find that the LAPTRUST Fund is administered externally. The Fund is administered externally by some private company. You do not have much control over that. We need to be clear whether this Fund will be administered internally or externally.

Clause 9 (1) says that a trustee shall hold office for a term of three years and may be eligible for reappointment for a further and final term of three years. We need to be clear whether the CEO is also included. The CEO is also classified as one of the members of the board of trustees and shall be the secretary. We need to exempt the CEO of the board of trustees from the requirement of serving for three years and a further renewal of three years. The CEO will be recruited competitively as spelt out under Clause 18 of the Bill. If you have recruited someone competitively, that person cannot be there just for three years and another three years. We need to be clear. If we want the CEO to serve for a maximum of six years, we need to be clear. If the CEO will continue serving beyond six years, we need to exempt him from this requirement of serving for three years and a further term of three years.

Clause 10 talks about the removal of trustees and gives the responsibility entirely to the Cabinet Secretary. We need to come up with a clearly defined procedure of removing trustees. Among the trustees, there will be a representative from the Council of Governors, two representatives from county public service boards and a representative of the county assembly board. If you allow the Cabinet Secretary to remove people who have been appointed or sponsored to this board of trustees by those institutions, you will compromise their independence and integrity. That trustee will perform at the pleasure of the Cabinet Secretary. It is important

that as a House, we capture that clearly. I do not know whether it is in the Report of the Committee on how the removal of trustees would take place.

There are other provisions, but because of time I will move quickly to the most important ones. We need to also be very clear on who will be the administrator of the scheme. That is one of the points of disagreement between the administration of the funds, which probably brings about the differences between the two Bills. One advocates for internal administration while another advocates for external administration. If you ask me, most of the successful pension schemes in this country are internally administered. I would mention the National Social Security Fund and even our pension scheme are internally administered. We need to be clear how this scheme will be administered. That takes me to Clause 23 of the Bill that talks about the administration of the scheme. It states that it shall be administered by an administrator appointed by the board. It is not clear whether that administrator is supposed to be internal or not.

I wanted to talk about the contribution to this fund *vis a vis* contribution to NSSF. If you are a national Government employee, you are not required to contribute to NSSF the moment you contribute to a registered pension scheme. It appears that the County Governments Retirement Scheme Bill puts it that county government employees or staff would contribute to this scheme and still also contribute to NSSF, which is discriminatory.

My time is up but I wanted to sum up and say that as far as I am concerned, there is a fund that exists. We need to improve it. We need to transition it without carrying forward the liabilities that have been incurred, but also protecting it because it is protected by the State Corporations Act and the Public Finance Management Act.

With those many remarks, I support the Bill.

Hon. Deputy Speaker: Let us have Hon. Chepkut.

Hon. William Chepkut (Ainabkoi, JP): Thank you, Hon. Deputy Speaker. I support this Bill. As the Leader of the Minority Party has said, after the promulgation of the 2010 Constitution, the former mayors should have been compensated. There is LAPFUND and LAPTRUST. LAPFUND is a State corporation while LAPTRUST is private. We will harmonise and manage all the retirement benefits.

*(The Deputy Speaker
(Hon. Moses Cheboi) left the Chair)*

*(The Temporary Deputy Speaker
(Hon. (Ms.) Soipan Tuya) took the Chair)*

I would like to humbly appeal to Hon. Members to at all times uphold the provisions of Chapter 6 of our Constitution and be guided by our Standing Orders powers and privileges in handling matters on which we do not have facts and evidence. This is both in the plenary Chamber and in Committee. For the last two weeks, the National Assembly has been handling very weighty matters on sugar. There are persons who have been mentioned adversely before Committees without an iota of evidence. Special mention on this matter is Muhoho Kenyatta. There may be other Kenyans who are mentioned and they do not have any privileges. Hon. Members, it is against our rules, practice and convention to mention persons without substantive evidence. It means they are allegations without substantive evidence and facts, just to mention a few.

Finally, I request Hon. Members to desist from dragging other persons into debates without facts.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Chepkut, just to get you clearly, are we on the same page?

Hon. William Chepkut (Ainabkoi, JP): Hon. Temporary Deputy Speaker, we are talking about finances and the County Governments Retirement Scheme Bill. Accountability is the basis of any meaningful achievement in our country. I am defending somebody who has been mentioned but does not have any privileges. The people who have mentioned him do not have facts and the person who has been mentioned cannot come to Parliament to defend himself.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): How is it related to the County Governments Retirement Scheme Bill?

Hon. William Chepkut (Ainabkoi, JP): Hon. Temporary Deputy Speaker, because we were talking about finance, I have brought the provisions of Chapter 6 of the Constitution and Standing Order Nos.87 and 91 which say that we desist from talking about matters which we do not have evidence on.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): So, are you contributing to Order No.13?

Hon. William Chepkut (Ainabkoi, JP): Yes.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Then contribute on it and be relevant. You are losing us.

Hon. William Chepkut (Ainabkoi, JP): Thank you, Hon. Temporary Deputy Speaker. I will comply since I am a law abiding citizen.

(Laughter)

I want us to move with speed to approve this Bill, so that those people who are not in LAPTRUST and those who are in private institutions because of mismanagement of our own resources can join LAFUND. That is what I am really encouraging people to do.

With those few remarks, I appeal to Hon. Members to desist from talking about matters that they do not have evidence on. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You have got away with being a bit sneaky, Hon. Chepkut. However, you had your say. Hon. Wakhungu Wamalwa.

Hon. Chrisantus Wakhungu (Kiminini, FORD-K): Thank you very much, Hon. Temporary Deputy Speaker. This is a very critical Bill that we must contribute objectively on. It is said that failing to plan is planning to fail. You start to plan your retirement the very day you are employed.

I want to support this Bill because one of the biggest problems in this country is the people who have retired. When it comes to retirement, there are critical issues about human capital which is the present value of your future earnings or wages. As you approach your retirement, the human capital approaches zero. The Bill proposes that an employee's contribution will be a minimum of 7.5 per cent and the sponsor to give 15 per cent. I want to salute the 7.5 per cent contribution because it was 12 per cent initially and then it went down to 7.5 per cent. This is to give room to a worker, so that he or she can meet his or her daily obligations. If a situation arises where you have more income from your financial investments, then you can save more. I want to salute the sponsor's contribution which is 15 per cent. This is double of what an

employee is contributing. If you pick the 7.5 per cent and 15 per cent and put them together, it comes to 22.5 per cent.

The critical challenge has been the age you qualify to get these proceeds. We have challenges whereby somebody retires or he is sacked but he cannot access that money until he attains the retirement age. The retirement age is 60 years in this country. If you are sacked at the age of 40 or 45, you should be allowed to access those funds but not to wait until the age of 60. If you are out of employment, you can even die. I have seen many people who die immediately they lose employment. I am happy to note that there is a proposal in this Bill that if you leave employment, you are free to withdraw all your savings of 7.5 per cent and you can also access 50 per cent of the sponsor's contribution. In total, you can access 57.5 per cent and then you can withdraw the remaining amount when you attain the age of 60 years. You are spreading your risk.

We have cash transfers in this country for the elderly people of Kshs2,000 which take forever. This is a challenge to the Government in terms of regular disbursement. We, as Kenyans, must train the employees, so that they understand the importance of saving. Other jurisdictions, for instance, the United States of America (USA), have very good pension schemes. You find that people at old age can afford a holiday. They come to this country. What happens in Kenya? The challenge is that once you are out of employment, you wait to go to your grave.

I want to look at the responsibilities of a fund manager in this Bill. He is responsible for implementing the investment policy. We have seen in many cases where there are investments but there are no returns. They get sunken. So, you should have a fund manager whose responsibility is to ensure that he maximises the returns of the investments, so that when a person retires, he is assured of that return. I am happy about the provisions of a custodian who will be in charge of the receivables. We have had conflicts of interest when a fund manager is in charge of the receivables and investments. When we separate the fund manager and the custodian, we minimise the risk of the conflict of interest.

I also want to salute this Committee for conducting public participation. I listened to the Chair, Hon. Limo, who is my very good friend. He looked at the stakeholders' analysis which is generally acceptable. There is that wide range of the relevant stakeholders who came and gave very good contributions. I want to salute Hon. Limo for that because committees do not invite relevant authorities many times when they conduct public participation. He said that he had some presentations from LAPFUND and the Council of Governors who are the critical stakeholders. I am happy to note that the Report he gave is a representative of the entire population that will be affected by this Bill.

Another issue that I should talk about is the board of trustees. We have tenure of three years. The memoranda talks about four years. We need some consistency. That is why I rose on a point of order earlier on when the Leader of the Majority Party was moving this Bill. I am assuming that it is a typo because we need consistency. I expected the Chair of the relevant Committee to come out clearly the time he was seconding, so that the Members know whether it is tenure of three years which is renewable or four years. I read this Bill keenly. I am a scholar who pays attention to details. When such an issue comes on the Floor of the House next time, the Chair of the Committee should advise the Members, so that they know the correct information. Up to now, I do not know whether it is three years or four years because the two statements are contradicting. When you read the sections, the Bill talks of a tenure of three years which is renewable but when you go to the memoranda, it talks of four years. So, the relevant members

of staff who are in charge of drafting the Bill should know that we need to have consistency and precision.

I want to agree with what Hon. Mbadi said on the composition of the board. It is important to have a representative from the National Treasury. When I looked at these provisions, I did not see any which provides for the Cabinet Secretary for the National Treasury. In the Committee of the whole House, we will propose amendments so that, at least, there is representation of the Cabinet Secretary for the National Treasury. The Cabinet Secretary for the Treasury only comes in on issues of sacking. I strongly feel that we should have these people in place.

Hon. Temporary Deputy Speaker, there is a provision which says that three persons are nominated by employees of county governments, and that at least one of them should be of the other gender. I was trying to think of a framework under which employees of the 47 counties are going to come together at one place to nominate their three representatives. It is going to be difficult. So, I hope that as we move on, we will bring in the county assembly forum because it is already provided for. When you say you nominate people from the county assembly forum, it is already in the framework provided. But it is vague to say that you want three members to be nominated by the employees. At what forum are we going to have all employees from the 47 counties to nominate the three? It will be tedious when you try to operationalise it. It will pose a challenge. As the Chairman responds to this debate, he will let us know how we are going to handle the issue.

People reach retirement when their human capital is at zero and are vulnerable to diseases. In the country, the level of vulnerability to cancer has increased. It affects the elderly. There is diabetes and hypertension. These are diseases the old are vulnerable to. For one to be safe in old age, one needs to continue enjoying the benefits of retirement. That is why the success of the proposed scheme is very critical for us to have a healthy nation. I remember the words of former President Kibaki. He said, "A healthy nation is a working nation." Good retirement schemes will ensure that even retirees have the energy to increase their financial capital so that sicknesses can be reduced so that we can have a healthy nation that can sustain its grandchildren.

I support the Bill and congratulate the relevant Committee. However, we cannot mix LAPTRUST with LAPFUND. I hope the Chair is listening. We will handle the matter in the Committee of the whole House.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Well said, Hon. Wamalwa. I believe the Chair is listening carefully. From the face of it, on the issue of the term of office, the Bill will override the memorandum. I am sure that the Chair will have an opportunity to make that clarification.

Let us have Hon. Chepkoech Joyce.

Hon. (Ms.) Joyce Korir (Bomet CWR, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the chance to contribute to the Bill. Indeed, this is one of the Bills that I believe is going to assist county government officers and even members. I worked as a councillor, a mayor and even as a Member of the County Assembly (MCA). I have also been a member of both schemes for the last 10 years.

I support the Bill because it is meant to establish the County Governments Retirement Scheme as a mandatory scheme for all county government officers. It provides for establishment of the schemes, board of trustees and the schemes' administration. In a number of instances, we find that, because of the minimal salaries of MCAs, they are not in a position to save. In addition,

they are at the grassroots where every now and then, they are exposed to a number of challenges to an extent that they cannot save anything. As we speak, I can attest that colleagues who used to be mayors in the country are in a very awkward situation. We are trying to petition Parliament so that former councillors can have something because they have served this country.

I support the Bill because it ensures that transition is done. I request that the Committee sees to it that the Bill ensures that transition is done effectively to preserve all accrued rights to members.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Babu Ongili. He is not in. Hon. Edith Nyenze.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM - K): Thank you, Hon. Temporary Deputy Speaker. I stand to support the Bill on pension as moved by the Leader of the Majority Party. You will agree with me that Kenyans have a very poor saving culture. Such a scheme would help county employees to save for their retirement.

The Bill outlines detailed guidelines on how to punish employers or counties that refuse to remit contributions of their workers. This is very important because there are many cases of employers who do not remit contributions of their workers to various schemes, including pensions schemes, health and even SACCOS. So, it is very important that even as we consider the Bill, we also think about the many employers who do not remit contributions towards SACCOS – which makes it impossible for employees to take loans even though contributions towards their SACCOS have been deducted from their salaries.

The Bill provides for a promising framework of ensuring that sponsors remit their employers' contributions on time. In the proposed framework, the county governments will be required to pay interest if they fail to remit their workers' contributions by 10th of every month. This is very good. The Bill also notes that there have been losses in contributions in the past and the Bill proposes that the LAPFUND and LAPTRUST be done away with and a new scheme established for employees. There is a problem here because there are billions of shillings which have not been remitted to these schemes and if they are done away with, then the employees may lose their contributions. It is my proposal that a secretariat is established to manage the old schemes: LAPTRUST and LAPFUND, like it was the case with Teleposta. The secretariat can run the two separately and ensure that employees are paid their dues. It means that young employees can join the new scheme but still be members of the old schemes as the Funds are run by the secretariat.

On the issue of trustees, I propose that the new scheme should have a corporate trustee. A corporate trustee has a lot of understanding of how pension schemes are run. On administration of the scheme, I would suggest that an external administrator who also has knowledge of how to manage the scheme, runs the scheme instead of internal administrators. In the past, external administrators did better than internal administrators. This scheme is very important because there is a new rule that pension schemes should also have a medical scheme where the employees contribute towards the scheme while still in employment. This is very commendable. The Committee can also make sure that there is a medical scheme which is contributory so that members can also have their health taken care of after retirement.

With those remarks, I support. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Member for Kiharu.

Hon. Samson Nyoro (Kiharu, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. For a start, I have to say that the number of workers in our counties has grown

significantly after devolution. For us not to have a form of framework on how to look at their retirement benefits was wrong. Therefore, coming up with this Bill will go a long way in formalising the retirement benefits of this significant group of people.

I am happy that the Committee has noted very clearly that the principal object of the Bill is to establish the County Governments Retirement Scheme as a mandatory scheme for all county government officers. I say it is commendable because we do not have a saving culture in this country. We are talking about the current workers who will retire in a few years. The culture is that it is the working class that takes the responsibility of the retirees. Therefore, giving them money after retirement mandatorily by deducting from their salaries now will go a long way in making them independent as respectable people who have served this country with dignity.

Even the culture of saving and benefits is very good for those people whose money is deducted. Through the Report, I can see most of the workers recommended that their deduction be brought down from the previous 12 per cent to 7 per cent but there are very many advantages when it comes to contributing to the retirement benefit schemes. The higher the amount of money gets deducted to go to the retirement schemes, the lesser taxable income. Sometimes being deducted small monies here and there, with time and with the compounding interest, the small monies that get deducted over time grow to become a significant amount of money which of course is not an asset of the administrator but the asset of the person who contributes.

Yesterday, I was in Murang'a. As I was taking tea somewhere, I met an old man and as we chatted, I realised that he was a former councillor. Even if this scheme is not taking care of the former councillors, as the Chair put it, most of these guys are living in oblivion. It is upon this House to look at their welfare. This gentleman was telling me that he was a councillor for three terms. By the look of things, I could see he was beaten by life. His salary then was a paltry Kshs3,500. There was nothing like National Government Constituencies Development Fund (NG-CDF) that we have currently. It was a great sacrifice on their side to serve this country. We cannot sit here as leaders and not talk of such colleagues who are living in abject poverty.

In terms of policy, there is one country that has been able to manage their retirement benefit schemes very well. Policy-wise, it has led to an increment of the percentages of people who own homes. This country is Singapore. Through their central provident fund, you are allowed to withdraw money and channel the same money that you pay for retirement to mortgage. On that basis and through such a policy, Singapore currently enjoys home ownership of close to 92 per cent. I am sure with time, we will be able to be creative as we come up with these kinds of schemes and these kinds of laws so that we can kill two birds with one stone as we try to accelerate home ownership through the Big Four Agenda. I am sure these kinds of schemes can go a long way in assisting people to own homes through the same savings they are making. The monies that are usually channelled to these schemes can have more capital gains if they are channelled to properties like apartments or even homes.

There are some few challenges that I have noted and they are across the board, not just for county workers. For us Members of Parliament and every other worker, to maintain the same standard of living during retirement, we require not less than 80 per cent of our current earnings. Looking at the kind of deductions we are making, it is an improvement but it is a challenge across board. The amount of money we contribute to these schemes cannot help any person who contributes to live the same kind of life they live when they are employed. I have noted of course that the employer being the county government and the entities around the county government including the Assembly will be paying 15 per cent and the worker 7 per cent. It is a good step in the right direction but we have to look holistically even through NSSF and others so that we

increase these percentages so that these people including us who are working may not have to go down in terms of our standard of living when we retire.

The other challenge I have noted across board in terms of the management of the retirement schemes is of course the investment risk. We have seen that in NSSF. Some years back when some of the stockbrokers went under especially discount securities, billions of money of NSSF went under. These kinds of investment risks can be mitigated through the investment policy which I am sure over time this House will have to relook at so that we safeguard the savings of workers.

Also, I am sure the Retirement Benefits Authority (RBA) will take it up as a challenge. Most of the people who contribute to the retirement schemes in this country are those in formal employment. I am sure most of us seated here who were in the informal sector are just investing and thinking that our retirement is hinged on the flats we are building or the other kind of investments. All I am saying is that we need to cast the net wider. For RBA, this is their challenge. They need to reach the unreached in the informal sector.

We need to cast the net wider. This is the challenge the RBA is facing so that we can reach the unreached in the informal sector. When they retire or become disabled in a way that they cannot work, they will become the responsibility of those who are working, yet they have a very good opportunity to take care of their future through the policies that we create and through the emphasis from the RBA. This will ensure that we reach those in the informal sector to contribute so that they can start saving in the schemes and investments.

As I wind up, I want to say that we need to diversify the investment that we do in terms of our retirement schemes because any kind of saving, will be done with the expectation of optimum return. Optimum return can only be found when we fetch for the best investment opportunities. Where we are as a country should be stimulating businesses. One way of stimulating businesses is through the schemes embracing something like venture capital and private equity so that we go out of the traditional investment avenues and go to the ones that we can maximise profit on, even as we make social impact to the people who can create businesses but need capital. There are so many billions lying in investments and retirement schemes.

With those remarks...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Adhiambo Oduol.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker. I would also like to support the Bill. As I support it, I would like to commend the presentation in a very elaborate way of ensuring that we can take care of employees in the counties. I want to draw your attention to three particular issues. One, it is with regard to Clause 2 where we are clearly talking about dependants. I want to commend that it is extensively indicating towards who the dependants are.

However, with reference to Article 45 of the Constitution where we clearly see that the family is a natural and fundamental unit of the society and a necessary basis for social order, to indicate that, it will be useful when we spell out who the dependants are and indicate that we are considering a spouse to the deceased. We take into account that it might be useful in contexts of the passing on of a person, particularly the head of household. If there was no clarity, we get into very challenging issues. So, one of the issues that I thought would be useful here is, as we define the dependent particularly when we define the spouse, we need to be aware that there might be need to make some reference on the basis of the premise that would enable us to identify who that person is, to get the social order.

Secondly, I would like to speak to Clause 6 where we also commendably give a very key list of those that we would want to bring on the board of trustees. I refer to what the Leader of the Minority Party said that he might not see the reason why we would have a chair and vice chairperson. In this clause, I also seek to see the model we have in the Constitution and even as we are talking about the Parliamentary Service Commission (PSC), we take note that when you talk about persons, the persons can be male or female. There are times when you find that if people are going to come up with trustees, unless there is a sense in which it is clearly indicated, there needs to be recognition given to people of both genders so that it is not overlooked. As we look at Clause 6 and comment the manner in which we are going to seek to get the trustees, we would be keeping with how it is clearly spelt out so that we do not overlook any particular gender that we would not only specify as we do in other areas that, at least, certain numbers would be of either gender and that we would retain the chair and the vice chairperson. It is the common practice world over now to use the zebra concept where if the chair is male, then the vice would be female and vice versa.

Finally, I would like to speak to Clause 7 and in particular I was pleased to see that as we look at the qualifications for appointment as a trustee in this Bill, we are making specific reference to Chapter Six of the Constitution. We are saying that we would like to ensure that the person is someone that would meet the requirement that is spelt in Chapter Six. Whereas we are quite clear that a number of challenges that we experience when we bring not only this kind of programme in place usually emanate from the lack of integrity, I believe in a Bill, we would specifically mention Chapter Six and say that we would want to look at this with regard to leadership and integrity. It is, indeed, a very commendable thing. Only yesterday, I was speaking to one of the retired journalist who was particularly concerned and pained that as we talk about issues of corruption and leadership in our country, we seem to have come to a situation where we glorify corruption and demonise honesty. Those were his words. When we are talking about leadership and when we are at the point where we are coming up with the Bill, it is, indeed, extremely commendable that not only are we specifying in terms of qualifications, competence and skills, but we are specifically making reference to Chapter Six of the Constitution.

With those few remarks, I would like to support the Bill. Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The Hon. Ombaki Machogu.

Hon. Ezekiel Ombaki (Nyaribari Masaba, NAPK): Thank you very much, Hon. Temporary Deputy Speaker for giving me the opportunity to contribute to this very important Bill. As the situation is now, there were quite a number of employees who were working for the national Government and since 2013, they were transferred to the counties and are not sure which particular scheme they belong to. One thing an employee really enjoys and wants to make sure is guaranteed is their pension. This is the most critical area for any employee working for any organisation, be it the Government, county government or even the private sector. The better scheme contributes to an employee moving from one organisation to another. Since we have not had a proper scheme for the counties, we have not been able to attract some of the best employees. We have not attracted the best performing workers to the counties like when we would have had this particular scheme earlier.

Since we do not have one body administering the pension scheme for the counties, the possibility of an employee moving from one county to another has been curtailed. An employee would not like to move from one county to another because he would not be assured that his

pension dues will be transferred from that particular county to the other. This Bill will ensure that if an employee moves from one county to the other, his pension dues will also not be affected in any way such that there will be portability of his benefits. This will help us to retain the best employees in the counties.

In Kenya, our saving culture is not as good as those in other countries. We are a consumer society where whatever one gets, he consumes it all. The only way we can encourage people to save is through the contributions they make through the pension schemes. I will support the amendment that rather than reducing the figure of the employees' contribution from 12 per cent to 7 per cent, that figure should remain at 12 per cent. If anything, it should even be enhanced because we know the kind of problems that we get when people attain the age of retirement and we do not want to add the number of dependants. The dependants' syndrome we already have in the country of 9:1 is quite high such that nine people depend upon one person for their socio-economic wellbeing. So, by retaining that figure at 12 per cent or enhance it a bit, we will make sure that once the people retire, they will be able to support themselves. People are vulnerable at this age to diseases. They can cater for themselves only once they enjoy the pension benefits.

Also, there has been a practice before where counties and other bodies do not remit statutory contributions. Pension is an obligation. It is statutory where every organisation, be it a county or any other, is supposed to remit the money on a monthly basis. Clauses 48, 49 and 50 should even be stiffer. Any county defaulting in this should be denied the quarterly allocation that they are supposed to get from the national Government to such a level where they are able to realise that this is a right of the employee and failing to remit the money at any given time is criminal. An employee finishing his period of service and finding money was not remitted is the most serious thing that some of these organisations indulge in.

We should not have separate schemes. You find that county assemblies are advocating for a separate scheme and the CoG is also supporting a separate one. They should be harmonised in such a manner that we have one scheme covering the entire county.

With that, I wish to support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Kisumu East, Ahmed Shabbir.

Hon. Shakeel Shabbir (Kisumu East, Independent): Thank you, Hon. Temporary Deputy Speaker. Firstly, I want to say that I am a Member of this Committee and we have certain concerns. I support this Bill subject to amendments, which I will be proposing.

I was once a Mayor of Kisumu and there are a number of former mayors here. One of the major problems that we have is putting together the LAPFUND, LAPTRUST and the new County Retirements Fund. The new County Retirement Fund, which is already in force, relate to employees of county governments as at the start of devolution. If you put a new baby with another institution which is on its deathbed or that has AIDS or cancer, you are going to kill the new child.

The scheme that is being put forward suggests, and that is where my amendment will come in, that the CRF, the LAPFUND and the LAPTRUST all be put together. This is not possible. As the history goes, the LAPTRUST and the LAPFUND were set up during the colonial time and continued into Independence. The LAPTRUST was set up for the *wazungu* who were in local government and then the elite took over. That is the defined benefits. The LAPFUND was for the rest of us and it was and remains under the umbrella of the Treasury. The LAPTRUST at this moment, having accumulated a lot of assets, has gone and made itself a

private limited company by guarantee, and nothing to do with public pension funds. None whatsoever.

Before the National Assembly are two Bills. One is a Private Members' Bill by my friend and colleague, Hon. Njagagua, and is sponsored by LAPTRUST. The other is a Government-sponsored Bill. In the 10th Parliament, where I was in the Finance and National Planning Committee, this had come to us. It was never finished because of the fact that Parliament had to go on recess. The Government had done a lot of public participation yet we found two other newcomer Bills. One from the Senate and another from a private Member, which is trying to do a coup to be brought forward before the Government Bill. I remember in that Committee, we were very split. I know for a fact - and I am the Chairman of the African Parliamentarians Network Against Corruption (APNAC) - that the LAPTRUST trustee tried and succeeded to some extent to influence us, but it did not work. So, we must not allow an individual private limited company who has sponsored this Bill to take over a Government Bill.

The LAPFUND has unremitted contributions of about Kshs26 billion. There is a big hole in the LAPFUND. If you allow it to continue the way it is, it will not be able to pay pensions to county government employees for the next three years.

Hon. Isaac Ndirangu (Roysambu, JP): (*Off record*)

Hon. Shakeel Shabir (Kisumu East, Independent): I do not know what my Vice-Chairman is telling me.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order. Hon. Shabir, you are supposed to address only the Speaker.

Hon. Shakeel Shabir (Kisumu East, Independent): I beg your pardon. I did address you. I said I do not know what my Vice-Chairman is saying.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): You ignore the sideshows.

Hon. Shakeel Shabir (Kisumu East, Independent): I shall ignore him for that purpose, on your instructions, Hon. Temporary Deputy Speaker.

I am suggesting that these three be allowed to exist on their own, at least, for another three to five years. The LAPFUND has a hole of KShs26 billion in unremitted funds, but on the other side, the Government owes counties, municipal and city councils contributions *in lieu* of rates of over that amount. Of the Kshs26 billion, 70 to 75 per cent is owed by the Nairobi City Council. The governors would like to take over all the assets of the county councils, but none of the liabilities. That is why they have been sponsoring this special Bill, which is a private Member's Bill, so that they can short circuit and get rid of that liability and throw it in the lap of the national Government. That is not going to happen. And we will not allow it to happen.

We would like to have the LAPFUND and the LAPTRUST to consolidate their assets and have a transition of three years for that exercise. The LAPFUND should talk with the Government and claim the contributions *in lieu* of rates with the help of county governments. The county governments should not ignore or accept the liability that they owe as counties, to the LAPFUND. You cannot say for a moment that the Kisumu County Government or the Nairobi County Government does not have any liability to the LAPFUND because they took over the assets and the liabilities. So, they have liabilities and they must pay.

That is why we are suggesting that we must have a three-year transition period. During this period, we want to see how we can assist the organisations to recover whatever is due to them. Then, after three years as the three institutions continue with the County Retirement Fund, we can amalgamate. But at this moment in time, I am afraid some people with vested interests

are trying to stage a coup. They have approached many people with many interesting ideas. They have also tried to influence them with other things such as gifts to look the other way.

Unfortunately, the Departmental Committee on Finance and National Planning is not going to be bought by anybody and I speak for all of us. We shall not be bought. We shall do what is right and we will do it for the interest of this country. If you put the LAPFUND and the LAPTRUST together, it will become the largest pension fund next to the National Social Security Fund (NSSF). The problems we have had with the NSSF will go this way. If we allow this to continue, this is the height of negligence on our part. It is bordering on neglect. We cannot sit here and in less than five years, our workers who have contributed to the LAPFUND will not be paid.

With those many remarks, I support this Bill, but we will move amendments. Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Well said, Hon. Shabbir. We will have time to prosecute your amendments at the right time. Let us have Hon. Dennitah Ghati.

Hon. (Ms.) Dennitah Ghati (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute. From the outset, I fully support the County Governments Retirement Scheme Bill.

This Bill should have come earlier. I support the Bill because it is giving a new lease of life to employees of county governments. It is in the interest of devolution. Devolution is here with us and has trickled down. These are the benefits that automatically come with such advancements. We are going to cascade the benefits that are up here to our people in the various counties. This is commendable and I thank the Leader of the Majority Party and the Chair of the Departmental Committee on Finance and National Planning.

When this Bill was being introduced, I wanted to get a clear understanding of how it will run. The Member for Kipkelion East has clearly put it and I have understood and I support his Bill. I bring to this House the voices of the former councillors of my Migori County. As we are thinking of how we are transitioning from the LAPFUND and the LAPTRUST - which have always had a few issues - and we are now talking about the County Governments Retirement Scheme Bill, where are we putting the voices of the former councillors who served in our various municipalities?

Those are people who are currently languishing in poverty. Just last week, I received a letter of invitation to a *harambee*. I was going to support former councillors of Migori County, who are now organising *harambees* and looking for money to survive. I was asking myself whether we are appreciating the services they rendered to Migori, Kehancha and Isebania county councils during their time. Now that we are transitioning and talking about coming up with this kitty for county governments, we need to look back and see where we have put our former councillors. They are crying. They are living in poverty, cannot educate their children and their welfare is bad.

We need to talk about how we are going to remunerate and pay them first so that as we transition into this new scheme, we will have dealt with them. This Bill as it stands, does not bring on board the former councillors who served county councils and municipalities during their time. Where are we going to place them? In a matter of a second, we need to come up with amendments to ensure that the former councillors are paid. They have to be cleared so that we can move forward. I am very happy because the Constitution of Kenya brought in devolution. The champion of devolution in this country is the Right Hon, Raila Odinga. He had the best

interest of our people at heart and that is why, as we move down and cascade the benefits to our counties, we have to ensure that our people enjoy the fruits of devolution. That is why with such a scheme, it is going to be extremely easy.

I want to make it clear that I will be bringing an amendment to this Bill. This country has about 6 million Kenyans living with disability. If we are not going to set systems straight from the word go, the composition in this Bill will not be achieved. The Bill forms the board of trustees where we are going to be drawing members from the CoG, the Public Service Board, county assemblies and trade unions. I want to see a composition that has a representative of persons living with disability (PLWDs). They get it rough when it comes to payments especially when they go to request for their pension. They easily give up.

Therefore, during the Committee of the whole House, I am bringing an amendment and I urge Members to support it, to make sure a representative of persons living with disability sits in the board. This will ensure that when all is said and done, my population of PLWDs are cared for. I am happy the Members will support my amendment. I am happy because for once, we are having a trustee and a scheme. We have the fund manager, the custodian and the board of trustees, and we are trying to define the functions of the fund manager. The Bill is suggesting a situation where the fund manager is the CEO. This is like an office set-up where there is a board and a CEO. We have to employ competent CEOs in our counties to run this fund. It is very clear if we do not do this, we will have conflict of interest where the board will run the secretariat. So, a Bill like this one, with good intentions, might not help.

I fully support the Bill. This is a new lease of life, which will ensure that in our 47 counties, the county employees' retirement issues are well taken care of. We should have a retirement scheme in which the governor, the public service board, the MCAs, county executives and tea girls and cleaners belong. We want everyone working in county assemblies to be taken care of because this is the spirit of devolution.

As you are aware, I am a very well trained financial education trainer. Issues of managing money and how our people save money during their pick moments before they retire need to be emphasised even in this House. We should not leave this House or wherever we work and go to languish in poverty like what has happened to our councillors. I will be very happy to see our people enjoying these benefits. Once this Bill is passed into law, it will mean our governors and county assemblies employees are responsible. We also have to put a fine on counties which do not remit and pay pension to their employees. It will be the duty of the governor to ensure that his employees are well taken care of including children, women, people living disabilities and the youth. I have intentions to bring amendments to have persons living with disabilities in the board of trustees. I fully support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Well said, Hon. Ghati, you will surely have time to prosecute your amendments. Let us have Hon. Odhiambo Akoth, Member for Suba North.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity. I wish to support this Bill. The Members have spoken a lot to the architectural, structural and transitional issues and I will not speak to that. I support it because it provides social security for employees of county governments especially upon retirement. Members have spoken at length and I will just speak to some issues which I think need amendments.

As we think about the structural issues, we need to get our mind frame off county councils to county governments. We are not talking about councils because we now have

governments. The constitutional framework talks about a county government, which is actually a mirror of the national Government. In this country, we created 48 governments, with one being sort of a super government. However, in reality, we have 48 governments because of the history of marginalisation and inequality in this country. Therefore, devolution is supposed to help. Whatever structure we come up with must mirror the national Government. Some of my amendments will be speaking to this.

I think Prof. Oduol mentioned that we need to look at some of the definitions because they need to synchronise with existing Acts. Like the definition of spouse in the Bill needs to synchronise with the definition in the Marriage Act, so that we do not create a crash between laws. I notice the Chair of the Departmental Committee on Finance and National Planning is not here, but I would have benefited from a better understanding of the word 'sponsor' beyond employer. I am not talking about the social sponsor, but the sponsor as defined in the Bill. They have phrased the word sponsor as 'amongst others'. I am just curious about which sponsor they are talking about, now that we have other sponsors.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Millie, I think that is an interesting one. The Chair has to come out clearly and tell us which sponsors they are talking about.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, because if they leave it open, nowadays we have so many slay queens and kings speaking about sponsors. Therefore, we need to tighten the definition of sponsor. Clause 6(1) is about the board of trustees and many people have spoken to it on the issue of gender balance. I will not complain much on this because it tries to abide by the constitutional provisions of one-third. I want to talk to it in relation to the county architecture and the framework which most of us think is about county councils.

The county government has a legislative and executive framework. If you look at the way this Bill is structured, it favours the executive more than the legislative arm of the counties. I have been listening to the Members and several legislative proposals will be brought and the legislative arm of the county also wanting to be felt. I think there needs to be a balance. Otherwise, very soon, another Bill which will favour the legislative arm of the counties will be brought. Clause 6(3), I know Hon. Mbadi in his view said that there will be no need for a vice-chair, but I will not support this. In the absence of the chair, who will manage? We need a vice-chair, but then we need a zebra approach as we have done in some laws in the past.

Where the chair is a woman, let vice-chair be a man. I think our women have now become much more assertive. In our virgin flight to the United States of America (USA), I have seen the pilot flying the President will be a woman. Also, Clause 6(5) states that the mode of appointment of the trustees should be by way of regulations. I think this is too important to be done through regulations. I would urge the Departmental Committee on Finance and National Planning to bring amendments. If need be, they can borrow from other past legislations, which indicate how you appoint trustees. This is too important to be relegated to regulations. I think the mode of appointment of trustees should be provided in the parent Act.

Again, Clause 15(2) provides that the board should be in a position to co-opt up to three members. I think this is a terribly bad practice from a management perspective because that is a way of introducing the board through the back-door. If you are providing for a board and you are very clear about the mode and why they are being appointed, if they feel they do not have certain expertise, they can hire consultants. They should not bring three people behind the back. The reason it is provided is so that people can stop playing politics with the board. If you think you are outnumbered, then you suddenly co-opt. But you need to have a definite number of people

appointed from a pool that we know, by law. They should not use considerations which we may not be aware of. Clause 24(5) is something my sister, Hon. Dennitah Ghata, will be happy about.

It has positive provisions like the employer taking life insurance that has disability benefits of a minimum of three times the members' annual pensionable emoluments. That is a good provision that I thank the Committee for bringing. However, I have a problem on Clause 29(2)(b) because it provides that despite provisions of any written law, a benefit granted under this Act shall not be liable to attachment in settlement of any claim.

I think there should be a proviso. When I used to represent women in court, I discovered that when men knew they were about to retire and they had obligations to their children in terms of school fees, they would very quickly go and get the benefits without the family knowing. Once they get a lumpsum benefit and they have kids going to school, they have no other recourse. We should think about that provision. There is a clause that says that this pension should not be subject to attachment for purposes of any award in court. It should be where it relates to children or a wife supporting the husband or the husband supporting the wife. We are now talking about equality. I know sometimes when I say these things, people think I am over-imaginative. I dealt with a lot of such cases when I was working with the Federation of Women Lawyers (FIDA). What we ended up doing was to play cat-and-mouse games. I remember one that involved an employee of the East African Breweries. The man went on early retirement so that he could not take care of his family because we had attached his salary. However, we had already put in place an intelligence team so that by the time he was getting his lumpsum payment, we had already attached it and took the matter to court. When we were given the award, the children and the wife got the lumpsum payment. However, if we leave it open, it will not be very helpful.

Clause 40 provides for punishment that is so lenient for people who misuse the fund. The Committee should increase the punishment from two years. It is two million. It is ridiculous. People steal. Corruption is killing this country. The county has become the centre of stealing. We have devolved stealing and corruption in our counties. If we leave these lenient sentences, we will kill devolution, which is supposed to cure marginalisation.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Well said, Hon. Millie. Let us have the Member for Siaya County, Hon. Ombaka.

Hon. (Ms.) Christine Ombaka (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I know when it comes to issues of retirement, many people are negative and I am one of those who are negative. It is said often that when they retire, they go home to die. So, it means that the retirement schemes that we have in this country have not been very satisfactory. Employees go home and they do not benefit from their retirement benefits on time. It takes a long time before they get their pension. However, this one seems to give me some hope.

I looked at this Bill and what I see, which really makes me happy, is Clause 29(3), which says that the payment of retirement benefits shall commence from the end of the month immediately following the month of the retirement of the member. This means that the payment will come immediately the person retires at the end of that particular month. That means it starts immediately. Normally, that does not happen. It can take many years before one begins to see his retirement benefits. My father suffered a lot looking for his retirement benefits and by the time he was just to get it, he passed on. I think that is a bad thing. However, this one looks good enough and I support it.

Secondly, it is true that many people who were employed in the previous Government, especially councillors and the staff that worked in county councils have never received their benefits. I know of an old lady right now who is highly respected but lives under poverty because she has never received her benefits. She does not even know how to begin to chase it or to look for the funds because the county government is not supporting her in that. They are saying that they are not responsible for her benefits. So, there is total confusion as to who is responsible for the former employees of county councils. So, it is important that we begin to take care of them. What saddens me a little bit here is that the LAPTRUST AND LAPFUND are not looking after those who are transferred from the old system to county governments, especially when they have five years to go. It says very clearly that they are not eligible to join the scheme. Nobody really seems to explain what is going to happen to them even though they are working and they may be having only five years to retire. What happens to them? That is not being addressed and it is making me feel that certain groups of people are being discriminated in this context. I think that needs to be streamlined. If they are not going to be beneficiaries of this new retirement scheme, where do they fall? What happens to them? They have worked. They only have five years or less but where is their story in this particular scheme?

There is need to know exactly what the retirement age is. Is it 55? Is that officially stated? Is it 60 or 65 years? I know people who are beyond 60 who are still working and I know other people who are 60 who have retired. I am confused. Where are we in this country? What is the age of retirement? Is it 55, 60 or 65? Where is it written? Where has it been made clear that that is the position whichever the year that might be?

Lastly, those whose spouses or relatives have died and have their retirement not claimed, where do you take the retirement money for the deceased if it is not claimed? That needs to be clear because I know that families do not know that they have a right to claim the benefits of their loved ones. There is need to do civic education for families of those who are working to know that once their relatives or loved ones die, they have a right to access the retirement benefits. That money seems to get lost. Nobody claims it because nobody knows they have a right to it. So, can we also have sensitisation and education on this for families to know that they have a right to claim the benefits of their relatives who pass on even before the retirement age?

I think that must be the last one I had. I just want to say that I support this Bill because it means well. It is a Bill that gives us social protection and it must be properly managed. In many other areas where we have funds for retirement there is a lot of politics and money is lost and delayed. There is a lot of information and people are not aware of what they deserve. There is also a section here that talks about other funds that might come to the scheme. These might be gifts, donations or some kind of investment that the scheme has made. This is the extra money beyond the contribution that members make. How is it split among members? That is not clear. How are gifts, investments or extras that come to the scheme shared out by the members? That, again, requires explanation which I fail to see here. I try to get it, but I fail to see it. How do you share gifts, investments or extra money that has been acquired by the scheme?

With those remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have the Member for Isiolo North, Hon. Hulufu.

Hon. Hassan Hulufu (Isiolo North, KPP): Thank you very much, Hon. Temporary Deputy Speaker, for the opportunity to contribute to the Bill. I support the proposed Bill.

I would like to appreciate the good work done by the Departmental Committee on Finance and National Planning. I have gone through their Report and have seen the various

meetings that they held with the stakeholders, the concerns, how they were addressed and how some of the issues that were raised by the stakeholders have led to the various clauses in the Bill.

After the 2013 elections when county governments came into force, many public servants had their services transferred from the national Government to county governments, especially those who were working in the health, agriculture, livestock and other sectors which are fully devolved. Before the transfer, many of those public servants were making contributions to various schemes, but there has been confusion. That confusion has led to many of them not being sure about whether their retirement benefits are secured. In fact, for those who had the privilege of serving in the public sector, we know that the salaries they earn are not good enough. In retirement, whether they opt to take early retirement or retire on the attainment of the mandatory retirement age, many of them lead lives which are nothing to write home about. Therefore, this Bill in its current form - of course, there are various areas which require to be amended, which as other Members have stated, we need to look into - has clearly spelt out the concerns of public servants at county governments in terms of how their retirement benefits and pensions will be handled.

I would like to speak to a few clauses in the proposed Bill. Looking at Part II on the establishment of the county governments retirement scheme and the board of trustees, I have a very strong feeling that in as much as this is a scheme for county governments' workers, the National Treasury is a key stakeholder that we need its representation on the board of trustees.

For those who are proposed to sit on the board of trustees, it is important to appreciate that it reflects a broad spectrum of the various stakeholders, the COG and the County Public Service Board. At the county level, we have the county executive and the county assembly. The staff of those two arms of county governments are the core members of this proposed scheme. Therefore, having representation of the CoG as well as the County Public Service Board and the County Assembly is something which we need to appreciate and see it positively. It is also important to have the representation of a trade union umbrella representing public servants. If we leave that open, I do not know how it will look like, but if we have a county government trade union, it may be a good thing to specify it. I do not think there are many county government trade unions in the country.

The Bill provides for three persons to be nominated by employees of the county governments. I do not know how those ones will be identified because there are 47 counties and very many employees. Unless there is a very clear framework on how to arrive at the three representatives of the employees, it may not be easy for the appointing authority, which according to the proposed law, is the CS for the National Treasury who is supposed to identify the three. Apart from balancing gender, which is a constitutional requirement and most of the time is taken to be given, I strongly agree with the concern raised by a Member that we probably need to put in a clause at the point when we are considering amendments so that out of those who are appointed to sit on the board of trustees, there is a representative of persons living with disabilities.

There is also the aspect of the election of the chair and the vice chair of the board. We need to probably propose that the two should not be of the same gender. If the chair is female, the vice chair should be male and vice versa. There is merit in allowing the board of trustees to elect the chair themselves. There is also the downside. We need to look at both sides and see which one is better in terms of ensuring that the chair is independent and is able to secure the funds meant for our retirees.

Looking at the appointment of the CEO, the qualifications which are spelt out are very important because we need to have capable Kenyan men and women, with the requisite technical skills and managerial experience to manage the fund. Putting it that they must meet the requirements of the Leadership and Integrity Act in the Bill is very important. Looking at the tenure of the board of trustees, the condition of the three-year term which is renewable but on the basis of performance, is also very important. The other very important thing, which I appreciate, is the aspect of staggering the appointment of the members of the board of trustees, so that at any given time, we avoid a situation where all the members have their terms coming to an end and, therefore, we have a vacuum. The staggering process will help the board to have continuity and will also help it to maintain some kind of institutional memory which can be transmitted from the term of one board to the other.

In terms of the actual appointment by the CS, I strongly feel that probably we do not need to leave it open to be based on the regulations which the CS will make. We probably need to introduce a clause which can provide some kind of guidance to the CS on how to go about the same.

The other important clause which has attracted my attention and I would like to speak to is the administration of the scheme. More often, when we have one officer acting as a manager, custodian and administrator at the same time, we provide a conducive environment for corruption which we are trying to fight in the country. Therefore, separating the roles of the three is something which is very good. For example, the fund manager implements investment policy and also manages the fund and its assets. The custodian is responsible for receiving the contributions and the administrator deals with issues of the relationship between the fund and the members of the fund. If a member requires anything concerning his or her account, there will be a unit under the administrator where he or she can access information.

I can see my time is running out. As I conclude, I would like to appreciate what our former councillors are going through. I hope, at some point, a petition or motion will be brought to this House so that we can see how best we can ensure that the difficulties they are facing, given the important role they played during their time when they were not even entitled to salaries or allowances, are looked into.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Well said, Hon. Hulufu. Members, we have 30 minutes to go and we have five Members who are waiting to contribute. If I do my mathematics, five times ten minutes is 50 minutes, but we have 30 minutes. Be considerate and spend less than 10 minutes to contribute, so that all the five Members can contribute. I am speaking for the last two or three Members. Hon. Makali Mulu.

Hon. Benson Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to contribute. The waiting has been long. You have told us to contribute for only six minutes because we care about our colleagues. We will try to summarise, so that everybody gets a chance to say something.

I want to support this Bill. Since a lot has been said, I will just say a few things which have not been captured by previous speakers. I listened to the Chairman of the Committee when he was contributing. This is one of the Bills which would have benefitted a lot, if statistics were added into the presentation. We can benefit a lot by hearing the number of the Government employees we are talking about. County governments are major employers in this country. We have very many of them. It is important to get a feel of how many they are even as we think through this legislation.

The other thing is the issue of contributory scheme. The member will contribute 7.5 per cent of his salary and the employer 15 per cent. This is very important. The former councillors will not benefit. That is a challenge because we have people who were employed and nobody thinks about their retirement. We do not need to see how they can be sneaked in here but the Government needs to think seriously about a fund which can accommodate their needs. It should not be a contributory scheme because they are not employed and cannot contribute. Those are the issues which we need to consider as Members of Parliament as we move forward. In other countries, retirement schemes are a major source of mobilisation for domestic savings. Kenya is far below the expectation in terms of the percentage of the Gross Domestic Product (GDP). We are at around 8 or 9 per cent of the GDP. The recommended rate is about 25 per cent, so that you can generate growth out of your locally generated resources. We need to encourage Kenyans to save. I really like this idea where people contribute to retirement schemes because at the end of the day, they will save but it is forced saving which is good for the country.

The other thing which we need to consider is life expectancy. It is important for the Chair and the Vice Chair to know that life expectancy in this country is 63.4 years. Life expectancy of men is 61.1 years and that of women is 65.8 years. This means that on average, women live longer than men. In the situation where our retirement age is 60 years, then it means that most of the people will retire and access these amounts for at least one year and then die. That is what these statistics imply. We need to think about a strategy where people can start accessing their benefits slightly earlier. There is a proposal that you can start accessing your benefits at age 50 and then you think about how you can invest, so that even as you save for your retirement, you also invest. If you get out of office and die, then the earlier planning of saving for retirement loses meaning. That is very critical. It is important to compare our retirement age and life expectancy. There are countries where their life expectancy is 70 years, 80 years, 71 years or 72 years. If you retire at 60 years and you die at 61 years old, it means that at the end of the day, the much struggle which people go through to save will not be of benefit.

I want to give my last point, so that I can allow another Member to say something. There is the benefit you get as a result of saving through a pension scheme. There is tax relief. Taxation is made easier for you. If you are contributing to a retirement scheme, there is some percentage which you are allowed not to pay. Kenyans should be educated, so that they take advantage of that. They should know that when they save in a retirement scheme, they benefit from tax relief. That is critical for the country.

The other thing is that there is corruption in most of these retirement schemes. You are aware about the NSSF. There is a time in this country when the NSSF was involved in corrupt deals. That does not send the right signal to those who are saving for retirement. It discourages them when they see their earned resources, which are saved for retirement, being misappropriated by the administrators and the fund managers. I want to support what the previous Member said that it is important that we separate the fund manager, administrator and custodian. That is the best international practice. The idea of having somebody who has two positions provides room to seek rent. We should avoid that.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Member for Butula.

Hon. Joseph Oyula (Butula, ODM): Thank you, Hon. Temporary Deputy Speaker. I support the Bill.

First, this is a defined contributory scheme which provides social security benefits to the members. The Bill covers all the employees of the county governments. Therefore, they stand to

benefit when they reach the retirement age. The Bill lays down a very good administrative structure which will ensure the security of the contributions. The trustees will be appointed by the CS for the National Treasury, who has the authority to fire, if there are any misdeeds among them. The structure also brings a Chief Executive Officer who will be the accounting officer for the scheme. We need an accounting officer who can answer any questions that are raised by the public. So, that is taken care of. The Bill also takes care of the fund manager and the administrator. That structure assures the contributors of security.

The Bill indicates very clearly that the minimum contribution will be 7.5 per cent of your salary. The members contribute up to 12 per cent of their salaries currently in some of the existing schemes. However, the Bill saw it right not to reduce what the others are contributing by coming up with a minimum percentage which should be contributed. So, it will depend on the contributor, but he should not go below 7.5 per cent.

The Bill also encourages or brings out the issue of investments. The fund manager will invest the earnings or income to assure the contributors of payment when they retire. If there is no investment, the scheme can die very quickly. So, this investment proposal is very good. It assures the contributors of continuous receipt of their contributions.

There are two funds which exist already, namely, the LAPTRUST and LAPFUND. These will be closed down for the new contributors. The old contributors will continue until such a time they retire.

Hon. Temporary Deputy Speaker, the Bill has also proposed a penalty for those who will not remit contributions to the fund. That is very important because right now, we are told that the two existing funds are owed a lot of money by the former county councils. So, this has been brought to ensure that no funds are misdirected.

I urge all the Members to support the Bill subject to the amendments that will be proposed to enrich the Bill, so that county government employees can have a base when they retire.

People die quickly because they do not see anything that will help them. But with the Bill, people will not die as fast as they have been dying because they are assured of an income flowing to their kitties.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Gogo Achieng of Rangwe.

Hon. (Dr.) Lilian Gogo (Rangwe, ODM): Thank you very much, Hon. Temporary Deputy Speaker. It has been a long wait. I was here early, but my card did not work. However, I am glad I am now finally home. I rise to support the Bill. It is a very good Bill because it touches on the elderly. The Constitution emphasises on family systems and family life. If we look at the whole array from the children to the elderly, and mainly the elderly especially the retired, then it is a good sign and direction for our country.

I thank the Departmental Committee on Finance and National Planning for coming up with the Bill, which is well-structured. The management of the suggested scheme is well done and researched. However, I want to make some contribution in the time that is left. We are left with just a few minutes for the rest of us to speak.

The main issue about retirement schemes is not about the way they are administered. Of course, we have corruption that we are dealing with, but there is an element that we need to take care of that is equally important and that is capacity building of the retirees or beneficiaries. Often times, people retire and are given notice that they are to retire but are not given retirement

options. It is commonly said that life barely begins at 40. So, by the time somebody is retiring at 60, they are just about 20 years old if we go with that. So, a 20 year old can still do quite a bit including marrying. So, we should come up with systems that mitigate on the usage of money. There are people who literally time. They know that retirees have money and they position themselves strategically to get this money and use it on behalf of the retirees. So, as much as we may want to have a scheme for them, we should also start mandatory training two or one year to retirement to give the beneficiaries of the scheme some retirement options. There are many things that people can do. One can retire but he is not tired. People can also opt to take their benefits before reaching the mandatory retirement age. So, I bring in the element of capacity building to empower the retirees. This should also be included as part of the Bill.

I also want to emphasise the need to look at the term 'sponsor'. It has already been mentioned by the Member for Suba South. It needs to be replaced by another term because sponsor in Kenya means very many things.

We also need to look at supportive systems. As it is now, the NG-CDF is mainly restricted for education and security. But we could put a bit of it on social security especially for the elderly. We could have an allocation of the NG-CDF to the elderly, so that apart from the money they get from the retirement scheme, an amount of the NG-CDF takes care of them. It will not discriminate from county or national Government. People who retire will end up in our constituencies whether they were employed by the national Government or county governments. So, as much as we are debating a Bill covering the retirement of county government employees, it is important that we look at it and marry the two, so that we can have a system where the NG-CDF can take care of our elderly in one way or another by probably increasing the allocation.

Another thing that should come up clearly in the Bill is that from the training, we could include an element to make the retirees community elders who are trained to take care of the communities. They should not be dumped to go and use their retirement benefits. If we give the issue this dimension, I believe the retirees are going to appreciate themselves and be useful members of the society. What kills most of our retirees, both from the national Government and county governments is not lack of a source of income or lack of a source of sustenance, but it is a culture of wanting to spend all the retirement benefits and forgetting about tomorrow. As much as people retire probably after 60 years or earlier, it is after this time that people want to spend more. It is after this time that very many diseases attack because of old age. Part of the retirement benefits that are deducted should be put in a health benefit scheme. As much as we take care of the social part, we should have an amount set aside to take care of the elderly by way of their health from the time they are still working.

I support the Bill. It is a good Bill for our country. I urge both men and women to get off the system of using all their retirement money. Of course, they may want to have families for whatever reason at whatever age, but if they would restrict its usage and dedicate it to take care of themselves in old age, it would give them better benefits than using it to start family systems at that age.

I support the Bill. Thank you very much.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Member for Kitui Rural, Hon. Mboni Mwalika, then we will have one more Member. I seek your benevolence in terms of time.

Hon. David Mboni (Kitui Rural, CCU): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to the Bill.

I am a Member of the Departmental Committee on Finance and National Planning and I support the Bill. As a Member of the Committee, I welcome all the amendments which will make the Bill better for the workers of county governments.

From presentations by the stakeholders, we realised that county governments do not have a retirement scheme. The scheme which has been there has been in existence since the time of county councils. We have the LAPFUND and the LAPTRUST schemes. These schemes have brought a lot of confusion to county governments. There is a lot of competition between them and as we talk, there are around 7,000 workers who have not joined the schemes. Some of them were seconded from the national Government. They have lost benefits for the last five years. Therefore, this Bill should have come earlier so that these people can benefit.

This scheme tries to establish a single scheme for the county government workers. It is structured in a way that there is an administrator of the scheme, a custodian and a fund manager. The functions of those positions are well defined in the Bill. Therefore, if implemented well, we are going to have one of the best schemes for the employees of county governments.

Resource mobilisation is a very big challenge for this country. Savings are less than 10 per cent. The international recommended saving rate is around 25 per cent. If these schemes are managed well, we are going to have resources. This scheme should be used to come up with housing schemes for the workers so that we can achieve the Big Four Agenda.

The Bill proposes stiff penalties to employers who do not remit employees' contributions to the schemes. As we talk, the two schemes in existence are owed by county governments over Kshs20 billion. This is a very big challenge because they cannot function properly. Therefore, I support these penalties so that county governments do not frustrate the scheme that we are creating now.

Lastly, people have talked about the former councillors. I sympathise with them, but you realise that the former councillors were not earning salaries. When they came to meet us, it was very difficult for us to include them in the Bill because this Bill is for the county government workers. It does not include the councillors. We advised them to do a petition. This House should guarantee them some finances so that they are able to meet their basic needs. Some of them were telling us they were earning around Kshs8,000. Therefore, they can bring a petition. We should be able to give them even one-off funds so that they are able to uplift their standards of living.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Member for Nairobi County. I will give you some four minutes.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I stand to support this Bill but with reservations. When you look at Clause 48(1), it seems like we are not serious about protecting our old. How can we say that if you steal from the fund, you pay a fine of Kshs5 million or serve two years in prison?

Let me bring you a case that is currently in court. There is a driver who skipped bail and he has been fined Kshs130,000, which he does not have. Now, he has been thrown into Kamiti Prison for two years and three months. For me, when somebody is entrusted with the funds for the retirement of our citizens, majority of them from various counties, and we say that if they steal from the funds, all they need to do is pay Kshs5 million, we are not serious about dealing with corruption. It should be nothing less than a life sentence. The amounts of money being stolen in this country are huge. In China, people are hanged for theft. People are stealing and

squandering public resources and we are saying they should pay Kshs5 million or face two years in prison.

Another thing that worries me is that we have so many ex-councillors who are languishing in poverty. If we set up a fund that is going to support the county employees, we have to start by example. We have to find a way to recover the money that county governments or the city councils owed. We have to come up with some kind of compromise. The Government is always creating funds. We have to look at how much was collected, where there is a shortfall and compensate all those who have retired so that we can give credence to having an amalgamated fund that can look after the old.

I would worry about the Government been lent all this money. Government gives a very low interest and inflation is not factored in. If the Government gives 10 per cent, and they borrow this money from the fund, then we would end with a situation where there will be very little in terms of inflation benefit to the retired citizens and employees of county governments. There should be creative thinking. Many old people require certain special care and attention. How about old people's homes built by the fund or retirement homes where they can be taken care of and they exit the world in a dignified manner?

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Well said, Hon. Passaris. Hon. Members, there being no more requests for contributions, I call upon the Mover to reply.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Speaker. I thank all the Members who contributed immensely to this Bill. The principal objective of this Bill is to establish county government retirement scheme. Yes, former councillors have predicaments but they cannot fit into this Bill. They have come to my office but I have no solution for them. Thousands of councillors are suffering. The best route Members were saying this afternoon is to bring a petition. Furthermore, that petition is of money nature. Secondly, this Bill provides for the establishment of scheme's board of trustees. Thirdly, this Bill provides the funds administrator, custodian and manager and their functions.

To allay the fears of the existing funds, supporting either the county assemblies or the county governments, there are transitional clauses in this Bill so that existing institutions' assets, liabilities and contributions will be taken care of and transferred to the new scheme. So, there is a period given out.

Members have contributed. This is a universal scheme for all the former county and national Government workers who were taken by the 47 county governments. When we come to the Committee of the whole House, hopefully after the recess, this Bill will undergo some further amendments either by the Committee or by the respective Government agencies and the National Treasury.

Finally, within the PFM Act, it is only the CS, the National Treasury, who has the powers to create a pension fund. So, whether you use an individual private Member as the sponsor of the Bill, powers lie with the CS. That is why the Departmental Committee on Finance and National Planning agreed to this Bill more than the other Bill by the private Member because the function and powers to set up a pension fund lie with the CS.

Our colleagues, the Senators, are looking for a fund like the ones for the 47 women representatives or the NG-CDF. Any fund that will be created under this Constitution or the PFM Act must be a fund where the regulations are signed by the Cabinet Secretary, the National Treasury and nobody else. I have told the Senators to ensure that their regulations are signed by

Henry Rotich the current Cabinet Secretary, who will bring them to the House and we will help them where it is applicable in legislation.

With those many remarks, I beg to reply.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Members, the time being 7.00 p.m., this House stands adjourned until tomorrow, Wednesday 4th July 2018 at 9.30 a.m.

The House rose at 7.00 p.m.