

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 26th November, 2013

The House met at 2.30 p.m.

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

PRAYERS

PETITION

TARMACKING OF ROADS IN GATANGA CONSTITUENCY

Hon. H.K. Njuguna: Thank you, hon. Speaker. I am presenting a petition on behalf of residents of Lower Gatanga in Gatanga Constituency on the tarmacking of Gatiiguru-Macvast-Matangini-Ithanga-Kirathani-Miuu ya Ng'ang'a-Makuyu Road.

We, the undersigned residents, road users and motorists of Gatiiguru-Macvast-Matangini-Ithanga-Kirathani-Miuu ya Ng'ang'a in Lower Gatanga, Gatanga Constituency, draw the attention of the House to the following:

One, you are aware that the residents of Lower Gatanga have suffered a great deal since independence due to poor road network in the area.

Two, over the years, Gatiiguru-Macvast-Matangini-Ithanga-Kirathani-Miuu ya Ng'ang'a-Makuyu Road in Lower Gatanga, Gatanga Constituency has not been tarmacked or maintained, hence is inaccessible and impassable, especially during the rainy season. This has adversely affected development in the area and resulted in reduced revenue generation and marginalization of this community when the Kenya Rural Roads Authority (KeRRA) is charged with the responsibility of construction and maintenance of all rural roads, which include Gatiiguru-Macvast-Matangini-Ithanga-Kirathani-Miuu ya Ng'ang'a-Makuyu Road. KeRRA has failed to tarmack and maintain this road despite several requests by the residents and motorists of the Lower Gatanga.

Therefore, your humble petitioners' plea is that Parliament requests KeRRA, through the Cabinet Secretary for Transport and Infrastructure to, without delay, commence construction of this road and allocate funds in the next Financial Year 2014/2015 for completion of this project.

This petition is signed by 187 residents of Lower Gatanga, and I now wish to lay the petition on the Table of this House.

Thank you, hon. Speaker.

(Hon. H.K. Njuguna laid the document on the Table)

Hon. Speaker: Very well. The petition will be referred to the Departmental Committee on Energy, Communication and Information whose Vice-Chair is seated next to you.

Hon. (Eng.) Mahamud: Yes, hon. Speaker Sir. We will look at the petition, together with KeRRA and invite the Member. We will address it in the next two weeks.

Hon. Speaker: Very well. Leader of Majority Party, proceed.

PAPERS LAID

The following Paper was laid on the Table:-

The National Honours Regulations, 2013.

Hon. Speaker: The Regulations stand committed to the Departmental Committee on Labour and Social Welfare.

Next Order.

NOTICE OF MOTION

Hon. Speaker: Any Member desirous of giving notice of any Motion that may have been approved? I see no request on the screen.

Next Order.

REQUESTS FOR STATEMENTS

Hon. Speaker: The following eight Members have sought Ministerial Statements. Hon. Barua.

STATE OF KENYANS WORKING ABROAD

Hon. Barua: Thank you hon. Speaker, Sir. Pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Leader of Majority Party regarding the state of Kenyans working abroad, especially in South Sudan. Many Kenyans are dying under mysterious circumstances in South Sudan. In one case, the late Daniel Kinyua Kiura was jailed on 30th August, 2013 in South Sudan for allegedly stealing from his employer. The employer who accused him, failed to turn up for the hearing of his case twice and Daniel was imprisoned without evidence. He died in prison on 4th October 2013 due to alleged negligence of his upkeep.

In his Statement, the Leader of Majority Party should inquire and report on the following: Whether the Government has a stringent foreign policy that protects Kenyans working abroad, especially in South Sudan. The Leader of Majority Party should give us a report on the status of investigations that were to be carried out in the case of the late Daniel Kinyua Kiura, specifically with regard to his death as requested by his family, and whether there will be any compensation or support to his family, especially from his employer.

I have a letter from his family to me, which I will table. I also have a copy of a letter from the Embassy of the Republic of Kenya in South Sudan requesting investigations, which I will table. I also have his employment card.

Thank you, hon. Speaker Sir.

Hon. Speaker: Well, you table them for onward transmission to the Leader of Majority Party.

(Hon. Barua laid the documents on the Table)

Yes, Leader of Majority Party.

Hon. A.B. Duale: Thank you, Hon. Speaker, Sir. This is a sensitive matter. I will give an answer on Wednesday morning, next week.

Hon. Barua: That is okay, Hon. Speaker, Sir.

Hon. Speaker: Very well. I can see the Leader of Majority Party is even allowing you to use his microphone.

The second Statement is by Hon. George Oner. However, he has not placed his request.

FRAUDULENT LAND TRANSACTION IN MAVOKO

Hon. Ogalo: Hon. Speaker, Sir, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairpersons of Departmental Committee on Lands and the Departmental Committee on Labour and Social Welfare concerning the alleged fraudulent transaction in relation to all that piece of land known as LR.No.20305 situated in Mavoko area in Machakos County.

The National Social Security Fund (NSSF) purchased land that was fraudulently represented as comprising 150 acres while in reality such piece of land comprised only 10 acres. As a result of this, the NSSF currently risks losing close to Kshs1 billion belonging to pensioners.

In the light of this, the Chairpersons should inquire and report on:-

- (i) the circumstances under which the NSSF purchased the said land;
- (ii) the remedies available to the NSSF for this unfortunate situation;
- (iii) the action that will be taken against the persons found guilty of taking part in such fraudulent actions; and,
- (iv) the status of the land registered as LR 65183 in the name of Tetete Company Ltd. that was purchased by the NSSF in 1995 yet the parcel of land has already been allocated to other parties and titles issued.

Thank you, Hon. Speaker, Sir.

Hon. Speaker: Even before the Chairpersons respond, I hope that this is not one of those matters which could be within public knowledge, and which might involve you. This is to ensure that we do not seek to hold some trials here as this is not part of our functions.

Hon. Ogalo: No, hon. Speaker, Sir. I wrote to you about the other matter and you are aware of it. Your ruling is not on this one because this is a different matter. This is purely in public interest.

Hon. Members: Declare your interest!

Hon. Speaker: Since Hon. Oner has not declared any interest, we shall assume that he has none.

Hon. Ogalo: Absolutely none, hon. Speaker, Sir.

Hon. Speaker: Yes, the Chairperson, Departmental Committee on Lands or a Member thereof. Who is the Vice-Chair of this Committee? Hon. (Ms.) Tiyah Galgalo, I

thought you were the Vice-Chair, Departmental Committee on Labour and Social Welfare.

Hon. (Ms.) T.G. Ali: Thank you, hon. Speaker, Sir. I am the Vice-Chair, Departmental Committee on Labour and Social Welfare. We will look at this matter and get back to the hon. Member as soon as possible. Maybe, we will do that next week.

Hon. Speaker: This Statement is directed to the Departmental Committee on Lands.

Hon. (Ms.) T.G. Ali: I am the Vice-Chair, Departmental Committee on Labour and Social Welfare and not the Departmental Committee on Lands. I am sorry, hon. Speaker, Sir.

Hon. Speaker: Hon. Kihagi, are you in that Committee?

Hon. Kihagi: Hon. Speaker, Sir, I am in that Committee together with hon. Oner. I will relay the request to the leadership of the Committee.

Hon. A.B. Duale: On a point of order, hon. Speaker, Sir. I am sure that you are concerned. Again, hon. Oner is asking for a Statement from his own Committee. It is very fishy because this is a question he could have discussed with his colleagues.

From his background as a surveyor, the earlier people declare their interest the better. I am sure that the NSSF is not part of his constituency. That is a matter of public interest but again he is an active Member of the Departmental Committee on Lands. This matter should have even gone to the Committee and not to the Floor of the House. I am sure that the hon. Member can get an answer through his Committee Members. However, here we are seeing a Member seeking an answer from a Chair of a Committee. I seek your direction whether this is procedural.

Hon. Speaker: I want to tell the hon. Member that if he has a matter which can be canvassed within the Committee, he should raise it and get his Committee to investigate it. Hon. Oner has said that it is a matter of public interest, but he might even be the one to provide the answers he is seeking as an expert in that field.

Yes, hon. Oner.

Hon. Ogalo: Thank you, hon. Speaker, Sir. If you look at my request for the Statement, you will find that it was directed to both the Departmental Committee on Lands and the Departmental Committee on Labour and Social Welfare. This is because the input of the Departmental Committee on Labour and Social Welfare is very important.

The former Managing Trustee happens to come from near my constituency. He actually runs a business in my constituency. This is one of the things that he claims made him to be fired. That is one of the reasons I am requesting this Statement on the Floor of the House. The former Managing Director was Tom Odongo.

Thank you, hon. Speaker, Sir.

Hon. Speaker: I think this Statement should go to the Departmental Committee on Labour and Social Welfare. If, as you say, parcels of land were not allocated properly or what was purchased was “air”, and if not air it was something underneath the sea, if you are invited to appear before that Committee, you will be very well placed to prove or show the Committee the stuff under the sea, or in the air, that was purchased. This will ensure that the Committee on which you sit does not really have to investigate the matter unless it is the issue of the title.

In any event, even if it is the Departmental Committee on Labour and Social Welfare investigating this matter, they will go into finding out the issue about the title deed. In all fairness, this matter should go to the Departmental Committee on Labour and Social Welfare. I encourage them to invite you, hon. Oner, to help them given your expertise on land matters. You might actually make it possible for them to get the information that they could take ages to get.

It is, therefore, accordingly directed that this request for Statement goes to the Departmental Committee on Labour and Social Welfare. Hon. (Ms.) Tiyah Galgalo, you can express yourself on this.

(Hon. Njomo stood in his place)

Hon. Tiyah Galgalo is a lady. I can now see Jude Njomo rising in his place. I am sure he is not the one. Hon. (Ms.) Tiyah Galgalo, you are the Vice-Chair of that Committee.

Hon. (Ms.) T.G. Ali: Hon. Speaker, I will be more than happy to receive the Statement and look at it. We will also have a meeting this week on Thursday. Maybe you can also appear before the Committee. When you submit your request, we will look at it and give you a feedback, maybe, in the next two weeks. I am sure we are going for recess, but we will be able to give you a feed back at the right time. You can attend the Committee's meeting on Thursday and get more information on the same.

Hon. Speaker: You can begin the conversation there, hon. Oner. I think that is very useful.

The third request is from hon. Samuel Nderitu.

MEASURES TO STREAMLINE ADMINISTRATION OF NEW WARDS IN CONSTITUENCIES

Hon. Nderitu: Hon. Speaker, pursuant to Standing Order No.44(2)(c) I wish to request for a Statement from the Departmental Committee on Administration and National Security on the state of administration of the new wards created by the Independent Electoral and Boundaries Commission (IEBC) in its last exercise to set boundaries.

Some wards across the country remain administratively between two districts, thereby creating confusion that has hindered delivery of services. For instance, Malewa West Ward in Gilgil Constituency, which the IEBC put under Gilgil District, has administratively remained in Naivasha District to date.

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

(i) why some of the boundary changes undertaken by the IEBC have not been enforced administratively such as Malewa West Ward under Gilgil Constituency in Gilgil District; and

(ii) when the changes will be effected to streamline administration of the said wards.

Hon. Abongotum: Hon. Speaker, if you look at it I think you will realize that this request is not meant to be handled by our Committee. This is squarely in the purview of the Departmental Committee on Justice and Legal Affairs. If there are issues related to wards--- There are interviews at the moment and some county and ward administrators

have actually been appointed in some place. If it is also about this, then it can be referred to the Committee dealing with finance and devolution. So, it is not under our purview.

Hon. Speaker: Under which Committee does devolution fall? Is it finance and trade? Of course, I agree with you to the extent that what was done by the IEBC is a matter provided for under Article 89 of the Constitution. However, the IEBC has finalized its bit. All they will do, if you call them, is to produce the maps. The issue the Member is raising is this, that notwithstanding what the IEBC produced, the particular ward that he referred to seems to administratively fall within Naivasha Constituency – if he means the electoral area. I think, perhaps, what you have explained could be the reason why there are some jitters.

I think the matter is why the national administration has not effected what IEBC proposed. What the IEBC has done is already in the national maps; the boundary for that particular ward is known. It is in Gilgil Constituency, but it seems to be administered from Naivasha Constituency. So, IEBC has no role in the matter. Your Committee could step in and find out why what IEBC has produced has not been implemented on the ground administratively.

Hon. Abongotum: Much obliged hon. Speaker. We will try to sort out this matter. I know the IEBC ruffled a lot of feathers when they were creating these boundaries. I know one of my wards was relocated to some place where people are actually causing problems. We will try to issue a response to this request by Thursday next week.

Hon. Speaker: You may also invite the IEBC on the day you are inviting the people in charge of national administration.

Hon. Nderitu: As you realize, hon. Speaker, this is a nationwide irregularity. The IEBC set the boundaries and it is now a matter of transferring areas to the right places. We know we went through presentations; we even discussed. Before the IEBC came up with the final draft of the map, it was something agreeable. It is unfortunate that in your constituency there could be that misunderstanding about the location. Even somebody from Juja here is whispering that he has the same problem. In fact, there are two Members here who have the same problem.

Hon. Speaker: Do not tell us the things which are being whispered to you.

Hon. Nderitu: Hon. Speaker, I think they have heard. It is a nationwide problem, only that I have raised it on Gilgil. I expect that answer next week.

COMPENSATION FOR LAND ACQUIRED FOR CONSTRUCTION OF LAMU PORT

Hon. (Ms.) Shakila Mohamed: Hon. Speaker, pursuant to Standing Order No.44(2)(c) I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding compensation for the people evicted from their land to pave way for the construction of the Lamu Port. The Government promised those affected that they would be compensated before construction works on the port commenced. However, nothing has been done towards the same, yet the first phase of the port project is already underway.

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

- (i) when the Government intends to compensate the affected land owners;

(ii) the interim measures put in place to help the affected families whose land was acquired for the project; and

(iii) the complete list of beneficiaries and any compensation and the amount to be paid.

Thank you, hon. Speaker.

Hon. Speaker: Hon. (Eng) Mahamud.

Hon. (Eng.) Mahamud: We will try to avail the information required in consultation with the Ministry concerned in three weeks' time.

Hon. Speaker: Hon. (Ms.) Shakila, take the Floor.

Hon. (Ms.) Shakila Mohamed: This is a very sensitive issue; it should have been sorted out long ago. I wonder whether the Chairman of the Committee can give the answer at least in one week's time, before we go on recess. I will really appreciate.

Thank you, hon. Speaker Sir.

Hon. Speaker: Might you be keeping the report somewhere? You can fish it out immediately.

Hon. (Eng.) Mahamud: No, hon. Speaker, Sir. This is something that is very new to us and I am sure it is a massive exercise. I do not think it will be possible to give an undertaking to do it in fewer than three weeks. We will immediately embark on it, go and research for information, share it with the Member, and see what action can be taken.

Hon. Speaker: Indeed, hon. (Ms.) Shakila Mohamed, it cross-cuts several Departments of Government like that of lands, administration and internal security and transport, especially with regard to the list of the beneficiaries. Perhaps, so as to get proper information I will suggest, and encourage that hon. (Ms.) Shakila Mohamed be invited when various Government functionaries are invited at the Committee. She will also input into the Statement that we will finally get.

Hon. (Ms.) Shakila Mohamed, it does appear like it may be reasonable, if you are not looking for a quick fix, for you to allow the Committee more time to get some useful information. What is your take on this, hon. (Ms.) Shakila Mohamed?

Hon. (Ms.) Shakila Mohamed: Fair enough, hon. Speaker, Sir, and much obliged.

Hon. Speaker: Very well.

Hon. Mwinga Gunga, take the Floor.

ALTERATION OF ADMINISTRATIVE UNITS AND IDENTITY CARDS ENTRIES

Hon. Chea: Thank you, hon. Speaker, Sir. Pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security regarding the alteration of the administrative units and national identity cards entries in Kaloleni Constituency. In fact for so many years, and in accordance with the National Government Co-ordination Act, 2013, Jibana and Chanagande locations, as administrative units, have been within Kaloleni Division. However, in the National Registration Bureau Computer Codes 2013, the aforementioned Jibana and Chanagande locations have been placed within Mwana

Mwinga Division, and the national identity cards recently issued in respect of those areas have reflected Jibana na Chanagande locations as being within Mwana Mwinga Division.

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

(a) the circumstances that resulted in the changes in the administrative units and why the national identification cards, issued to the residents of Jibana and Chanagande locations reflect details of Mwana Mwinga Division; and,

(b) the steps the Cabinet Secretary has taken so far to ensure that the errors relating to the computer codes 2013 are rectified and by when.

Thank you, hon. Speaker, Sir.

Hon. Speaker: Hon. Kamama, take the Floor.

Hon. Abongotum: Thank you, hon. Speaker, Sir. We will respond in two weeks' time.

Hon. Speaker: Hon. Gunga.

Hon. Chea: I am agreeable, hon. Speaker, Sir.

Hon. Speaker: Hon. Winnie Karimi Njuguna, take the Floor.

LACK OF NCPB DEPOTS ACROSS THE COUNTRY

Hon. (Ms.) W.K. Njuguna: Thank you, hon. Speaker, Sir. Pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Agriculture, Livestock and Cooperatives regarding the National Cereals and Produce Board (NCPB) stores across the country.

Hon. Speaker, NCPB stores play an important role in helping farmers across the country find safe and secure storage for their produce, as well as a ready market. However, some regions of the country lack these crucial stores, an example is rice-producing Mwea District. The NCPB mobile stores have not helped the situation since they always come late, long after harvesting is done.

Farmers find themselves at the mercy of exploitative brokers and middlemen since they have no secure stores for their surplus rice. In addition, farmers from the region are forced to travel to Embu, which has two NCPB stores, or Sagana to get fertilizer and other inputs.

In his Statement, the Chairperson should inquire into why Mwea, a major rice-producing region in the country, does not have a permanent NCPB store.

Thank you, hon. Speaker, Sir.

Hon. Speaker: Is it possible that you also include middle women, so that those crooked middle people are not just men?

(Laughter)

Or, is it that when they are crooked, they are of one gender?

Hon. (Ms.) W.K.Njuguna: Mostly they are middle men.

Hon. Speaker: It is understood, recently we had a debate on Matrimonial Property Bill. So, you can understand that when they are crooked they become of one gender.

Anyhow, the Chairperson, Departmental Committee on Agriculture, Livestock and Cooperatives, hon. Nooru, or the Vice-Chair hon. Kareke Mbiuki, take the Floor.

Hon. Mbiuki: Thank you, hon. Speaker, Sir. The Committee is seized of this particular matter, and I want to confirm that there are quite a number of counties, especially where I come from, Tharaka Nithi County, without any depot. I also wish to confirm that the Ministry of Agriculture, Livestock and Fisheries had started construction of the grain storage facilities in quite a number of counties which were lacking NCPB depots. It is very unfortunate that due to devolving of this function, the ongoing construction of these grain storage facilities, which was going on in 15 counties, has stalled due to lack of funding.

I want to confirm that next week we will be holding a session with the Cabinet Secretary to explain to us what will happen to the ongoing projects which were being undertaken by the Government. If you look at the devolving functions by the Transition Authority, you will see that construction of the grain storage facilities has also been devolved. We are also asking ourselves how you can devolve an ongoing contract.

There is tug of war between the national Government and county government with regard to this particular matter, and I wish to invite the hon. Member to join us next week on Tuesday so that we can explore this particular issue.

Thank you, hon. Speaker, Sir.

Hon. Speaker: Very well, that is very useful information. Hon. Members, what hon. Kareke Mbiuki has explained is very useful and I would, therefore, encourage other Members who may be having similar problems to attend the Committee's hearing on Tuesday, as he has indicated. It is only there that, perhaps, you will get responses. Those others who may have been intending to make similar requests will have them addressed at that meeting. Hon. (Ms.) W.K. Njuguna, are you comfortable with that?

Hon. (Ms.) W.K. Njuguna: That one is okay, and I want to thank the Member; he has taken the matter very seriously. In Mwea, we do not even need construction, as we have very many stores which are empty, you find nothing going on there. So, if those stores are converted into grain storing facilities, they can be of use.

Hon. Speaker: You will also address that issue of middle people. Did you say unscrupulous middle people?

(Laughter)

Hon. Peter Kamande Mwangi, I am following the list, which I am sure every one of you has, because there may be no reason for me to follow any other. Hon. Jude Njomo.

Hon. Njomo: Hon. Speaker, Sir, your microphone has been having a problem lately. We have been making a lot of effort to comprehend what you are saying, and missing some of your humorous jokes and words of counsel. It is very important that the technical people work on your microphone, so that we can hear what you say without a lot of effort. It was quite evident that my colleague here stood up for the wrong Committee because he could not hear clearly what you were saying. It is very important that engineers - I know we have very good engineers in this House - work on your microphone, so that we can clearly hear what you say without too much effort.

Hon. Speaker: Hon. Njomo, I do not have to work on it. You have drawn attention to the inadequacy of voice. I believe they are listening also, and should begin

working on it. I agree because even hon. Nderitu, most Members did not hear the point he was raising, but he was lucky that hon. Kamama was not too far away from him and he could hear what he was saying.

Hon. Peter Kamande Mwangi, his Statement request is dropped!

(The Statement request by hon. Mwangi dropped)

Hon. Zuleikha Hassan Juma!

VIOLATION OF MUSLIM STUDENTS' RIGHTS IN PUBLIC SCHOOLS

Hon. (Ms) Juma: Thank you, hon. Speaker, Sir, for granting me this opportunity. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairpersons of the Committees on Labour and Social Welfare and Education, Research and Technology regarding the treatment of Muslim students in public schools.

The preamble and the Bill of Rights in the Constitution outlaw discrimination on the basis of religion amongst other things and this is meant to foster unity in diversity. In this regard, I wish to hail the recent High Court ruling by Justice Isaac Lenaola that ordered all public schools to respect the religious rights of followers of the Seventh Day Adventist, on Monday, 27th May, 2013. Whereas we commend educational institutions that respect and uphold the religious rights of Muslim students in public schools, we are concerned about the many that continue to violate the students' right to practise their religion.

This discrimination includes being denied the right to say their daily prayers, and being forced to study Christian religious education, buy Christian religious books and attend church services. Public girls' schools, for example, Alliance Girls High School, Limuru Girls, Kenya High, Buruburu Girls, Precious Blood, Riruta, Sunshine, Ganze Secondary School and others are on record as forcing Muslim girls to remove the headscarf and stop covering their legs. Muslim parents are forced to either accept these conditions or remove their children from these schools. Last year, Muslim parents were forced to remove all their children from Olkejuado High School, after their prayer room was burnt down and the Holy Quran destroyed. The board of governors refused to comply with a directive from the Ministry of Education to set aside a prayer place for Muslims. Such practices are a threat to national cohesion, integration and diversity.

The Chairperson should inquire into this and affirm the welfare of Muslim students in public schools, and the specific arrangements made by these schools during the month of Ramadhan to prevent Muslim students from breaking their fast before time.

Hon. Speaker: The Chairperson, Departmental Committee on Education, Research and Technology, we want to know whether the said school, Olkejuado High School refused, failed and/or neglected to comply with the directive.

Yes, hon. Kibiwott Melly.

Hon. Melly: Hon. Speaker, Sir, putting into consideration the fact that the matter is very weighty, the Committee will delve into it and shall report to this House next Tuesday.

Hon. (Ms.) Juma: Hon. Speaker, Sir, that is okay with me, especially since it will be before the schools open next year.

Hon. Speaker: Very well. Hon. Joyce Wanjalah Lay.

Hon. (Ms.) Lay: Asante sana Bw. Spika. Ningetaka kufuatilia swala ambalo nilikuwa nimeuliza Mwenyekiti ambaye anasimamia mambo ya mazingira na mali asili kuhusu unyanyasaji wa wafanyikazi katika migodi nchini Kenya, na hasa nikamweleza kwamba kuna tatizo upande wa Kasigau ili aweze kufuatilia. Hadi sasa sijapata jibu.

Hon. Speaker: That is the Committee on Environment and Natural Resources, chaired by hon. Amina Abdalla?

Hon. (Ms.) Lay: Yes, hon. Speaker, Sir.

Hon. Speaker: When did you raise the issue?

Hon. (Ms.) Lay: About three weeks ago.

Hon. Speaker: Hon. Amina Abdalla, I can see you are flying in.

Hon. (Ms.) Abdalla: Bw. Spika, ningependa kumuomba radhi Mbunge wa Kaunti ya Taita Taveta kwa sababu hatujapata fursa ya kukutana na Waziri. Tunatarajia kukutana naye Alhamisi wiki hii.

Hon. (Ms.) Lay: Bw. Spika, Alhamisi wiki hii ni sawa lakini jambo hili lilikuwa la dharura sana. Hapo upande wa Kasigau, kuna mwanamke ambaye anawanyanasa wanawake wenzake ambao wanafanya kazi kwenye migodi. Ikifika jioni, mwanamke huyo anachunguza kama wanawake wamemwibia madini; njia anayoitumia kuangalia kama wamemwibia ni ya kutia aibu kwa wanawake. Anavaa *gloves* halafu anaingiza mikono kwenye sehemu za siri kuangalia kama wameiba madini. Hili ni jambo ambalo lingefaa lishughulikiwe mapema. Sijui kama Kamati ilifanya uchunguzi wakajua kwamba mambo kama hayo yanafanyika kabla hawajaenda kwa Waziri. Hatuwezi kukaa muda mrefu tukimsubiri Waziri. Vile huyu mwanamke anavyofanya, anaweza kueneza hata magonjwa kwa sababu anatomia *glove* moja kuwachunguza wanawake wote. Kama mtu mmoja ana ugonjwa, ataeneza ugonjwa huo kwa kila mtu. Hatutakubali jambo hilo. Wananchi wamesubiri kwa muda mrefu na wamekuwa na hasira. Nimejaribu kuwazuia na mara nyingi wanasema wanataka kuchukua hatua. Hili jambo ni lazima litiliwe mkazo.

Hon. Speaker: Well. Did I understand hon. Amina to be saying that they will be meeting the Cabinet Secretary on Thursday this week? We appreciate that is a very serious matter; even committee members can hide themselves today and tomorrow, so that come Thursday, we hear what will be likely to come up. I would encourage hon. Lay to also appear before the Committee. It will be useful, so that the Cabinet Secretary and others, who may be accompanying him or her, are also made aware of the serious allegations that the public are making against the said lady.

Hon. Abongotum: Hon. Speaker, Sir, these are very serious allegations and we want to confirm from the Chairperson whether this lady is a qualified gynecologist and obstetrician. If she is not qualified, this is also a health concern, even medical people should also be involved in this because it is really serious.

Hon. Speaker: Well, for the time being we will treat it as allegations because I think it is an offence for anybody to do what hon. (Ms.) Lay has said about another person. So, it is a matter that could actually be handled even through the criminal justice system.

Hon. Members, even if we discussed and we are going to present it on Thursday, I think it may be better that you keep the information you have until Thursday. You will have an opportunity to lay bare the many claims that the people you represent have brought to you.

Hon. Njuki: Thank you, hon. Speaker, Sir. Mine is a concern that I requested two Statements. One is three weeks old and was to the Committee on Environment and Natural Resources. I would like to know the position. It was in connection with logging in Mt. Kenya Forest. Since then this activity has been going on, even though unofficially, because there is no particular directive on the same.

The other one is six weeks old. It was directed to the Committee on Transport, Public Works and Housing, in connection with the tarmacking of Chuka Town. This issue has come up about twice. The first time, hon. Cecily Mbarire, promised a response in three weeks and when the three weeks elapsed, hon Mahamud, who is also in the Committee on Transport, Public Works and Housing promised a response in another three weeks. Now that we are going on recess, it would be prudent for the two Committees to tell me when we can receive the Statements.

Thank you.

Hon. Speaker: Which Committees are those?

Hon. Njuki: The Departmental Committee on Environment and Natural Resources and the Transport, Public Works and Housing Committee.

Hon. (Ms.) Abdalla: Hon. Speaker, Sir, we invited the hon. Member to the Committee and we had a session with the Kenya Forest Service. We have concluded the matter and it is waiting to be presented to the House on Thursday during the time allocated for issuing Statements.

Hon. (Eng.) Mahamud: Hon. Speaker, Sir, I am sorry I did not hear the request.

Hon. Speaker: Hon. Muthomi Njuki, can you repeat it for the benefit of the Vice-Chairperson?

Hon. Njuki: Hon. Speaker, Sir, first, I do appreciate what hon. (Ms.) Abdalla has said, but I never appeared before the Committee because I was away. Therefore, I am not aware of what transpired in the Committee; I expect to know it after the Statement is presented.

As for the Departmental Committee on Transport, Public Works and Housing, I requested a Statement on the tarmacking of Chuka Town. This matter has been an issue going back for several years. Tenders have been awarded, but money has usually not been allocated and nothing has happened. I requested this Statement six weeks ago. The first time, I was promised three weeks by hon. Cecily Mbarire. After the three weeks elapsed, I was promised two weeks by hon. (Eng.) Maalim Mahamud. It is now six weeks and nothing has happened.

Thank you.

Hon. (Eng.) Mahamud: Hon. Speaker, Sir, it is true we have not been able to engage the hon. Member on this matter, nor the Kenya Rural Roads Authority (KeRRA). But let me undertake that in the next two weeks, we will be able to tackle this matter and get back to the hon. Member.

Hon. Mbiuki: Thank you, hon. Speaker, Sir. On the same issue, I think this matter is quite straightforward because the contract for tarmacking Chuka Town and roads in its environs was given to M/s Impex Contractors. What we are looking for is the commencement date from KeRRA. So, it is only a question of the Vice-Chair getting in touch with the Government and telling us when construction work will begin. This is because this is an issue which, as a county, we have been following for the last 50 years.

So, as we are celebrating 50 years of independence, we all need to celebrate for something.

Hon. Speaker: Hon. (Eng.) Mahamud, does that make it any better or clearer?

Hon. (Eng.) Mahamud: Hon. Speaker, Sir, I know KeRRA had some challenges. But I undertake that, as a Committee, we will engage them and if they awarded the tender, there is no reason why they should not be given the letter for commencement of the work. So, we undertake to push them to do the work.

Hon. Speaker: Very well. Then, can you give the Statement next week?

Hon. (Eng.) Mahamud: Yes, next week, hon. Speaker, Sir.

Hon. Speaker: Next Order.

BILLS

First Reading

THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) BILL

*(Order for First read – Read the First Time and ordered
to be referred to the relevant Departmental Committee*

Second Reading

THE WILDLIFE CONSERVATION AND MANAGEMENT BILL

(Hon. (Ms) Katoo on 20.11.2013)

Resumption of Debate interrupted on 20.11.2013)

Hon. Speaker: Hon. Members, those who were not on their seats, perhaps, we should clear this business.

Hon. Members, debate on this Bill was concluded, but for reasons that most of you may be aware of, the Question was not put. Therefore, my simple and singular task is to put the Question.

(Question put and agreed to)

*The Bill was read a Second Time and Committed
to a Committee of the whole House tomorrow)*

THIRD READING

THE CAPITAL MARKETS (AMENDMENT) BILL

Hon. Speaker: Hon. Members, again for similar reasons the Capital Markets (Amendment) Bill, National Assembly Bill No.8 of 2013, had debate on it concluded, but the Question as to whether it should be read a Third Time was not proposed.

(Question proposed)

Hon. Members, you know that I know the procedure. Do not try to imagine that you have suddenly known these things. It is important to appreciate that upon the proposing of the Question, hon. Members are at liberty to make short comments. Therefore, it is not that your Speaker is learning anything new. The procedure is purely on my finger tips.

(Question put and agreed to)

(The Bill was accordingly read the Third Time and passed)

Second Reading

THE NATIONAL SOCIAL SECURITY BILL

(Hon. A.B. Duale on 21.11.2013)

(Resumption of Debate interrupted on 21.11.2013)

Hon. Speaker: Hon. Samuel Gichigi, you were seconding. You have a balance of three minutes.

Hon. Gichigi: Hon. Speaker, at the time the Sitting ended last time, I was talking about the pension problems in the Government. Every person who has talked to a pensioner in this country knows the problems they go through as they try to get paid their pension by the Government. This Bill seeks to convert the National Social Security Fund (NSSF) into a contributory pension scheme, to which both the employer and the employee, including the Government, will make contributions. Therefore, it is a good Bill.

This Bill will encourage a saving culture in this country. We have a problem of people not saving but once this Bill becomes law, people will be compelled to save about 12 per cent of their net earnings. There is a role that pension schemes play when it comes to development of countries. Some countries have developed because their pension schemes are vibrant and, therefore, are able to lend their governments money to implement infrastructural projects. Another advantage of this particular Bill is that it has benefits. It has funeral grants, something which does not happen under the current law.

Whenever people mention the NSSF, they relate it to corruption and lack of integrity. This Bill seeks to subject the NSSF to the Retirement Benefits Authority (RBA), which has streamlined the pension industry in this country. For the first time, it is setting qualifications for the Managing Trustee (MT). This is good and we should all support it for the benefit of our old people.

With those remarks, I beg to second.

(Question proposed)

Hon. Speaker: Yes, hon. Kajwang’.

Hon. Kajwang’: Thank you, hon. Speaker. I rise to debate the Bill before us because the issues that have been raised therein are very dear to me. I represent a constituency where 98 per cent of its population are workers in this country. They are the men and women who toil in Industrial Area. They toil at construction sites. They are the watchmen who keep us secure when we are asleep. Those are the people that this Bill is speaking to. I want to thank the Leader of Majority Party for bringing this proposal for us to consider.

Hon. Speaker, the issues that have been raised in this Bill are fundamental. For the first time, the NSSF is being converted from a provident fund into a pension scheme, so that the workers of this country will be secure as there will be a legal regime that will be dealing with issues concerning the money that they work very hard to be able to save. There are so many things that I would have liked to say in support of this Bill, but many of them have already been reflected. For example, the current Act has been translated in terms of provisions that appeared only in schedules or regulations. Those schedules and rules have now been captured in the main body of this Bill. This strengthens those provisions.

I want to talk about those things which are not very good. I am looking specifically at Clause 6 of the Bill. This Bill proposes that the Government will have 100 per cent control over the NSSF. The chairperson of the Board of Trustees will be appointed by the Cabinet Secretary. Two Principal Secretaries will be members of the Board. Four or so people will be picked from amongst members of the public by the same Cabinet Secretary. Another three people with some relevant knowledge will be picked by the same Cabinet Secretary. Therefore, it means that the Board of the NSSF will comprise of not less than 15 people, all of whom will have been appointed by the Cabinet Secretary.

The NSSF is for the workers and their employers. There is nobody else who benefits from it except the workers and their employers. We have had a history with the NSSF. So, we know where we have come from. It is irresponsible of the Cabinet Secretary, who may have given the legislative proposals, to propose in Clause 6 that the Government will have 100 per cent control over the Board. This is a clear negation of the constitutional spirit, in which unionism has been entrenched in the Bill Rights of the Constitution.

Hon. Speaker, if we have a situation where the Cabinet Secretary appoints at will persons from all walks of life in Kenya to the NSSF Board – people who have no relationship with either the employers or the employees – how will the NSSF, or the Government, expect employees and the employers to be safeguarded? If we allow the NSSF to be handled in the manner proposed in this Bill, we will be throwing to the dogs the huge amounts of money that workers and employers contribute to this Fund. We know what happened with the NSSF in the past. This will, in effect, kill unionism in this country. It will also kill the employer unions in this country.

Therefore, without belabouring the point, I propose that the Chairperson of the relevant Committee comes up with amendments to Clause 6 to protect employers and

employees. Should the Chairperson fail to bring amendments to that effect, I promise this House that I will bring amendments that will show that the NSSF is for employers and employees. Otherwise, the people whom I represent will put their money there but those who will have power over the Fund will benefit from it.

Hon. Speaker, Sir, without discussing every other section of this Bill, I give my qualified support. Whereas the Bill is good in collecting and consolidating the legal regime around the pension scheme, it is very mischievous that Clause 6 has put 100 per cent power in the hands of the Government. These are the gains that we have got in the reform movement and we will not relent on this issue.

Hon. Speaker, Sir, I beg to give my qualified support to the Bill. Thank you very much.

Hon. Speaker: Hon. Members, I think it is important to also consider the Bill which is being debated. It is an important Bill. It touches on the National Social Security Fund (NSSF). I do not think we are paying sufficient attention to the contributions being made. Of course, I have not seen any report from the Committee on the Bill, yet proposals are coming up that if the Committee does not bring amendments, the Member contributing will bring them. You as Committees also have a responsibility to take note of what is being said and what faults, if any, the Members contributing are citing in relation to the Bill. This is because really it is important to know what it is that Members are saying, especially if you belong to the relevant Committee.

Hon. Gichigi: On a point of order, hon. Speaker, Sir.

Hon. Speaker: What is out of order, Samuel Gichigi?

Hon. Gichigi: Hon. Speaker, I wanted to bring to the House's attention that, indeed, a report on this Bill was tabled on 12th November and it would be important also for my colleagues to have a look at it in order to see the proposals that have been made for amendments.

Hon. Speaker: So, Members, again that is useful information; a report was tabled. So, even as we debate, you also need to look at both the report and the Bill. That is what is required so that we can also make informed contributions. The hon. James Opiyo Wandayi, I can see you are smiling but you are the first on the list. So, do not worry.

Hon. Wandayi: Thank you, hon. Speaker. I want to contribute to this Bill, and it is important as I do so to note that one of the biggest drawbacks to the people of this country has been lack of a strong social security system. Sometimes I tend to think that this lack of a strong social security system has been because of lack of political will on the part of the successive regimes to empower the people economically. Why do I say so? For a long time the NSSF has been turned into a milk cow by a privileged class of the ruling elite. It is important to understand that the NSSF as currently constituted has failed in its primary mandate, which is to protect the contributions of its members.

Hon. Speaker, the reason why the NSSF has failed to meet its mandate is largely because of corruption and this corruption has been on the part of successive regimes in this country which have continued to manipulate the NSSF through handpicked Managing Trustees, and a compromised Board of Trustees. Therefore, one would have expected that when a Bill is introduced to repeal the old NSSF Act, these issues would be addressed.

Hon. Speaker, I am afraid to note that this Bill, as currently presented in this House, does not in any way attempt to address the concerns of the workers of this country. Instead, this Bill largely seeks to perpetuate the ills, mistakes and problems that have bedeviled the old NSSF as we have known it. Why do I say so? If you look at Part III of this Bill, particularly the part dealing with the composition of the Board of Trustees, you will note that it proposes---

Hon. (Ms.) T.G. Ali: On a point of order, hon. Speaker, Sir.

Hon. Speaker: There is a place for requests and a space for intervention in your gadget. The reason why it is not showing here is because you have placed it in the place for requests and there are very many other requests. So, do not just rise in your place and claim to be rising on a point of order. Indeed, you have not even made any request.

Hon. Wandayi: Hon. Speaker, the problems with NSSF---

Hon. Speaker: Now, hon. Tiya Galgalo you have succeeded. You cannot keep on touching it.

Hon. (Ms.) T.G. Ali: Thank you, hon. Speaker. The hon. Member is misleading this House. He has not read the Bill yet. Most of the issues that he is talking about are not in the Bill. I think he needs to read and acquaint himself with the Bill, so that at least he can now talk about issues that he would want maybe to be amended. However, let him not mislead this House by saying this is exactly the old NSSF and that the issues that he is talking about in relation to workers have not been addressed. This is because this Committee took its time. We have met on several occasions and we have interacted with employers, employees, representative institutions and different groups; we have really put in the issues that are very pertinent in relation to employers, employees and also Kenyans. Thank you.

Hon. Wandayi: So, what is the point of order?

Hon. Speaker: Very well. Hon. Opiyo Wandayi, the allegation is that you have not read the Bill or you appear not to have.

Hon. Wandayi: Hon. Speaker, that is a very serious allegation.

Hon. Speaker: Proceed even if you want to just talk about workers.

Hon. Wandayi: It is a serious allegation because I hardly speak in this House before I acquaint myself with issues. I am very clear in my mind on what I am talking about.

Hon. Speaker, the problems of NSSF begin and end with the composition of the Board of Trustees. That is a fact. If you look at Part III of this Bill, it proposes to empower the Cabinet Secretary to unilaterally appoint members of the Board of Trustees. If you look at the composition of this Board of Trustees, in fact for the first time you find there are two persons who are supposed to represent workers. There is no indication as to how they will be appointed.

In the past, you have seen Central Organization of Trade Unions (COTU) pretending to be representing workers and, therefore, appointing themselves. You all know how the leadership of COTU has continued to flip flop on issues of interest to the workers, whom they are supposed to be representing. It is common knowledge that the leadership of COTU has continued to change positions like a chameleon on nearly all issues of concern to the workers.

Hon. Speaker, it is important to note that this Bill, as currently constituted, does not give the workers an opportunity to elect people to represent them on the Board of

Trustees. It would be better if the workers themselves were given an opportunity to elect their members to the Board of Trustees. Again, if you look at the clause talking about members representing the employers, there is no system of electing, or appointing, these members, who are supposed to represent their employers. Indeed, in the past, we have seen the Federation of Kenya Employers (FKE) giving themselves power to represent workers or employers on the Board of Trustees.

Hon. Speaker, what I have to emphasize is that in this day and age any law that proposes to concentrate power in the hands of one person is not a law that can pass the test of time. This Bill as currently proposed has got serious issues and limitations. Unless drastic amendments are moved, I will oppose it in its entirety.

Hon. Speaker, Sir, of course, I know that there is a report which my friend, hon. Gichigi, has talked about. We are waiting to see it because we have not seen it. However, if the amendments he is talking about do not meet the desires and concerns of the workers of this country, then this Bill is likely to perpetuate a system where a certain class of politically correct people will continue to benefit from the sweat of workers in this country. In fact, the National Social Security Fund has become a nightmare.

Hon. Oyoo: On a point of order, hon. Speaker, Sir. I seek your indulgence. Could the hon. Member for Ugunja teach this House the modalities the workers should use to elect their leadership to NSSF? That is because the workers of this country have a timetable for an election and they elect people from the shop steward level up to the COTU. If there is another way of going about this, and the hon. Member believes that if we are going to constitute the NSSF Board, we have to call a *Kamukunji* or call people to Uhuru Park or to Kibera Sports Grounds, he should tell this House. I believe that the hon. Member is a learned man and he should not---

Hon. Speaker: What is your point of order?

Hon. Oyoo: Hon. Speaker, Sir, the hon. Member is misleading the House when he says that workers are not being given an opportunity to elect their leadership and yet, he knows very well that the workers in their wisdom have elected their leaders through COTU. Their employers, in their wisdom, have always elected their leaders through the FKE. The hon. Member is a learned person and he should take cognizance of that fact all the time.

Hon. Wandayi: Hon. Speaker, Sir, of course, I will excuse my friend, hon. Oyoo, because he does not understand what I am talking about. I have said that COTU cannot be taken to represent all the workers in this country because it is a fact that not all trade unions belong to COTU. For example, the giant Kenya National Union of Teachers (KNUT) does not belong to COTU.

Hon. Muchai: On a point of order, hon. Speaker, Sir. I have tremendous respect for the Member who is on his feet. However, he has made statements that negate the very purpose of this debate by alluding to the fact that COTU, as an organization that has been in existence for the last 50 years in this country, purports to represent workers.

The hon. Member is completely ignorant of the constitution governing the formation or affiliation of trade unions to COTU. I want to inform him that the membership to COTU is open to all registered trade unions in this country.

Hon. Speaker: He has refused the information.

Hon. Wandayi: I do not want that, hon. Speaker, Sir.

Hon. Muchai: Hon. Speaker, Sir, is the Member in order to claim and mislead this House that COTU purports to represent workers when the organization has been in existence in this country for 50 years and has been performing that role?

Hon. Speaker: Hon. Muchai, the hon. Member is at liberty to say COTU represents nobody. That is his opinion.

Hon. Wandayi: Hon. Speaker, Sir, indeed, it is true that COTU does not represent all workers in this country. I have said that and I will still stand by it.

The mischief I see in this Bill is to give room or create space for the Cabinet Secretary to go and collude with the leadership of COTU, which I have said---

Hon. (Ms.) Nyasuna: On a point of order, hon. Speaker, Sir. Hon. Wandayi is my very good friend and, therefore, I have no intention of interrupting him. However, even as we speak about COTU and as we debate this Bill, there is no mention of COTU in the Bill or in the Report. So, how come we are discussing COTU? I urge hon. Members to read the Report as they contribute to this Bill. That is because the Report says that the representation on the Board will be from the most representative organization of workers and most representative organization of employers. That is the spirit. Hon. Speaker, Sir, I request you to rule the hon. Member out of order because he is discussing matters that are not in this Bill.

Hon. Speaker: Hon. Wandayi, remember your Standing Orders as to relevance.

Hon. Wandayi: Hon. Speaker, Sir, I am entitled to think.

Hon. Speaker: No! Remember your Standing Orders about relevance. If you are irrelevant, I will throw you out. I will not just stop you, but I will also throw you out. So, be relevant.

Hon. Wandayi: I understand, hon. Speaker, Sir. Part II of Clause 6 is very clear. It gives the Cabinet Secretary the power to appoint two persons by virtue of knowledge on certain aspects to represent employees in Kenya. My point is that if this clause is left the way it is, it will give the Cabinet Secretary room to go and collude with COTU as has happened in the past. That is my point. COTU does not have to be mentioned in this Report in order for me to refer to it. I can refer to that organization because that is a practice which is on record. In the past, the leadership of COTU has appointed itself to represent workers in the Board of Trustees of NSSF. Therefore, that door must be closed this time round.

(Applause)

Therefore, workers must be given an opportunity to elect their own representatives to the Board of Trustees. That is my point. The same should apply to those who represent employers. That mandate cannot be left to FKE because they will go and connive with the Cabinet Secretary and put people there who will serve the interest of the ruling class in this country. Therefore, this new Bill will not address the issues that have been affecting workers in this country.

Hon. Speaker, Sir, I, therefore, oppose this Bill as it is until such a time that amendments will be brought to correct the anomalies that I have talked about.

Hon. (Ms.) Tobiko: Thank you, hon. Speaker, Sir. I rise to support this Bill. I just want to tell the hon. Member who has just spoken that I have interacted with this Bill at various levels and even at the Committee level. Members of public have presented their

views to the Committee. Members representing the employers and members representing employees have also done so.

I would also like to say that I have worked at the NSSF as an employee for several years. The NSSF that people are talking about was a milk cow to several regimes that have passed. I was not part of the top management of NSSF. So, I might not have been a beneficiary of what was there.

Being a former employee, I would like to say that this Bill really intends to transform that organization. A number of things that have been addressed in this Bill will transform NSSF, which was known as a milk cow. NSSF was known to operate with impunity; that is the NSSF of yester-years. This Bill intends to create a transformed NSSF; an NSSF where workers and employers will have a say.

I want to address the issue that the hon. Member has talked about; that is the formation of the Board. The Hon. Member has said that the formation of the Board has everything to do with NSSF. I know that the Committee will bring amendments on this Bill to the Floor of this House. However, what has already been proposed in the Bill are two representatives from the most representative organization of workers. It is not specified as COTU; rather it states that the representative organization of workers shall be represented here and that two persons from the most representative organization of employers will be represented. Of course, the Government will also have representation through the Principal Secretaries.

This Bill also intends to address the issue of pension to workers. The NSSF has been paying a one-off lump sum amount to Kenyan workers. After that, we do not know what happens to old Kenyans. They go home with that lump sum amount and that is done. This Bill intends to secure their future from the time they leave employment to whatever time God has given them to live on this earth. Therefore, I want to urge my colleagues and especially those who have not read the Bill not to deny Kenyan workers an opportunity to have a better life or an opportunity to transform their lives.

This Bill will not only transform NSSF but also the lives of Kenyan workers. I believe that those who will look at this Bill properly will support it.

Hon. (Ms.) Nyasuna: Thank you, hon. Speaker for giving me an opportunity to support this Bill. Social security is a right under the Constitution. Therefore, we must, as a House and a nation, look at the best way to provide our people with that right of social security. What NSSF has been all this time is a provident fund. From the current contributions, when you retire, you get really nothing more than, say, Kshs300,000. This amount of money is given to you in a lump sum. We have seen many people starting kiosks or shops or getting into other businesses or sharing it or marrying a second wife with the money. Within no time, the businesses have collapsed, the person remains without a pension and they are on their way to death. This is why we would like to move away from the current Bill that is before this House.

Transforming NSSF from a provident fund to a pension scheme will mean that, after you make your contributions at the end of your retirement, rather than go and pick a lump sum amount of money, you are entitled to monthly earnings until the time of your demise. This is going to really make a big difference and a big mile forward in terms of getting Kenyans social security. Another matter that has been of major concern to the public is that NSSF has been a milk cow. It is the kind of organization where corruption is rife and so on and so forth. We have a responsibility to correct that. I would like to tell

the House how this is going to be corrected. The NSSF under this Bill will be under regulatory oversight of the Retirement Benefits Authority (RBA). What that means is that NSSF can no longer on its own determine where to invest and how much to invest. The RBA will regulate how much of the public money you can actually invest and in what. You actually need an investment expert to show you where you will invest the money. In fact, you need an external investments expert and not the NSSF Board sitting to decide where they want to sink the money. Passing this Bill will mean securing the contributions that members painstakingly make.

The other challenge that NSSF has faced is very high administration fees compared to other occupational schemes. This Bill caps the amount of administration fees that can actually be expected by NSSF. It is capped at 2 per cent and it reduces to 1.5 per cent by the fifth year. So, what we are saying is that NSSF cannot go to 10 per cent administratively. Currently, there is really no cap. If we leave it that way, NSSF can spend as much as it does on administration costs. This Bill is going to be very useful in capping the amount of administration expenses and cutting wastes.

The NSSF is tripartite. There is the Government, there are the workers and the employers. What hon. Wandayi is referring to is exactly what this Bill was moving us away from. We are not going to engrave names of organizations within the Bill and say so and so or the other. The most representative organization of workers will send its representation to NSSF. When you cease to be as representative as you imagine, then the next organization that is most representative at that time will take up that position. That then sorts the issue of any organization sitting and saying: "We are the ones who are going to sit at NSFF." You are only representative because members have ascribed to you.

Hon. Speaker, the contributions we have been making to NSSF are really minimal. I am talking about Kshs200. When you make contributions that cannot last you very long after your retirement, then the Government will not serve you well in providing you with social security. Under this Bill, it is targeted that when you retire, you will be provided with, at least, 40 per cent to 45 per cent of your previous earning through to the time of your demise – this is an internationally accepted standard for social security.

We are looking at covering the formal sector through this Bill, but also giving very clear provisions for voluntary membership by the informal sector. Everybody in the formal line of employment is going to be required to be part of NSSF. People who are in the informal sector also have room to come in and subscribe to NSSF. There is going to be the pension fund and the provident scheme for voluntary membership.

Hon. Speaker there is an opt-out for members. So, we are going to be really increasing the market for occupational schemes. Everybody is going to be required by law to be in a pension scheme. You are going to be required to be in NSSF up to a certain amount. Above that amount, you can now overflow to any other pension scheme of your choice. This is useful in ensuring that employers and employees are all targeted.

Finally, what we need for NSSF is to ensure strong governance mechanisms that will close any gaps or seepage of members' contributions. This is what the Bill seeks to do. If you go through the Report, the Committee has proposed very candid amendments to this law to ensure that every gap of revenue leakage is closed. I urge hon. Members to be there as we pass these amendments.

With those very many remarks, I beg to support.

Hon. Muchai: Hon. Speaker I would like to associate myself with the sentiments expressed by the hon. Member who has just been on the Floor. This Bill is timely. It seeks mainly to address the plight of workers in two areas. One of the areas is that the Bill seeks to protect workers further at all levels of employment by way of enhancing the hitherto contributions which are pegged to a fixed rate of Kshs400 per month, being a contribution by a worker of Kshs200 and another similar contribution by the employer. This is being enhanced to a contribution of 12 per cent of the basic salary and by the worker. The effect of this is that as the worker's salary continues to increase, then the 6 per cent that is deducted from the worker's salary and the 6 per cent that is contributed by the employer on behalf of the worker equally continues to be enhanced. The worker will find himself in a position where he will be reaping benefits towards the end of his working life at a level that will be pegged to the salary that will be applicable at the point of exit from active working life.

The second benefit this Bill extends to the worker is guarantee of income after the worker is out of active working life. The Provident Fund Scheme which is run by NSSF has been giving employees a lump sum payment that is paid once. You will be surprised to hear that history has it that, at the NSSF, there were instances where workers would go to claim in the early years of the NSSF for their benefits and, instead of putting their thumb print on the application forms for withdrawal of their benefits, they would connive with insiders at NSSF and put their toe print so that they can process the payment and two months down the line, come and properly put their thumb print in order to get the proper payment.

This is indicative of the state of desperation that workers have been in and the struggle they have gone through in seeking to protect themselves after active life in their work. This is guaranteed by this Bill in the sense that only a section of the contributions that the worker will have made will be paid to the employee and then the rest will be paid in form of a pension up to and until the worker leaves the planet. The benefits I have talked about are real in this Bill but I do agree with what hon. Kajwang' has said when he talked about the composition of membership of the Board under Clause 6. This requires to be amended.

I am a Member of the Departmental Committee on Labour and Social Welfare and I have gone through the Report that the Committee has prepared and they proposed changes to this clause, among other things. I do agree that this Fund belongs to none other than the workers themselves and the employers and, as a right, those two groups of people are entitled not only to sit on the Board but also to have full control of their money that is invested in the Fund. There can be no worst thing to happen than to deny them this opportunity to control the money that they painstakingly contribute to the Fund.

I hear the mention of COTU. As an organization; it is not mentioned in this Bill, neither is it in the Report that has been prepared by the Departmental Committee. The international standards refer to this organization which represents workers and employers as the most representative employers and workers' organization in a country. The amendments proposed by the Committee actually address that important aspect of this Bill. They propose changes to Clause 6 so that those who will represent the employers and workers will be from the most representative employers and workers' organization. It is true, as hon. Wanga has said that, today, the FKE could be the most representative employers organization but tomorrow, there could be another body - God forbid - that

could be the most representative. That is the body that will have the right to sit on this Board.

Subject to the amendments that will be brought to this Bill by the Committee, I want to reserve further contribution until that time when those amendments will be debated so that I can have an opportunity to make my input.

Thank you, hon. Speaker, Sir.

Hon. Speaker: Only to caution Members that during the Committee of the whole House, there is really no opportunity or occasion for debate. Debate on any Bills should be in the Second Reading. So, this is the right time for anybody to seriously talk about any Bill. Hon. Daniel Wanyama, take the Floor.

Hon. Sitati: Thank you, hon. Speaker, Sir. I also rise to ventilate on this Bill and mention to hon. Members that this is the Bill that is going to transform NSSF. When you look at the composition of the Board in this Bill, it provides checks and balances that have been misused before. That even the quorum of the Board before it passes any issues concerning the expenditure of the funds, the employers and employees must be informed. Therefore, it is going to transform and translate the lives of many Kenyans who, before this Bill was brought into operation, have suffered because quite a number of them have been given the lump sum amount and they have not been in a position to spend it very well. At the end of the day, they lead a very miserable life. That is because whatever they had worked for in quite a number of years just went down the drain.

This Bill provides a culture of saving to the workers and, therefore, it will give them a better life because they will be in a position to get some earning even after their retirement. That will give them a very decent life because they will have, at least, something to earn at the end of the day. I want to urge this honourable House to support this Bill because it will transform NSSF. We will have come out of the culture where corruption was the order of the day there and it curbs those situations where funds were misused before. So, that is my appeal as I stand here to support this Bill because it is going to transform the lives of very many Kenyans. I do support the Bill.

Thank you, hon. Speaker, Sir.

Hon. Speaker: Hon. Millie Odhiambo!

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Speaker, Sir. You are stopping me from talking.

Hon. Mirenga: On a point of order, hon. Speaker, Sir. Of course, hon. Millie is my good friend and I would not want to interrupt her while she is on her feet, but there is a colleague of mine, the Member for Homa Bay Town, hon. George Opondo Kaluma, who is dressed in a manner that you may have to rule whether it is very much in order for this session and you may have to ask him to stand so that we can see the whole outfit. He is hiding somewhere at that corner.

(Laughter)

Hon. Speaker: When a Member has not crossed the Floor, he is deemed to be still out there; he is not even in attendance.

Hon. Mirenga: He is there and is seated already.

Hon. (Ms.) Odhiambo-Mabona: But, he has not crossed!

Hon. Speaker: He has not crossed into the Chamber; he is still sitting with the Serjeant-at-Arms. He is not in the Chamber.

Hon. Mirenga: Okay, hon. Speaker, Sir.

Hon. (Ms.) Odhiambo-Mabona: Thank you, hon. Speaker, Sir. First of all, I want to support but indicate that I would love to see some amendments. I will not go to a substantive debate on the overall framework of the scheme.

Hon. Speaker, Sir, I request to have your ear because I want to address the first issue to you. Unfortunately, I was doing exactly the same thing, so I could not raise this issue when it came up before the Floor. I would want that you guide this House on the correct procedure. From the practice I am seeing in the 11th Parliament, Committee reports come ahead of the Second Reading. This is a good thing because it shows that the Committees are working. A little bit of a concern, because those of us who then have raised issues, as you have indicated, it means we have to bring our own amendments because it will be too late for the Committee to take our views into account. In the past, I have seen that the Committee has listened to our views and then after that, brought in their reports. Perhaps, you could guide us on the easiest way to go, so that the Committee can take our views into account for purposes of any amendments.

Having said that – and because hon. Ken has eaten a bit of my time - I will specify some areas of concern to me. One, Clause 6 is on the issue of the appointment of the Board. I know that hon. Wandayi got under fire for raising certain issues because he was targeting one body. Personally, I have no problem with that body. They have done very good representation of workers in the past. I may have disagreed with them on one or two issues in the past, but they have fairly represented workers. COTU has fairly represented workers well in the past. So, I have no problem with COTU. My issue is that we are giving, by this Bill, a lot of power to the Cabinet Secretary, which is unchecked. So, I am hoping that in the Committee Report, we will address that. When we adopted a presidential system, we were aware that we were going to be putting a lot of powers under certain institutions, but they are not unchecked. That is why we have a powerful presidency, but it is checked by Parliament.

So, in the same manner, we cannot have a presidency that is checked and have a Cabinet Secretary that is not checked. I am seeing a growing tendency of Bills that are coming before this House where the Cabinet Secretaries want to get powers more than the presidency. In the Constitution, every appointment by the President is vetted by Parliament. But Cabinet Secretaries want to appoint without vetting by anyone. We have to be sure whether the Cabinet Secretaries are more powerful than the presidency. That is one of the areas I would want this Committee to look into; the issue of checking appointments by the Cabinet Secretaries.

Again, it would be important for effective representation and participation as provided for in the Constitution that those umbrella bodies nominate persons to those bodies and then they are appointed by the Cabinet Secretary. I am hoping the cheers by the Committee show that I am saying what is in the Report. I have not read it, but if it is in the Report, I am very happy.

The other issues, some of which are not very substantive, but for legislative elegance, I would request the Committee to use the definition of “guardian” for purposes of children that is used under the Children Act. The other issue that I would want to raise is that of definition of “spouse”. It looks like it is trying to close out the transgendered,

but it does not deal with the problems that we normally see that would be confronting people especially for surviving spouses who fight. In this country, we have a tendency - and I am glad the Marriage Bill is coming - to marry and hide some wives. I do not know why we are ashamed of our wives. Even if you marry 20, please, let us know them, whether they are ugly, fat or short. We need to know and embrace them because under the customary marriages, you are allowed.

Hon. Speaker: Hon. Millie, you have spoken over the same issue that I thought the Member had raised earlier. On those marriages, is it only male or do other people also hide their husbands?

Hon. (Ms.) Odhiambo-Mabona: Hon. Speaker, Sir, if we were allowed by law, probably, we would hide another one, but by law, we are not allowed. Otherwise, I would have married 10 and hidden some. But the law does not allow us. We only have one. So, it is usually the men who then marry wives and hide, but the definition of “spouse” here does not lend itself to any legal sense. Because of time, I cannot explain but it just talks about female and male. What does that have to do with a spouse? You need to define what a “spouse” means especially in reference to our marriage laws.

The other issue that I wanted to speak to is the issue of punishment for people who have violated the Act. We are too lenient and we know that there are people who have misused this Fund, which is a public Fund. The punishments that are given here are too lenient. We need to have more severe punishments for people who misuse funds that some Kenyans have saved for many years and which is basically what will tide them over in difficult times towards their sunset years. So, the amounts that we have put here as punishments are very lenient.

I am hoping that the Committee has considered and reviewed upwards the funeral grant, which is too low at Kshs10,000. I am hoping they have reviewed it upwards, especially now that the end of times, as was prophesied in the Revelation is here, and most of us are dying younger. So, those are issues we need to look into again.

I would want to encourage the Committee to look at Clause 15(vii), where it says that a person that is qualified as a manager should be a person who holds a master’s degree in a field as may be specified by the Board. If the Board wants to play politics and there is a candidate who is qualified, then on that year they decide the manager should be a person who has Actuarial Sciences when I am the one who qualifies, they will stop me. That year, they will decide we are not taking lawyers. So, we need to remove that from the ambit of the Board. Again, there is one thing that is appearing very quietly in a lot of legislative drafting. Indeed, even in this House, I have seen it, that when you absent yourself from meetings three times, we say that you must be absent with the permission of the Chair. That is very reminiscent of high school days when we would be writing to our teacher and saying: “Dear, Mr. so and so, can I please, absent myself for three days”. As adults, what you need to do is to show that you were absent with a justifiable reason. I would want to ask the Committee, again, to relook at Clause 8, so that you do not use the wording “with permission”. It is very archaic.

I had a lot of other comments, but because I know many Members want to contribute, I want to leave it at that and give other Members a chance.

With those few remarks, I support with amendments.

Hon. Chanzu: Thank you, hon. Speaker, Sir, for the opportunity to support this very important Bill. This Bill is important because majority of the people who have been

saving with NSSF are low-income earners. They save their money but, at the end of the day, they are not able to get something which is commensurate with their savings. Somebody talked about lump sum payment that is paid to those people. Sometimes, it is very little money. When somebody has worked for about 20 or 30 years and when he goes to NSSF, he is paid Kshs50,000 or Kshs100,000, it is very painful.

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

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

The idea of coming up with a Bill to inform the role that NSSF has played has been on for a long time. It is good that now the Bill is here with us. The most important thing is that the Bill is in this House. We can give our views, which will culminate into a proper Act that can manage the affairs of the pensions fund that we are contemplating to come up with.

Hon. Temporary Deputy Speaker, Sir, the corruption that we are talking about in the National Social Security Fund has been there because once those contributions are made, there is no proper planning on how the money is utilized. There has been a lot of idle money in that institution. It is not only in the NSSF, but also the National Hospital Insurance Fund (NHIF). I think it ends up tempting the management because of lack of proper planning. You find the Managing Trustee decides to put the money in one fund and the following day, by a telephone call, he decides to put it in another institution without proper safeguards.

Therefore, I am hoping that, as the contributions go on, there will be adequate safeguards so that the money can be put into proper use in order to generate enough funds to support those who retire to continue earning some income until they exit from this world. The way the money is being handled in this Bill is very good because it is not the lump sum that the people are given. Originally, the contribution was Kshs200 by the employer and the employee. But now, the contribution is proportional.

For example, if somebody is earning Kshs5,000, the contribution will be Kshs300 from the employer and Kshs300 from the employee; totaling to Kshs600. If another person is earning Kshs10,000, the contribution will be Kshs600 from the employer and Kshs600 from the employee, totaling to Kshs1,200. I think this amount is very reasonable. It goes along with what people are earning and what they are able to contribute from their salaries. Even if you increased the contribution that has been there by a flat rate, it would mean they will be requiring the lower earners to pay much in proportion to their pay. Now it is proportional, which I think is a very good idea.

Hon. Temporary Deputy Speaker, there are many issues that we have talked about the NSSF. In fact, they left their core business completely. Because of that idle money, they left their core business and went into property investment and lost a lot of money. If you look at some of the reports which are in the custody of Parliament, you will find that some people get land on a rock and they sell it to NSSF because they want to make money. In the process, the workers lose a lot of money. I am sure with this kind of scheme, it is easier for the Government or the contributors to predict what is likely to happen. It will be easier and it will be more transparent and much more open but the only

snag which I think needs to be addressed is what hon. Odhiambo-Mabona has talked about.

Hon. Temporary Deputy Speaker, Sir, if you look at the Bills that the media people were complaining about the other day, and compare those Bills and this one, it is left at the hands of one person. I think that is why we are having double standards. This Bill is left in the hands of the Cabinet Secretary. Even their appointments were subjected to vetting by this House. But with this one, it is direct appointment by somebody who just decides who he should appoint. We should be more stringent when it comes to outlining the method that should be used in appointing members of the trustees.

With regard to membership, Section 18 is very clear about how Kenyans or those who would be joining--- There is a provision also that those who are not formally employed, can also voluntarily join and contribute. I think it is a very good idea. The basis for their contribution will also be the same. They can calculate based on what they are earning and be able to compare with what is being paid through those who are making payments through formal employment.

Hon. Temporary Deputy Speaker, Sir, generally, apart from the composition of the Board and few other things here, which I believe should be addressed through the amendments that will come, this is a good Bill and it has come at a good time because this is the time we need to be reforming some of the old laws for them to be in tandem with the practice at the moment.

Hon. Kobado: Thank you, hon. Temporary Deputy Speaker, Sir, for giving this opportunity to add my voice to this very important Bill. As we debate this Bill, let us attempt to understand and appreciate the rallying call behind this Bill. This Bill will help Kenyans to retire in dignity.

Hon. Temporary Deputy Speaker, Sir, Kenyans should be encouraged to save for their future and not to consume everything they earn. They should be reminded that tomorrow is another day. On March 4th this year, Kenyans voted to install a new political administration in this country. During campaigns, the ruling coalition made promises or policies to deliver should they come to power. By whatever means, they did. During those campaigns, they gave political promises that have impacted very negatively on the general taxation, public expenditure and individual spending in this country.

Hon. Temporary Deputy Speaker, Sir, the Bill that we are debating today will radically transform NSSF. The Bill is a scheme that is value-adding, sustainable and affordable. The Bill will be able to facilitate the restructuring of NSSF in order to make it efficient, competitive and responsive to the contributors who are the employers and employees. Social security is an entitlement because workers pay into it. The question of social justice is about setting up mechanisms that will be able to allow Kenyans wherever they are to have equal opportunity to access pension benefits.

In an equal society as Kenya, it does not matter how talented one is because the prevailing conditions in this country will not allow talents to flourish. Article 10 of the Constitution includes social justice among the national values and principles of governance. Among the functions vested in the presidency, according to Article 132, includes an annual progress report to the Kenyan people on the realization of Article 10. Social justice involves examining the impact of Government and its leadership on the citizens as exercised through taxation, security, public health and education. It the responsibility of the Government to set social justice standards and to set social justice

benchmarks for Kenyans. It is unfortunate that we are celebrating 50 years of independence while political decisions are still organized around ethnicity, social exclusion, cronyism and corruption.

Hon. Speaker, for the first time, this Bill is reaching out to those who really matter – the informal sector. It is reaching out to the *mama mbogas, jua kali* artisans, hawkers, *et cetera*. Therefore, the sector that forms the backbone of the economy of this country is targeted by this Bill. Kenya's informal sector has an employment growth rate of approximately 12 per cent. The sector contributes 3 per cent to this country's Gross Domestic Product (GDP). It contributes 30 per cent of the country's total employment as compared to the formal sector, which contributes 10 per cent of employment. Therefore, this Bill targets that ignored sector.

Kenya needs to concentrate on developing the informal sector, if we are going to be anywhere near realizing Vision 2013. The Bill that we are discussing today belongs to the contributors. Therefore, it should be treated as belonging to workers and employers. As alluded by other hon. Members, NSSF has been mismanaged in the past. For a long time, NSSF was used as a cash cow for those in political power. Through this Bill, NSSF will be cushioned from meddling by those in political positions. We take very kindly the contributions by the various hon. Members.

I just want to make it clear that this Bill enjoys the support of the principal stakeholders. It enjoys the input of social partners but, as it is always said, the success of any initiative depends on its finishing. So, much as the Bill is properly placed and well researched, the main challenge will be its implementation. Its implementation will pose a series of challenges but a series of amendments to this Bill will enable us to have a law that will achieve the intended purpose.

With those many remarks, I strongly support the Bill with amendments.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have hon. Korir.

Hon. Korir: Thank you, hon. Temporary Deputy Speaker, for giving me a chance to deliberate on the issue of social security.

As many hon. Members have said, social security is a right to every Kenyan as stipulated in the Constitution. It is the responsibility of the Government to provide social security, and not that of the private sector. That is why this Bill gives powers and a duty to the Government to fulfil its obligation to the citizens of this country – provision of social security.

I support this Bill because it seeks to bring a transformation that is intended to improve NSSF. NSSF has been a big problem in this country. It is now time that it is transformed structurally. We should, therefore, empower it and provide oversight to ensure that any money that is contributed to the Fund is used in the intended way. This Bill also seeks to improve the adequacy of benefits from NSSF. It also broadens the coverage by looping both the formal and the informal employment sectors.

Hon. Temporary Deputy Speaker, I am amongst those who have been in the informal sector of running. It is unfortunate that out there, you will find a runner who tells you that he won the Olympics in 1980, but he is living in poverty. That is because he was not given an opportunity to save. There was no mechanism for him to save something for the future. It is good that we are going to have an NSSF that will encourage people from the informal sector to save. Those are people who are self-employed and that is the trend nowadays. You will find people who have been employed

leaving the formal sector and venturing into the informal sector. This Bill brings those people on board, so that they can save for their future.

The most important thing about this Bill is the fact that it seeks to change the structure of NSSF benefit payment from lump sum to monthly payment after retirement. If you give money to somebody at once, he will misuse it. The person has a family. So, when he misuses the funds, the people who suffer the most are the children. If we have something like this, whereby one gets paid at the end of every month, he can budget for his family. That is what this Bill seeks to do. People might look at the enhanced contribution and say that it will bring a burden to the employee. Let me tell you that the more you save now, the better you live in the future. The little money that you save right now is what you will live on when you retire. So, this Bill encourages people to save more, so that they can live a better life in future.

Hon. Temporary Deputy Speaker, this House has to be very careful. There are many Bills that we have passed in this House. Even as Members of the Committee, we have deliberated on this Bill. Amendments to this Bill will be forthcoming. One of the proposed amendments seeks to reduce the powers given to the Cabinet Secretaries. If this House does not take care, we will be passing Bills to give the Cabinet Secretaries powers that they do not deserve. We should not be giving powers to people who are political mercenaries.

What happens if next time another Cabinet Secretary comes in and brings other amendments? We have seen amendments brought to this House by Cabinet Secretaries to give themselves powers. That has to stop. As a Committee, we are going to deliberate further on this matter to make sure that NSSF protects all the stakeholders. We will also bring on board the Government since this is a Government Fund. So, we will make sure that the Government is represented in the right way.

There are two options in this Bill, one providing that the Government can get money from employers to provide social security to every citizen and the option of opting out, which gives the employee or the employer a chance to look for other competitive social security pension schemes available in the country. So, this Bill is very good. We are going to bring amendments to it to make sure that it suits and benefits everybody and we urge this House to pass it so that we can save our people from dying and living poor after retirement.

The fact that it brings the funeral aspect of it is good because funerals are things that you cannot plan for. Funerals are things that, sometimes, are hard to save for because they come instantly. But it gives you an opportunity as somebody who has saved through NSSF to claim so that you can have money for your funeral. That way, people will stop coming to us politicians and asking for money for funerals every day. This Bill is going to cover that. So, thank you very much. We will bring amendments. I hope this House will support them so that we can give it a perfect look that will go through. Thank you, hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Cheboi): Thank you very much. Hon. Mwaura.

Hon. Mwaura: Thank you, hon. Temporary Deputy Speaker. There exist two scenarios in this country. One, is of people who retire and they are comfortable because they have been able to accumulate property and resources that would enable them to continue living good lives. However, the majority of those who retire in our country are

people who have meagre earnings and, therefore, they are not able to get as much from the savings that they may have accumulated as and when they are given a lump sum amount of money. Those are individuals who go on spending sprees of many facets and eventually, they actually die a miserable death. In fact, research has shown that some of them do not live more than 10 years after they have retired.

Hon. Temporary Deputy Speaker, this trend needs to change because the assumption of giving people lump sum amounts of money is under the pretext that they are able to re-invest that kind of money in ways and means that will be sustainable. However, our education system does not encourage persons to learn entrepreneurship. Even if that was the case, it is too late in the day for somebody who is 60 years old or who has opted at 50 years or 55 to retire to go and start a business and become successful.

We also have another story that NSSF has been mismanaged severally. We have stories that come through the media that about a Kshs2 billion was lost through corruption. The theatre of the absurd is always being displayed as and when an issue of that nature has arisen. We have had scandals around investments that are meant to provide that security and a sustainable source of income in order to actually pay whatever claims that NSSF has been receiving.

Hon. Temporary Deputy Speaker, however, today, we have a Bill that seeks to promote the inclusion of many people into the pension scheme. There is the informal economy that actually, the majority of Kenyans participates in. That is where they get their income. For every one person employed in the formal economy, about 10 others are employed in the informal economy and those are people who may not have a regular source of income. But they may be having windfalls because of the kinds of businesses that they do and most of their earnings are not documented. So, therefore, the inclusion of the informal economy of the self employed people into the bracket that can qualify for pension is, indeed, a welcome move going forward. In fact, if you look at this recommendation, you will find that it speaks to the long term sustainability of this country. As we all know right now, if you look at the population demographics, they clearly show that we have a very young population. More than 75 per cent of Kenyans are below the age of 35 years. That then means far into the future in the next 50 years, we are going to have a very big burden of taking care of older persons and, maybe, with a shrinking population of young people who are very active in the economy.

However, having said that, hon. Temporary Deputy Speaker, I think there are some few amendments that need to be brought to the Floor of the House with regard to this Bill. I will first start by appreciating the fact that, if you go through the Bill, you will realize that quite a number of measures are contemplated to ensure there is no mismanagement of the Fund as clearly stipulated in Article 11(3). That, to me, is commendable because then it also delineates ways in which somebody may be charged in a court of law if at all they are found culpable.

However, hon. Temporary Deputy Speaker, I think it would not be in order much as we are saying that we are giving a lot of power to the Cabinet Secretary to have a board determine its own remuneration even if it is with the approval of the Cabinet Secretary. I think the trend in the public service has been that there are circulars that are issued that then delineate the amount of monies that are payable to board members across the board. I think this should be the spirit rather than the board proposing the amount of

money they are supposed to get and then it is approved by the Cabinet Secretary. Why? There could be audit queries in between there like: Was there approval? Then, before we know it, a lot of money has been lost before that determination is made.

The other thing that may also be subject to abuse - if you look at Clause 10(b) - is that a managing trustee may actually be dismissed on the basis of insubordination. That is okay but I think for me, I am hesitant because it can also again be subject to abuse. What constitutes, for example, insubordination? We have seen a situation where you have a new Cabinet Secretary in charge of Labour dismissing a managing trustee. We could have a rogue board that would dismiss a managing trustee because he or she is not agreeing with the corrupt ways of the board and we must give it the benefit of the doubt. So, I think, in my opinion, this is a matter of human resource procedure and, therefore, should not be part of the substantive law that we are debating now.

Hon. Temporary Deputy Speaker, I also think, in my opinion, that the 6 per cent contribution is on the lower side and that this, then, of course, in my opinion, needs to be raised because 6 per cent per month comes cumulatively to 12 per cent. That is because it is 6 per cent from the employer and 6 per cent from the employee. So, therefore, in my opinion this is something that we would want to consider.

Another amendment which I also think is necessary - as other Members have spoken to it - is the issue of the lump sum that one qualifies to get. For example, if one dies as a contributor to that pension fund, I think the amount should be raised to Kshs20,000. I think Kshs10,000 may not even be enough to buy a decent coffin and to cater for the funeral expenses that would arise thereof.

Also, hon. Temporary Deputy Speaker, there is Clause 38 which talks about invalidity and it gives a threshold of 36 months contribution before one is able to claim the invalidity benefits. In my opinion, I think that is a long term. We may need about 12 months because you do not know at what point you may acquire physical, mental or other disabilities. In fact, I think from the drafting of this Bill, they contemplate disability to be physical or mental but I beg to differ that we need to include a holistic approach because there are other types of disabilities that may make somebody actually to be incapable of working and, therefore, eligible to claim for that benefit.

Hon. Temporary Deputy Speaker, I rise to support with amendments.

Hon. Ochieng: Thank you very much, hon. Temporary Deputy Speaker, Sir. This Bill could not have come at a better time than this when we are struggling with many social challenges in the country. I think the sooner we sort out the issue of runaway mismanagement of workers' resources the better.

Article 43 of the Constitution provides a framework for social security. I want to presume that this Bill is part of that process of ensuring that we avail universal and free access to social security to Kenyans. If that be so, then it is very important that any kind of social security system that we create must meet certain basic criteria.

Hon. Temporary Deputy Speaker, Sir, you live in this country like me and you know that the NSSF that we are now trying to reform has been bedeviled by very many problems.

(Loud consultations)

Hon. Temporary Deputy Speaker, Sir, I am getting distracted by this noise.

The Temporary Deputy Speaker (Hon. Cheboi): Order, again! There is a small *Kamukunji* behind there. Kindly consult in low tones.

Hon. Ochieng: Hon. Temporary Deputy Speaker, Sir, if you remember, that is the former rapid response of ODM.

The Temporary Deputy Speaker (Hon. Cheboi): No! Avoid side shows, hon. Ochieng. Just proceed.

Hon. Ochieng: Thank you very much, hon. Temporary Deputy Speaker, Sir. The Fund that we are trying to reform has been involved in very many problems. One of them was that the Fund was buying plots in very rocky areas, swamps, forests and in areas which are not developed.

One of the major things that we must do is to ensure that the Fund invests its resources in areas that this Parliament knows, this Parliament can approve and in areas that will give maximum returns to the workers.

That is why I will be moving amendments later on to ensure that any area that this Fund will put money into is an area that we know is viable.

Hon. Temporary Deputy Speaker, Sir, you also know that the Fund has also been bedeviled by--- Hon. Temporary Deputy Speaker, Sir, I know that you are a lawyer and you know that this Fund has been brought down by the huge amounts of money being paid in terms of legal fees. If we could address this within the framework of this Bill the better.

This Fund has paid a lot in terms of what we call consultancy fees or fees that goes to professionals. Sometimes, the scales the Fund pays are out of this world. That is why I insist that in allowing this Fund to invest, we must ensure that it invests in areas that are viable.

One of the things that this Constitution talks about is decentralization. We must remove power from the centre and make sure that it is exercised by a number of people. If you allow the Cabinet Secretaries to appoint all the members without any process---

In the last few months, we have seen what we can call an innovation, where we are not going to make one-off--- We have something called a “selection panel” which sits down, calls for application, interviews and forwards the results to the relevant board. I would like to see that within this Bill. Can we have a selection panel that will call for applications and interview people who will sit on that Board?

(Applause)

Hon. Temporary Deputy Speaker Sir, if you look at what we are talking about now - and I agree with one of the hon. Members and I can see Hon. Muchai somewhere there – it is about representation. I agree that COTU may represent very many workers in this country, but there is also an equal number of workers who do not belong to any particular body. That is why I will move amendments to this Bill and even amend what the Committee proposes now so that if there are two representatives, one will represent that body that we are saying represents more workers and the other person represents the workers that do not belong to COTU. I will make the same proposal to the members who belong to the FKE and those who do not belong to it.

I will propose again that we have another slot for the self-employed people because they are more than the people who are employed in this country.

Moving forward, we are grappling with many things now. We have the Judicial Service Commission (JSC), Commission for Implementation of the Constitution (CIC) and other commissions. In this Bill, we are being told that the Board of Trustees shall determine how much they will earn in allowances. That is what this Bill says under Clause 13. It says that there shall be paid to the members of the board or any of the committees of the board such remuneration, fees or allowance that the board may determine. The board shall sit and determine how much the members will earn and then take to the Cabinet Secretary to approve.

This is a job of the Salaries and Remuneration Commission (SRC). The SRC should be allowed to determine how much the Board should be paid in terms of allowances or remuneration.

Again, I will be moving amendments to that effect to ensure that this Fund--- This time round, we do not want to use words like I have heard being used in this House. We cannot use words like “cash cow” when we are talking about workers’ money. We should streamline the Fund to ensure that it will not be a cash cow.

Hon. Temporary Deputy Speaker, Sir, the other thing I have been thinking about in relation to this Bill - and it may not be within this framework---

As you know, we have those monies that are being paid to older people and the disabled persons.

This also falls within the realm of social security. Whether it is within the framework of this Bill or another framework, it will be better if we can ensure that all those payments are done through this Fund. That is because we do not know how people who are paid that money are chosen. That is the case and yet, all this is within the framework of social security. If we could streamline this to ensure that this works well, the better for us.

Hon. Temporary Deputy Speaker, Sir, I also agree with hon. Mwaura on the issue of payments, whether funeral or grants. First, this must be timed. We must have a clear timeline within which payment is made. For example, if a beneficiary or a contributor dies, we should expect that person to be paid within 30 days, 45 days or 60 days.

Clause 40 says that there shall be Kshs10,000 to defray funeral expenses. Why do you want to pay that in 60 days? This should be paid within 30 days after the death of a person and the Fund being notified. Why would you like to extend it to 60 days? We should know what you are talking about under Clause 43. You are entitled to be given payments but when will you be paid? Do you have to wait for a year, three months or within 30 days?

Hon. Temporary Deputy Speaker, Sir, I also wanted to talk about definitions.

The Temporary Deputy Speaker (Hon. Cheboi): I am just wondering aloud. Are you suggesting that funerals are supposed to be done within 30 days? Why not earlier? Anyway, that is just a thought.

Proceed.

Hon. Ochieng: Hon. Temporary Deputy Speaker, Sir, the Muslims do it within a day. I think it is a very long time if they say that they shall be paid after that period.

I wanted to move on and look at the definitions.

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

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Ochieng, do you want any information?

Hon. Ochieng: Hon. Muchai is my friend. I do not mind.

Hon. Muchai: Thank you, hon. Temporary Deputy Speaker, Sir. I have a lot of respect for the hon. Member who was making very informed and valuable contribution. I would like to inform him that essentially, NSSF is a Fund for the employed. It has an opening under Clause 23 for voluntary contributions by willing individuals who are employed and who would make a contribution at a fixed rate of Kshs200 which is very different from the compulsory contribution of 6 per cent by the employed from their earnings and 6 per cent from their employers cumulatively making a total contribution of 12 per cent. Essentially, the control cannot be given to the unemployed who volunteer to make contribution to the Fund at a fixed rate of Kshs200.

Hon. ole Ntutu: Thank you, hon. Temporary Deputy Speaker for giving me this opportunity to support this Bill. We have come a long way as a country because this Fund never used to help workers of this country.

I support this Bill because when you look at the various sections, it clearly defines how much a worker and an employer should contribute. I agree with those who have spoken before me that the lump sum given to an individual when they retire is not a good idea. This is because as Kenyans, we are not good at saving. The moment one receives a lot of money which they are not used to, they end up using the money within few days or months. In a very short time you meet a person who is depressed and very soon they die.

In the western world, retirees are very rich people. They are the ones we see coming to our national parks as tourists. They have some money in their accounts. Since they are not doing much, they enjoy travelling as they see the world. When you look at our Kenyan retirees, they are the most poor. The reason is that they either get the money or they do not. The process of getting money from the NSSF is a nightmare. Most of them die early because this amount of money is not enough for their lifeline. Thanks to our traditional ways of staying with our own because most of these retirees would be beggars. Most tribes in this country care for their elderly. However, we are now shifting towards western lifestyle. Not many people want to take care of their parents or the elderly.

This is a Bill that we need to support. I agree with my colleagues that the NSSF has been misused for a very long time. The only time you hear about the NSSF is when the Managing Director, like is the case presently, is in court for misappropriation of funds. The next thing that you hear is that their houses are lying unfinished because somebody has decided to use money from the Fund to buy houses that will not have returns to the Fund.

This Bill must be supported because I think it will address the issues of management. For a long time, this Fund has been mismanaged because the people we put there are not professionals; they are put there because they are politically correct. When somebody goes there, the only thing they think about is the amount of money they can steal for themselves and for those who put them there. This Bill will address this issue because the Board we have created will definitely represent the workers and they will be managing their Fund.

When you look at the membership and the contribution of this social security, it is a right of every Kenyan. When you look at the informal sector, it has now been recognized. We know that the informal sector has a large work force in this country. We are talking about the *Jua Kali* sector, the *mama mbogas* and so on. We will also need to

bring on board the herders. Everybody will retire one way or another and they will need some money to keep them going.

With those few remarks, I support the Bill.

Hon. (Ms.) Nyamunga: Thank you, hon. Temporary Deputy Speaker. I also rise to support the Bill. This is a Bill which is overdue. I want to thank the Committee for the work well done. I know very well that this is the beginning or a new era for employees in Kenya. For a long time, most people when they retire it is like you are handing them death penalty because of the misery you have seen amongst retired people.

This is very well thought out and we would like to support, maybe, with a few amendments so that it comes out in the best interest of all Kenyans. I realized that for many years everybody has always wanted to trade with NSSF. The reason is that it was a place where you would go to do all the shoddy types of businesses. Most people got rich as a result of trading with the NSSF. I thank the Committee because this is now going to be a thing of the past.

The most important thing in this Bill is the fact that it caters for everybody across the board, including the informal sector. Each and every person is going to get some form of income and this is going to give a lot of hope to the retired people. This will be an end to cheating when it comes to people's age. People have been scared of retirement because of the hopelessness that comes with retirement. Every cadre of the Kenyan population is going to be taken care of. For example, in the informal sector people are going to be more concerned about their jobs. There will be a lot of interest in work because at the end of it all, there will be some income coming to you from time to time. So, this will be like giving life to the young people and women in the informal sector. It will help us work very hard because by working very hard all of us know that there is some hope and some saving which one will be entitled to after retirement.

I also support the fact that in death there is going to be payment of some money to help towards the funeral expenses. When somebody falls sick, they incur a lot of expenditure. After death of a person, most families deplete their resources. There is going to be a provision for funeral expenses and that is a very big plus to this Bill. I urge most of us to support this Bill. The only thing is that here in Kenya we pass a lot of very good Bills and we have very many good policies but when it comes to management and issues of implementation that is where we are at our weakest.

Something should be done. We have a Committee on Implementation in the House to make sure that all the Bills that are passed are implemented to the letter and the purpose for which they are passed is achieved.

Hon. Temporary Deputy Speaker, I would like to add the fact that there are two funds; for the formal sector and the informal sector. That is going to help many of our *Jua Kali* people. It is going to give a lot of encouragement to them. Even work ethics in this country is going to change because at the end of it all, everybody knows that there will be benefits after retirement. We are not going to go home with our heads down thinking that we are going to die. That is not going to happen anymore. We want to support the Bill to make sure that it is passed, maybe with the amendments that have been pointed out by some of my colleagues who have spoken before me. At the end of it all, I can see a very good Bill. I hope that the same can apply to the NHIF because that is another area where there is a lot of mismanagement of resources.

Before that, there should be an audit of all the assets of the NSSF such that when the new Board takes over, they will take over on a clean plate. We will know the extent to which the NSSF is endowed. On top of that, we should see what happens next and how the money will be spent. Whatever it is has to be on board. I do not think that the Cabinet Secretaries should be given a lot of powers to appoint everybody by themselves. These are some of the areas that are going to be very grey. They have to be open and accountable. There must be a very clear procedure of putting the board in place. If it is not done well, we are going to have the same problems that we have always had in the past when the Head of State was given all the powers to appoint everybody and to sack at will. This should not be in the Bill and I hope that, that is going to be corrected, so that there is a balance. With proper auditing and implementation, all Kenyans are going to be happy, namely, the women in the village and the young people in the informal sector.

I support the Bill.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have hon. Anami, hon. Gumbo, hon. Abdi Noor and hon. Onyango Oyoo, be ready in that order.

Hon. Anami: Thank you, hon. Temporary Deputy Speaker, Sir. I am happy to have this opportunity to contribute to this Bill, which I would like to support. By passing this Bill, we will save Kenyans a lot of time, which they waste looking for their benefits. We will give Kenyans a guarantee of social security upon their retirement and even before their retirement. We will give families the opportunity to integrate and participate in the social security.

The NSSF has been known, not for very good things. It has been known not for very good practices. This Bill comes in at the right time to regulate the functions of the NSSF. That is why we need to support it. Nevertheless, we have a few good things that can be improved. For example, the benefits that are derived from the operationalisation of this Bill. For instance, the age benefits that have been alluded to in this Bill are good, but let us not limit the payment of lump sum to people who are unproductive. Over 50 years and above, individuals have very few ideas. He is less creative. If it is possible, Kenyans should get the age benefits even at 30, 35, 40 and 45 years. We should let Kenyans access these benefits. Then Kenyans can utilize these benefits to become even more productive. They should not be given the lump sum when they are tired and less productive, perhaps addressing issues of their health.

I would like the Committee to focus on that issue. The limitation to 50 years might not be useful. There are also benefits for survivors. The Bill tends to limit survivors to only the spouse. The next of kin is not only the spouse. Families are creative and have different cultures that might prescribe differently on the issue of next of kin. There should be an opening or a flexibility that allows the contributor to choose or appoint his next of kin. Next of kin cannot be presumed to be a spouse or spouses. The use of the word “spouse” is very limiting. In some cases, we have spouses. We need to look into that area. There is also the issue of funeral grant, a benefit that is not enjoyed by the contributor. It will be enjoyed by the third party. Even then, Kshs10,000 is too limiting. It should be something more. For instance, we have Kenyans who have even no place to be buried. There should be some review of this provision of funeral grant and other benefits.

One most interesting aspect of this Bill, which is going to help us get out of the historical experiences that we have had with the NSSF is the management and the

keeping of the accounts. There should be an element of transparency. The Bill is not very clear on how transparent this can be. Article 201 of our Constitution talks about openness and seeks participation. All the Bills that we develop after the Constitution should be consistent with the expectations of the Constitution. Therefore, there should be a lot of transparency and timeliness. The provision in the Bill that the accounts can be submitted to the Auditor-General after six months is not very helpful because after six months, a lot of water will have passed under the bridge. Then the Auditor-General will take another six months and we might not catch up with any offenders. It is useful that the Fund submits its books to the Auditor-General in a shorter time, perhaps a month or two and not six months. We cannot catch up with the offenders after six months. I wish to propose that this be considered.

I am very happy with the voluntary contribution aspect, which is provided in Clause 23, but it is rather strict on the minimum of Kshs200. Sometimes, these Bills are blind to Kenyans. We have Kenyans who might not be able to contribute the Kshs200. This perhaps, can be brought down to Kshs100. Then there is the limitation of Kshs4,800 in a year. This is rather high and leaves out quite a big percentage of Kenyans. It is useful for us to embrace all Kenyans of all walks from different occupations, whose savings might be as little as Kshs100 per month.

Therefore, I think this voluntarily contribution should be flexible and accommodative enough for all Kenyans from all walks of life.

I am happy with this Bill on the issue of technology. This is because the Bill allows us to use M-PESA to make payment and get feedback. This is good because we have had initiatives like M-PESA which have come around and have taken us by storm and they do things that we would have not done before. I think it is good that we are catching up with it. Kenyans can participate in *bonga* points and get guarantee of social security through the use of technology.

With those few remarks, I wish to support this Bill and I would like to encourage the Committee to revisit the amendments so that they are in rhythm with the lives of Kenyans.

Hon. Abdinoor: Thank you, hon. Temporary Deputy Speaker, Sir, for giving me this opportunity. I rise to support the Bill in totality. The Bill establishes two funds; there is the provident fund and the pension fund. The provident fund covers all employees in the private sector while the pension fund covers all employees in the public sector above 18 years.

Hon. Temporary Deputy Speaker, Sir, five years ago the Government introduced a circular that stated the retirement age will be 60 years. Those who were 55 years and had not retired will retire next year. The bill for pension will be very high next year. So, the only saviour is this Bill. The other issue which is in this Bill is income replenishment, 40 to 45 per cent after retirement somebody gets that amount of money. The Bill divides the contribution into two categories, the TR1 and TR2. The TR1 is mandatory to every Kenyan who is working in the Civil Service and the TR2 is partially optional. Somebody can opt out and join any other schemes under the Retirement Benefits Authority.

Hon. Temporary Deputy Speaker, Sir, the other issue under Section 23 of the Bill is the voluntary contribution. Everybody in the informal sector can contribute to the scheme. Currently, in this country there are more than 14 million people who are working in the formal and informal sector. Only two million of those are registered in the

occupational scheme under the RBA Act. So, what we are saying is, 12 million people are still not captured in the RBA Act and they are not regarded. When it comes to accountability, under Section 63, there are annual general meetings which the Bill proposes under Section 12. There is performance contract that the Bill also proposes.

The Board consists of seven members and the Principal Secretaries for Finance and Labour respectively. Under Section 15(6)(a) and (b), the Bill proposes four members; two from the organizations which have the most representative employees and two from the employer.

Finally, NSSF Bill 2013 proposes workable, sustainable and affordable solutions. Passing this Bill guarantees Kenyans better retirement benefits.

Hon. (Eng.) Gumbo: Thank you, hon. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this important Bill. In some parts of the country where we come from, for a long time it has been believed that when people retire, they are basically on their way to die.

Much as it is a fact that when we are born, the only certainty about life is that we have to die some day, a lot of times people do not prepare for retirement. I think it is time for us as a country to boldly undertake these pension schemes. As the Chair is aware, in this country most people join employment when they are in their 20s. At that time when you see somebody in his 50s, they look very old. We have all gone through this process, and you cannot imagine that at one time, retirement is going to come. It is important we boldly tell young Kenyans who join employment in early 20s that, just as death is one certainty about life, the one certainty about employment is that you have to retire as some point. In that connection, it is important that young Kenyans and all Kenyans for that matter are prepared for retirement the moment they join employment.

It is almost universal rule that countries grow on the foundation of the confidence that they are able to instill in their people. Essential security programme inspires confidence in the people and by extension those who want to do business with us, be they from within or without. One notable thing about countries like Singapore is that they have metamorphosed. There should be a compulsory study for all Kenyan students on how a country can evolve from a Third World country with a GDP per capita of mere US\$400 to First World country with a GDP per capita in excess of US\$12,000 in a short period of just 25 years. But such countries like Singapore did that on the back of active mobilization of social security fund.

In so far as this Bill provides for that framework where we can mobilize social security funds to enable growth to happen to our country, it is a good Bill. The Bill provides framework for voluntary registration, membership of the employer, creation of individual accounts for members, termination of members' accounts, penalty for default and incorrect contributions and description of benefits among others. That has been spoken to by a lot of my colleagues who spoke before. I think there are certain deficiencies I would like the Committee to look into. The hon. Odhiambo-Mabona has spoken about the definition of "spouse" as we see it there. Basic English Language says that you cannot use a word to define a word. Therefore, this definition of spouse, much as it does not imply singularity, I think we will have to look at it.

Hon. Temporary Deputy Speaker, Sir, the object of the Fund is noble. If I look at object number one, for example, "to provide basic social security for its members and their dependants for various contingencies as provided for under this Act," this is

important. We have seen a lot of people who work for decades and when they retire, they end up in penury. Object number two which is to increase membership coverage of the social security scheme is important because some of us come from areas where most of the economic activities border on self employment. For example, those who undertake fishing in Lake Victoria believe that, with this increased membership coverage, it will be possible to reach out to such people so that they are able to be members and that way guarantee their retirement.

Hon. Temporary Deputy Speaker, object number three, which talks about improvement of adequacy of benefits paid out to the scheme, is important. We have seen a lot of times people who have worked but when they retire, they take home a paltry Kshs20,000 or Kshs30,000. If you compare that sum to the value of a similar amount at the time you were employed, it is not much. Clause 6 talks about the composition of the Board.

As it has been said by my colleagues who spoke before me, it is important for us to look for ways of taming the powers of the Cabinet Secretary. The essence of our Constitution as it is now is to allow for participation and dispersal of power amongst as many people as possible to avoid concentrating power in one hand. What Clause 6 is attempting to do is to give the Cabinet Secretary too much power.

Hon. Temporary Deputy Speaker, I have looked at the provisions of Clause 10, especially sub-clause (2), which talks of acquiring control and supervision of funds and assets of the Fund in such a manner that promotes the object for which the Fund is established. This has been a problem with the NSSF. We have seen that acquisition, control and supervision of the funds have been done in a careless manner that does not respect the intended benefits that are to accrue to the beneficiaries.

I am also looking at Clause 10(2)(f), which talks of the appointment of agents that the Board may require or sub contract. This has been spoken to. Hon. David Ochieng spoke to the question of the acquisition, and particularly of consultants, consultants who have earned hundreds of millions of shillings from the NSSF without doing commensurate work. This Bill must deliberately attempt to discourage this trend.

Hon. Temporary Deputy Speaker, I am also looking at Clause 10(2)(g), which talks about investment of funds that are not required for purposes in the manner allowed in this Act. We have had issues with the manner in which the NSSF has been investing its funds. In so far as this Bill hopes to pursue an investment programme that departs from the wrong prioritisation that we have seen in the past, it is a good Bill.

I was also looking at Clause 10(4) on the performance and responsibilities of the Board. It says that the Board shall be accountable to the members of the Fund. This is very important because it is a departure from the past. In fact, in the past, we have had situations where members of the board did not account for much. The board had been run more or less like personal funds. The Board of Trustees and contributors have not accounted for much.

Hon. Temporary Deputy Speaker, on Clause 11, I am concerned when it says that the Board holds not less than four meetings in every financial year. This may appear to be a harmless provision but we have seen in this country, not just with boards but even with commissions; where *ad hoc* commissions and boards have converted themselves into executive bodies, where they are more or less doing the day-to-day running of institutions. The provision of holding not less than four meetings every financial year is

very dangerous. I urge the Committee to look at it because it is an opening that boards have used to---

The Temporary Deputy Speaker (Hon. Cheboi): Your time is over, Eng. Gumbo.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I did not see the red light come on.

The Temporary Deputy Speaker (Hon. Cheboi): It is probably because you did not want to see it.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, give me one minute to wind up my contribution.

The Temporary Deputy Speaker (Hon. Cheboi): I am giving you half a minute to wind up. You were taking a lot of your time.

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, I thank you and pray that you live until you are completely toothless.

The Temporary Deputy Speaker (Hon. Cheboi): Is that supposed to be interpreted as a curse or---

Hon. (Eng.) Gumbo: Hon. Temporary Deputy Speaker, it is not a curse. I want you live until you exhaust all the years, until you only take *uji* and soup for a meal.

I think that if we go by the intention of this Bill, we are going to have a social security system that Kenyans will have confidence in, and one that will help us to get the confidence of outsiders in helping us to build our country.

With those remarks, I beg to support the amendments.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Onyango.

Hon. Oyoo: Thank you very much, hon. Temporary Deputy Speaker. I want to add my voice to this very important topic.

For avoidance of doubt, I want Kenyans to remember that this concept was brought by the doyens of democratic struggle for this country, our beloved the late Joseph Thomas Mboya. He had intended it to empower people at old age or the jobless or those who are not able to make it in formal employment. However, upon his death, the ruling mandarins hijacked the idea and transformed the NSSF quickly into a cash cow that was meant to empower a few politically correct individuals. That is why today we have the very serious problem of poor perception of the NSSF.

Hon. Temporary Deputy Speaker, I am a Member of this serious Committee. I have taken lots of thorns in view of the fact that the people I represent are sugarcane farmers, sugarcane cutters, sugarcane millers or manual workers, who carry bags and do very hard jobs. I was enticed to join this Committee because I thought that the only recourse for their social security upon retirement is the NSSF. Leaders have had to grapple with journeys to Nairobi to look for their emoluments, which take a long time to be prepared and disbursed to them.

As a Member of the Committee, I would like to report that we ventilated this Bill thoroughly and engaged all the stakeholders. The Government is the regulator. We met the NSSF management with a view to finding out the problems that are inhibiting or bedeviling the institution. We captured the views of the public. We have met the employers' organisations and the employees' organisations and ventilated on this matter. Even by midday today, we were still ventilating on the matter. I would, therefore, like to

assure this House that the last draft of this Bill will be full proof and make the NSSF concept completely different from what Kenyans have witnessed.

Hon. Temporary Deputy Speaker, it is unfortunate that judgment in this country is by perception. Many of the hon. Members who made their contribution to this Bill pegged their judgment on their perception of the NSSF of the past. I want to assure them that this Bill has been overseen by my Committee, which has taken into cognizance the improvement that will factor in prudence, efficiency and improved facilities. That is why we are removing it from providence fund to pension fund. We have put in place measures that will curb what has been reminiscent in the old dispensation – rampant corruption.

I have heard people raise a lot of fears about the powers of the Cabinet Secretary. Let me say that the Cabinet Secretary will have an opportunity to appoint only three people. I would like hon. Members to ensure that the three appointees of the Cabinet Secretary reflect regional balance, gender and disability. While the NSSF was largely used by past regimes as a cash cow, a lot of improvements have been done in this Bill. As much as I may not have been a darling of the Kibaki era, I must admit that a lot was done. During Kibaki's time, the portfolio of the NSSF jumped from Kshs30 billion to Kshs110 billion. That is what we are talking about today. The Jubilee Government gave the public the impression that it is going to be corruption free. I believe they are because we have had an opportunity in our board to curb the powers of the Cabinet Secretary. Those Executive directives that used to come may be things of the past if this House helps us reinforce the adjustments that we have made. I believe that by the end of the first Jubilee tenure--- I do not know whether they will be able to move into the second dispensation. I am a Kenyan and I will be happy if they go into fourth or tenth tenure, but so long as they will rule the country well. If they will be able to raise the NSSF portfolio from Kshs.110 billion to Kshs. 440 billion, will we oppose Jubilee? It will be a tall order because sabotage improves with eating. While I believe that President Uhuru stands for good governance, there is no market where you will miss to find a mad man. There are also bad eggs in a pot. We only pray that he will be alert and make sure that all the bad eggs are thrown out very quickly. I want to say that this Bill means well for this country. We have done everything that we have brought in. We have brought in those who do not have formal employment; we have brought in funeral consolation. The old dispensation had nothing to do with funeral but we believe that if a Member dies, we should be able to provide a coffin. This does not affect his contribution or the emoluments that he will be able to get. We have factored in everything that will take care of the ills that were not there before and I believe with these Members' support, this Bill will go through. Finally, I want to appeal and plead with this House--- I am happy that the Speaker is a lawyer. Laws are never made for individuals or institutions; laws are made for posterity. If for any reason somebody has misgivings, let him know that we are making a law that is going to provide for the life span of the posterity of this country. We must approach this thing with clean heart and level-headedness because we know in this law, we are going to make better the life of the posterity of this country. Otherwise, I want to take this opportunity to plead with Members to read the final draft and when we come to the Committee stage, I would like us to have a consensus and pass this Bill very quickly. It is a Bill that will stand to improve the livelihood of the many desperate Kenyans.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Cheboi): Let us have hon. Odanga.

Hon. Odanga: Thank you, hon. Temporary Deputy Speaker, Sir. I also wish to add my voice to those who have spoken by supporting this very important Bill which I think is long overdue. Social welfare is very important to any state and its people. I want to say that the Bill is good because it includes all the people. Even if you employ one person, he is catered for. That person is eligible for this pension. Even individual members can contribute voluntarily. As it was noted earlier the NSSF that was, was known to be a cash cow by the politically privileged class. I want to believe that the one that will be formed, particularly the Board, through this Bill and Act will deviate from the past. When you look at the appointment of the Board of Trustees of the NSSF as it is contained in the Bill, unless it is amended, you realize that there is a lot of power vested in the person of Cabinet Secretary. The Cabinet Secretary shall be appointing, apart from the Chairman of the Board, seven other members. This is a body representing the workers and the workers' welfare. I want to say that amendments have to be brought to ensure that the workers are represented by the able bodies like COTU and other workers' bodies that are in this country. Their interests are of paramount importance in as far as the NSSF is concerned. The NSSF has had a lot of money. It has had logistical problems in the past. They were not able to know their members who had retired. They would not be able to trace them. There are very many Kenyans who have retired to date and have not claimed their money because they are unknown and they have not known where to go. Because of that, NSSF has had a lot of money in their suspense account. That is how corruption has always come in. We would like this kind of money that is in their suspense account to be invested well and proceeds from the same are extended to other Kenyans who have not been employed. There are very many old people who are above 65 years and cannot support themselves. They should be able to benefit from the social welfare in this country; from these kinds of funds, instead of the money being wasted by a few managers. The Board must also be vetted, like we have been vetting other State leaders. The management trustee must be vetted before it is appointed by the appointing authority.

Hon. Temporary Deputy Speaker, the number of meetings, as stated in this Bill, is open to abuse. We want to cap it and say that the maximum number of meetings should be this and that, not the minimum. If we do not do that, these members may want to sit several times. After all, they are determining their own allowances and they may sit every day, more than 365 days in a year, what will happen? The membership should also be diverse. If you have leaders, representatives of the Government as stated here in Section 6, we should have workers' representatives, regional representation and all types of diversity that is required in a board like this one. We are going to have over seven or eight members. Each region, particularly the former provinces should have at least one person representing it in whatever category.

Hon. Temporary Deputy Speaker, at the age of 50 years, for a person to qualify, I think we should remove that clause. There are many Kenyans who want to leave employment at age 40 or 45 years to do other things, including politics. These people are forced to resign without any benefits from NSSF where they have been contributing some money. Some of them have served for over 20 or 25 years and they go home with nothing. We should state in this Act that people who have worked for a minimum number of years should qualify to get their benefits and go home and do other things. We

encourage them to be entrepreneurs. But when you wait for people who are 50 or 60 years to give them money, they are not going to invest it.

If we want to encourage entrepreneurship, we must allow people who have prepared themselves to leave employment to go and do other things when they are still strong, energetic and innovative.

Hon. Temporary Deputy Speaker, Sir, I want to say that as we apply the penalties that are proposed in this Bill, we need to know some of the employers and their sources of revenue. For example, in the Ministry of Education, Science and Technology the teaching fraternity particularly, head teachers get their funds from the Government to pay personal emolument or pay the workers. Sometimes it takes four or six months before these funds are remitted to schools which are, therefore, penalized for not having remitted the contributions in good time. While we want to implement the penalty in order to encourage all employers to pay, we also need to know that there are some employers who will have problems because of their sources of revenue.

Hon. Temporary Deputy Speaker, Sir, with those remarks, I beg to support the Bill.

Hon. Wangwe: Thank you, hon. Temporary Deputy Speaker, Sir. Since the inception of NSSF, the perception of Kenyans when you mention to them “NSSF” is that you are talking about an organization which is of low esteem and which is corrupt.

The Jubilee Government has taken over the leadership of this county when the country is celebrating 50 years since it gained its independence. The only gift the Jubilee Government can give to the workers is turn around or change this organization which is lucky to have a lot of funds.

I sincerely support the Bill as it is. The Bill seeks to create a pension fund compared to a provident fund which used to exist. A pension fund shall give a chance to people or Kenyans who have wanted to move from the rural setup to the urban setup in search of white collar jobs. If you go to offices, you will find that the language in most Government offices is “I am pensionable”. It is a big terminology which entices school leavers to feel that when you are pensionable you have a greater opportunity to live beyond old age. This is a view which the Departmental Committee on Labour and Social Welfare has turned around. The small self-employed people can contribute and become pensionable at the age of 60 years as per the Bill. This will ensure that you do not need to move from a rural setup to an urban setup in order to become pensionable. Therefore, this will reduce the pressure on urban centres which we are witnessing in Nairobi. Any other sector which is urban-based can now enjoy its position.

The Bill seeks to encourage low income earners to save by virtue of the fact that they contribute to a pension scheme. This is another way of encouraging savings. The *Jua Kali* sector or the self-employed people who find it difficult to save shall be encouraged because at the end of the day any little saving they make today by contributing to the NSSF, shall in the near future be a return in the form of pension. Therefore, this is a good Fund, in my opinion, that will encourage a good saving.

Hon. Temporary Deputy Speaker, the Fund looks at the bigger journey of Vision 2030. If you look at the economic pillar of Vision 2030, you will find that this Committee has thought it wise on behalf of Kenyans to embrace the financial management skills.

This Bill seeks to accommodate the plight of the low income earners. If you look at the Bill, you will find that it has looked at the low income earners not only from a

meagre perspective but also from their ability to contribute to any scheme or any fund in this country. Therefore, any person whose income is meagre is welcome to contribute to this Fund.

Hon. Temporary Deputy Speaker with regard to the composition of the Board, I will bring an amendment at the Committee of the whole House stage. If the Board is to address the plight of the workers, then the workers should be represented by one of their own. It should not be the case that somebody makes a choice for the workers on who is to represent them. If you leave it at that, and yet it is the same person who is going to control the funds, then I will seek to differ with that.

Thank you and I beg to support the Bill.

Hon. Nyamweya: Hon. Temporary Deputy Speaker, I want to thank the Committee for doing a good job. The basis of our discussion on this Bill should be what we need to do to improve it so that this scheme becomes truly for the Kenyan worker. The Committee has recommended that the workers get two representatives and the employer also gives two representatives. I agree with that, but I wish we could remove the hand of the Cabinet Secretary.

In this NSSF, the Cabinet Secretary is going to appoint--- There are amendments the Committee has proposed and I support them. The Cabinet Secretary is going to appoint the Managing Trustee from the three names that will be presented to him. So, already he will have a say on where the organization is going. There is the Principal Secretary for Finance and the Principal Secretary for the Ministry concerned with this issue. From the Government, we have three people. I urge the House that we move away from the past. We need to move from what has been happening to NSSF. We need to remove the hand of the Government completely in appointing the Board of Trustees. We can have special interest group who can take these people to another level.

There is an issue that comes up when we say that these things should be mandatory. If you make it mandatory what happens with the other schemes which are existing at the moment? Are you going to say that some people contribute twice to this scheme? There are other schemes which are assisting--- Civil servants are permanent and pensionable. They are contributing to a scheme. Do you want to say that the Government of Kenya is going to contribute money to this scheme for the staff? The local authorities have a scheme. Are you saying that the local authority will then contribute twice? We have to look at this thing in a holistic manner.

What is the total amount of money in terms of pension scheme? From the records available, NSSF controls around Kshs110 billion. Over Kshs400 billion is controlled by other schemes which have been successful. The workers in these schemes are not complaining. They have no issues to raise. Why then should you make NSSF mandatory and yet we know we have had issues with it since it started? I suggest that a way be found to increase the membership. I am being honest with this. When you look at the old Act and what you are bringing now, there is really no difference. The only difference would be if you allow the Minister to have a free hand to run this.

When I look at the whole Act and this new Bill, obviously, the intention was for the Government to control the NSSF. There is no other intention, but mischief. That is why I am saying that I thank the Committees for coming up with this. Let us do more than what we have done. If we go by what was proposed, for sure, we are headed for a shock. Somebody is trying to make this mandatory without due regard for other schemes,

which exist, and the method of getting the right people to get the jobs. I thank the Committee for deleting Clause 27. They have done a good job. If you want to look at Clause 27, which has been deleted by the Committee, the intention was not good for this Bill.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Gichigi, what information do you want to give to hon. Nyamweya?

Hon. Gichigi: On a point of information, hon. Temporary Deputy Speaker, Sir. I wanted to clarify that according to the Bill, the only sum that is compulsory for the workers and employers to pay is up to Kshs960. It is called the first tier. Any amount that is above Kshs960, the worker and the employer is permitted to invest in any other scheme that they may choose. So, it is only up to Kshs960.

The Temporary Deputy Speaker (Hon. Cheboi): That is fine, but you have almost cleared the time that hon. Nyamweya had. So, it cannot be yours. You accepted the information.

Hon. Nyamweya: Thank you, hon. Gichigi for that information. I am asking one question, which is: if I am in a scheme and I am enjoying it---

The Temporary Deputy Speaker (Hon. Cheboi): Kindly, wind up, hon. Nyamweya!

Hon. Nyamweya: Let me wind up, hon. Temporary Deputy Speaker, Sir. I support this with the amendments that the Committee is going to bring. I urge the House to free this organisation completely from the hands of the Government. We have seen success from other pension schemes like the one for the Kenya Ports Authority and the Kenya Power and Lighting Company. All these schemes have worked very well for the contributors.

I support the Bill with the amendments. We need to bring amendments to free the organisation from the Government.

The Temporary Deputy Speaker (Hon. Cheboi): Your time is over.

Hon. Nyamweya: Thank you, hon. Temporary Deputy Speaker, Sir.

Hon. Serem: Hon. Temporary Deputy Speaker, Sir, I rise to support this Bill. First, I want to commend the good job that the Members of the Committee have done on this particular Bill. They have put so much energy and input until the time that we have this Bill before the House. To be honest, we know where we have come from, where we are and I am very sure, where we are going. We came from a situation where we had over Kshs7 billion in suspended accounts. We are discussing a situation where we have Kshs2 billion and the institution is in the process of matching the owners to these accounts.

In future, with the amendments that we have suggested in the Committee, the issue of suspended accounts will be history. Anyone who opposes this Bill may have to first go back and understand where the NSSF has been. We cannot continue with a situation where you walk in and walk out with money. I did not like the language used by most Members, of "cash cow" because we respect cows in the community that I come from. We say milk cows. We do not discuss cash cows because we respect our cows. Maybe some other communities do not keep cows. We need to assist this country to move forward. Most of us, politicians, understand the agony people who have worked in some industries now go through in the villages. They are actually languishing in poverty.

After they have worked so hard for over 40 years, they are given Kshs300,000 and they are told, bye bye! Yet they were used to being paid a salary for the last 30 years.

I am telling you this for free; these people do not live more than three years. They die as soon as they go out of their work place. We do not want the same thing to continue. We can save the situation by making sure they get Kshs10,000 monthly and this can be better than being told *kwaheri!*

Hon. Temporary Deputy Speaker, Sir, all of you understand this and we always see many Kenyans lining up at the NSSF. They are told that their names do not exist, yet there is a lot of money which is unaccounted for. This Bill might not be perfect, but at least, it is something better than where we are. We are moving somewhere. So I am urging hon. Members, if there are issues of concern, raise them so that we can amend instead of dismissing the whole Bill in totality. That will assist this nation.

Hon. Temporary Deputy Speaker, Sir, I was lucky to get an opportunity to study in the First World country. What we have is a disaster! We have to rise up and do something for the sake of this nation. If you are discussing somebody's saving of Kshs900.00, my dear friends, something has to be done. Therefore, I am urging all hon. Members to support this Bill so that Kenyans can have a decent life.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): Hon. Serem, are you not going to the direction where the Mover is supposed to dwell on? You are not the Mover; you are merely encouraging.

Finalize, please!

Hon. Serem: I am a member of the Committee and I am passionate about this.

The Temporary Deputy Speaker (Hon. Cheboi): That is fine. In the interest of time, let us have hon. Tiyah Galgalo to contribute. She is the Vice-Chairperson. Your card is always on and off and I do not know why. You can contribute before the Mover can reply.

Hon. (Ms.) T.G. Ali: Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity to contribute. I also want to thank hon. Members who have contributed to this important Bill. A lot of your suggestions and amendments are already taken care of. I think when we will bring them in for the Third Reading; a lot of these issues will be reflected. Therefore, your contributions towards this Bill are worthwhile and we really appreciate them.

Hon. Temporary Deputy Speaker, Sir, I want to inform the House that we have had quite a number of engagements with the Kenya Tea Growers Association. We have had several engagements with COTU and the Association of Pension Trustees and Administrators of Kenya (APAK). We have had several sittings as hon. Members; we have had meetings with the Ministry and Board of Directors of NSSF. Therefore, we have collected a lot of information and included it in this Bill. From our Committee, we have left no stone unturned on the issues pertinent to Kenyans and also to contributors to this Fund.

The NSSF is constituted with hard-earned money of working Kenyans. It is, therefore, our wish to ensure that the money is protected and availed to pensioners at the right time. This Bill seeks to tighten checks and balances amongst the Board of Directors and the Principal Secretary. This Bill will ensure that the issue of mismanagement becomes history. It will also ensure that the NSSF becomes effective, and that its money is protected. I am sure that the Bill will also encourage the culture of saving and uplift the

name of the NSSF, which is referred to by various hon. Members as “cash cow” and those kinds of terms. This Bill is going to clean up all those issues.

It is very important for us to work on this Bill and pass it because the need is great. Many hon. Members have already said that they would not want to see the old NSSF that we have been talking about. This Bill seeks to address some of those concerns. This is one of the Bills that will benefit almost all Kenyans. I would like the hon. Members who have contributed to the Bill to know that their considerations will be considered. For those who have not contributed to it, we still have time. There is the Committee stage, during which we will also receive some of the amendments that hon. Members would want included in this Bill.

So, mine is just to appreciate and urge other hon. Members to support this Bill because it is going to transform Kenya.

Thank you.

The Temporary Deputy Speaker (Hon. Cheboi): It is now time for the Mover to respond.

Hon. A.B. Duale: Hon. Temporary Deputy Speaker, allow me to give hon. Abass two minutes and then I will close.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Abass.

Hon. Abass: Thank you, hon. Mover, for giving me the opportunity. I rise to support the Motion.

It is only through the existence of a robust social welfare system that this country can develop and take care of its own population. In the past, the NSSF did not do very well. It was not taking care of retirees very well. However, this Bill gives a wide bracket of opportunities for Kenyan employees, both in the private and public sectors. It has widened up the bracket for contribution.

The only thing that has been left out is that for most Kenyans working in the private sector, job security is not always there. Most of the time, they lose their jobs and are forced to move around looking for jobs. For the time they will be looking for jobs, contributors should have been given some money from the Fund to support themselves until they get new jobs. That is the amendment I want to bring to this Bill during the Committee stage.

The other point is that in some cases, the NSSF offices are very far from the rural areas. When they retire, contributors are forced to travel from their rural areas to Nairobi to follow up their pension. This has caused them to incur huge costs. They also experience problems to the extent that some of them are not able to travel to Nairobi to follow up their pension money. It is, therefore, high time we decentralised NHIF’s centres for contribution and pension processing to the respective counties.

Finally, the NHIF has a lot of money in the suspense account. This is the money that the Fund should use to cushion those who lose their jobs. With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. Cheboi): Yes, hon. Duale.

Hon. A.B. Duale: Thank you, hon. Temporary Deputy Speaker. This Bill was drafted during the 10th Parliament, but it has seen the light of day in this Parliament. This afternoon, nearly everybody has contributed. The contributions will lead to constructive amendments to the Bill. I am sure for the first time in the history of our country, we have fulfilled a constitutional requirement of providing social security for members and their

dependents against various contingencies. Finally, it aims at transforming this NSSF from a provident fund to a pension scheme. That is the way Kenya must go. I am sure the Committee and other members will bring relevant amendments when we reach the Third Reading. Hopefully, the President should be ready to sign this Bill into law the moment we are through with it before we go for recess.

With those few remarks, I beg to move.

(Putting of the Question deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Cheboi): Very well, that marks the end of that particular session. The Question will be put in the next sitting because of lack of sufficient number of Members. Noting that we have about one minute to the end of this session, it is time that we adjourn.

The House is, therefore, adjourned until tomorrow, Wednesday, 27th November, 2013 at 9.00 a.m.

The House rose at 6.29 p.m.