

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 14th November 2018

The House met at 9.30 a.m.

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

PRAYERS

QUORUM

Hon. Deputy Speaker: Members, we do not seem to have the required quorum. Therefore, I order that the bell be rung for 10 minutes.

(The Quorum Bell was rung)

Order, Members! We now have quorum and, therefore, the bell should stop ringing and we start our business.

PAPERS LAID

Hon. Deputy Speaker: On that Order Hon. Members, I am aware that the Chairman of the Departmental Committee on Administration and National Security, Hon. Koinange, has a Paper to lay. I also think Hon. Wandayi, if he is in the House, should be preparing to do the same.

Proceed.

Hon. Paul Koinange (Kiambaa, JP): Thank you, Hon. Deputy Speaker. I beg to lay the following Papers on the Table:

The Reports of the Departmental Committee on Administration and National Security on its consideration of:

- (i) The National Flag, Emblems and Names (Amendment) Bill (Senate Bill No. 8 of 2017).
- (ii) The Assumption of Office of the County Governor Bill (Senate Bill No. 1 of 2017).

Hon. Deputy Speaker: Very well. Hon. Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Deputy Speaker. I beg to lay the following Paper on the Table:

The Report of the Public Accounts Committee on the examination of the Report of the Auditor-General on the Financial Statements for the National Government for the Financial Year ended 30th June 2015.

Hon. Deputy Speaker: Next Order.

TAARIFA YA HOJA

Mhe. Naibu Spika: Nafahamishwa kwamba Mhe. Mohamed Ali ana azimio la Hoja.

(Kicheko)

Kama hiyo ni kweli, endelea.

SERIKALI KUFUTILIA GHARAMA ZA MATIBABU KWA
WANAOFARIKI WAKIPOKEA MATIBABU KATIKA HOSPITALI ZA UMMA

Mhe. Mohamed Ali (Nyali, Independent): Mhe. Naibu Spika, naomba kutoa taarifa ya Hoja ifuatayo:

KWAMBA, tukitambua kuwa Ibara ya 43 ya Katiba imebainisha kuwa kila mtu ana haki ya kupata kiwango bora zaidi cha afya kinachojumuisha haki ya kupata matunzo ya kiafya na kutonyimwa matibabu ya dharura; aidha, ikifahamika kwamba gharama za matunzo ya kitabibu katika taasisi za kiafya za kibinafsu zingali ghali mno hivyo kuwalazimu Wakenya wengi kupendelea kusaka huduma hizo kwa hospitali za umma; tukizingatia kwamba licha ya bei nafuu ya matibabu katika hospitali za umma ikilinganishwa na hospitali za kibinafsi bado Wakenya wengi hawamudu hivyo basi kutumbukia kwenye madeni, ufukara na dhiki wanaposhindwa kulipa malimbikizi ya gharama za matibabu yao na ya wapendwa wao; Bunge hili linahimiza Serikali ya kitaifa kufutilia mbali gharama zote za matibabu ya wagonjwa wote wanaofariki wakipokea matibabu katika hospitali za umma.

Asante Mhe., Naibu Spika.

Mhe. Naibu Spika: Sitakupatia nafasi hiyo, Mkuu wa Wengi, kama hutatamka kwa Kiswahili sanifu. Kama unasimama kwa suala la nidhamu basi uko na nafasi. Tutatumia Kiswahili hadi tumalize mambo haya.

Mhe. Aden Duale (Garissa Township, JP): Nitauliza kwa Kiswahili kwa kuwa najua Kiswahili sanifu. Mimi hapana...

(Kicheko)

Mimi nimeelewa na nitazungumza Kiswahili sanifu.

Mhe. Naibu Spika, jana katika mkutano wa kamati ambayo inaratibisha kazi ya Bunge ambayo inaongozwa na Spika wa Bunge, tulimuuliza Katibu wa Bunge hili afanye mabadiliko katika hiyo Hoja.

Mhe. Naibu Spika: Afanyie mabadiliko.

Mhe. Aden Duale (Garissa Township, JP): Tulimuuliza Katibu wa Bunge afanyie Hoja hiyo mabadiliko. Hii ni kwa sababu yale ndugu yetu Bw. Ali Mohamed anauliza yanahusu vile vipengele vya Katiba ambavyo vinahusiana na matibabu. Hii ni kwa vile tunajua kuna matibabu ya Serikali kuu na ya serikali za ugatuzi. Mhe. Kiongozi wa Wachache na Mhe. Washiali walikuwa katika huo mkutano. Tulimta aulize Serikali kuu na zile za ugatuzi; hospitali nyingi

katika nchi yetu ziko chini ya seriakli za ugatuzi. Kabla hajafanya hayo mabadiliko, hiyo Hoja yake ni bure kabisa.

(Kicheko)

Ni bure kabisa kulingana na Katiba. Ni kama haiambatani, hailingani na haiko sawia na Katiba ya Kenya. Mwenyekiti nakuuliza uulize makarani ambao wamekaa hapa Bungeni kama hiyo Hoja iko sawa. Nitampa Mhe. Mbadi fursa pia aongee Kiswahili ili ahakikishe kwamba yale ninasema ni ya kweli.

Mhe. Naibu Spika: Mhe. Kiongozi wa Wengi, huna nguvu ya kumpatia Kiongozi wa Wachache hiyo ruhusa. Hata hivyo, nitachukua nafasi hii kumpatia Kiongozi wa Wachache katika Bunge hili la kitaifa. Utahutubia Bunge hili kwa lugha ya taifa ya Kiswahili.

(Kicheko)

Hon. John Mbadi (Suba South, ODM): Asante sana, Mhe. Naibu Spika. Nimeshangaa sana kwamba siku ya leo ndiyo ya kwanza, tangu nije Bunge hili 2007, kupewa nafasi bila kuuliza.

Hiyo inatokana na lile suala la nidhamu na *Handshake* ama kusalimiana.

Mhe. Naibu Spika: Hamna kitu au neno katika Kiswahili ambalo laitwa *Handshake*. Unafaa kusema “mkono kutetemesha”.

Hon. John Mbadi (Suba South, ODM): Mhe. Naibu Spika, sijui kama umesema ni “*handisheki*” ama ni nini lakini ninataka nihakikishe kwamba yale kiongozi amesema ni ya kweli. Tulizungumzia haya maneno na tukaamua tupewe mwenye Hoja. Huyu ni Mhe. Ali. Yeye ndiye atapendekeza marekebisho ili hii Hoja ilingane na Katiba ya nchi yetu.

Asante sana Mhe. Naibu Spika. Wakati wa kuchangia hii Hoja ukifika, hapo ndipo tutajua ni akina nani wako na uwezo wa kuongea Kiswahili sanifu. Mimi nilifanya Kiswahili na nikapita. Namaanisha nilifanya Kiswahili katika mtihani na nikapita. Lazima ufanye mtihani. Unajua unaweza kusoma Kiswahili lakini hukitumii. Nilisoma, nikafanya na nikapita mitihani. Naona hata Mhe. Sankok ambaye hawezi kuongea Kiswahili sanifu anapiga kelele nyingi.

Asante sana, Mhe. Naibu Spika kwa kunipatia nafasi hii.

Hon. Deputy Speaker: Mjumbe wa Mosop, Hoja yako ni ya nidhamu au ni ipi?

Hon. Vincent Tuwei (Mosop, JP): Asante sana, Mhe. Naibu Spika. Nimeshangazwa kwamba kiongozi cha walio wachache Bungeni ametumia lugha ambayo si sanifu kwa kusema kuwa amefanya Kiswahili. Kufanya ni tofauti. Angesema amesoma ama amehitimu ama ametahiniwa katika somo la Kiswahili lakini kusema kuwa amefanya ni jambo tofauti. Hiki ni kipengele ambacho hakitaambatana na lugha yetu ya Kiswahili.

Hon. Deputy Speaker: Mjumbe wa Mosop, hiyo ngeli unayomuhimiza atumie ni ipi?

Hon. Vincent Tuwei (Mosop, JP): Amekolea, ama ametahiniwa ama amesoma somo la Kiswahili.

Hon. Deputy Speaker: Basi tumpatie nafasi hii, Daktari Wamalwa kutoka kiminini.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Asante sana Mhe. Naibu Spika. Namshukuru Mheshimiwa ambaye amechangia. Namshukuru Mhe. Mbadi kwa sababu ameongea Kiswahili sanifu.

Hon. Deputy Speaker: Mheshimiwa, hata hiyo siyo haki.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Kulingana na mnyambuliko wa vitenzi, yeye ameongea Kiswahili sanifu. Kufanya *is a synonym*. Yaani alisomea halafu akahitimu na akapata alama ya “A” katika somo la Kiswahili.

Hon. Deputy Speaker: Mhe. Onyiego Osoro, una lipi la kusema?

Hon. Silvanus Onyiego (South Mugirango, KNC): Langu ni kupongeza Mheshimiwa wa Nyali, Mhe. Mohamed Ali kwa kuleta Hoja hii Bungeni. Ningependa pia kukosoa kidogo.

Hon. Deputy Speaker: Kwanza ningependa kukosoa. Hatuchangii swala hili kwa sasa. Swala lililo mbele yetu ni kwamba kuna vipengele ambavyo vinatajikana kurekebisha na Mjumbe wa Nyali. Hiyo ndio hoja ambayo tunataka kuzungumzia kwa sasa.

Hon. Silvanus Onyiego (South Mugirango, KNC): Ningependa kurekebisha Kiongozi wa Walio Wengi kwa kusema kuwa Mheshimiwa Ali ameleta Hoja hii kwa njia inayokiuka Katiba. Kipengele cha 119 kinaruhusu kila mtu kuleta Mswada au marekebisho yoyote ambayo yanagusia sehemu fulani kisheria. Kwa hivyo, Hoja hii iko hapa kisheria na iko kwa njia ambayo inastahili. Kwa hivyo, Kiongozi wa Walio Wengi Bungeni anapotosha watu hapa.

Hon. Deputy Speaker: Hebu tumsikize Kinara wa Walio Wengi halafu tutaona kama tunaendelea vizuri. Kinara wa Walio Wengi ni Jomo Washiali.

Pole ni Kiranja. Tuna Kinara ambaye ni Mhe. Duale na Kiranja ambaye ni Mhe. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Asante sana, Mhe. Naibu Spika. Ningependa kuongeza sauti yangu kwa viongozi wetu wa Walio Wengi na Walio Wachache kwa kusema kwamba, tulizungumzia Hoja hii kwa urefu katika mkutano tuliokuwa nao na tukasema kwamba mfumo wa serikali iliyo sasa ni serikali ya kitaifa na serikali ya ugatuzi. Serikali ya kitaifa iko na Bunge kuu linaloangazia utendakazi wa serikali ya kitaifa. Serikali ya ugatuzi iko na Bunge lake ambalo linaangalia utendakazi wa serikali ya ugatuzi. Maoni yetu yalikuwa tunaweza kuzungumza lakini ni bora ikiwa tutazungumzia hospitali za umma, tuombe serikali za kitaifa na za ugatuzi kukubaliana na maoni ambayo Mheshimiwa wetu kutoka Nyali alikuwa nayo.

Asante Mhe., Naibu Spika.

Hon. Deputy Speaker: Mhe. Chachu Ganya, ungependa kuchangia jambo hili?

Hon. Chachu Ganya (North Horr, FAP): Mhe. Naibu Spika, nakushukuru kwa nafasi hii. Nilitaka kusimama kwa Hoja ya Nidhamu na sikupata nafasi hiyo wakati Kiongozi wa Walio Wengi Bungeni alipokuwa akiongea. Kiongozi wa Walio Wengi Bungeni alisema Hoja hii ambayo Mhe. Ali alitoa ni bure kabisa. Huo ni upotevu wa nidhamu na lugha hii haikubaliki katika Bunge letu.

Hon. Deputy Speaker: Yaani, unasema hiyo siyo lugha ya kibunge.

Hon. Chachu Ganya (North Horr, FAP): Kabisa.

Hon. Deputy Speaker: Nakubaliana na wewe kuwa “bure kabisa” siyo lugha ya Bunge. Nitampatia Daktari Pukose halafu tuende upande wangu wa kushoto nimpatie Mhe. Baya.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hoja iliyotolewa na Mhe. Ali kulingana na vile Kiongozi wa Walio Wengi alisema, inakejeli Katiba. Mambo ya huduma ya afya imegawanyika kati ya Serikali Kuu na serikali ya ugatuzi. Itakuwa fursa nzuri kufanya marekebisho kwa sababu tayari ametoa Hoja yake. Kiongozi wa Walio Wengi alisema ni bure kwa sababu haitaweza kuleta manufaa kwa wakenya. Kwa sababu ni Hoja nzuri, tunafaa kutumia fursa hii kufanya marekebisho ili isikejeli Katiba.

Hon. Deputy Speaker: Mhe. T.J. Kajwang’.

(Hon. T.J. Kajwang' spoke off record)

Hon. Deputy Speaker: Basi tutampatia jirani yako ambaye ni Mhe. Baya Yaa.

Hon. Owen Baya (Kilifi North, ODM): Asante sana, Mhe. Naibu Spika. Ijapokuwa mambo ya hospitali yako katika ngazi mbili, ngazi ya kitaifa na serikali za ugatuzi, mambo ya sera kuhusu mambo ya afya yako katika serikali ya kitaifa. Katika utaratibu wa Nne wa Katika, utapata mambo ya sera yako katika serikali ya kitaifa. Mimi naona kwamba Mhe. Mohamed ameleta hili jambo katika Nyumba ambayo inaangalia sera za kitaifa. Sera za kiafya hutengenezwa na serikali ya kitaifa. Na jambo ambalo analileta ni kuangalia sera. Serikali kuu ilitoa sera kuhusiana na mambo ya uzazi na serikali ya ugatuzi inatekeleza.

Kwa hivyo, yale mambo ambayo Mhe. analeta nafikiria yako katika Nyumba hii kisawa na sisi tukae tukijua hata wagatuzi wata *implement*.

Asante sana.

Hon. Deputy Speaker: Basi wacha tumpatia nafasi na fursa Mjumbe wa Nyali aseme kama ni ukweli anazugumzia mambo ya hospitali kwa ujumla ama ni hospitali za rufaa.

Hon. Mohamed Ali (Nyali, Independent): Asante sana, Mhe. Naibu Spika. Kwanza nitoe kongole kwa Wabunge wote kwa kuienzi lugha ya taifa ya Kiswahili. Maana leo hii Bunge limekuwa la mahajam. Naona leo watu wamefurahia kwa kuweza kuwasilishisha maswala haya.

Kukosoa tu, kwanza kabisa nitaanza kwa kusema kwamba hakuna Hoja bure katika taifa hili. Kila Hoja ina maana yake.

Hon. Aden Duale (Garissa Township, JP): Hoja ya nidhamu, Mhe. Naibu Spika.

Hon. Deputy Speaker: Kuna hoja ya nidhamu kutoka kwa Kiranja wa Walio Wengi. Kuna nini kiongozi?

Hon. Aden Duale (Garissa Township, JP): Hoja ya nidhamu, Mhe. Naibu Spika. Mhe. amesema anatoa kongole kwa walioongea. Sisi hatujui maana ya kongole. Tafadhali, atuambie ni nini, pengine ni matusi. Atufafanulie maana yake.

Hon. Mohamed Ali (Nyali, Independent): Asante, Mhe. Naibu Spika. Mhe. mwenzangu alianza kwa kusema yeye anafahamu na kuelewa Kiswahili. Kongole ni kukupongeza kwa kuzungumza lugha ya taifa ya Kiswahili. Hata hivyo, nikiendelea nataka kusema kwamba alivyosema Mhe. mwenzangu ni kwamba hili ni Bunge la Taifa. Lengo letu kuu hapa Bungeni ni kutunga sheria za taifa. Nikiangalia Hoja ambayo nimeleta mbele yenu siku ya leo, kulikuwa na hali ya utata wakati wa kupiga chapa lakini nadhani tulikuwa tunasema wakipokea matibabu katika hospitali za rufaa...

Hon. Deputy Speaker: Basi hiyo ni sawa.

Hon. Mohamed Ali (Nyali, Independent): Kisha kejeli ya Katiba kama alivyosema mwenzangu, hatujakejeli Katiba kwa sababu tuko katika Jumba hili kutunga sheria na wakati mwingini huandikwa, hufutiliwa mbali na kuandikwa tena upya kwa manufaa ya wananchi wa Jamhuri ya Kenya. Sera za afya nchini Kenya ni za kitaifa.

Hon. Deputy Speaker: Kwa sababu umeeleweka na Hoja hiyo ikakubaliwa, tuwachane na mambo mengine, yawe ya majadiliano wakati Hoja hii itakapofika mbele ya Bunge hili. Sasa umepatiana azimio la hiyo Hoja. Tunakushukuru sana kwa kuileta katika lugha ya taifa ambayo ni Kiswahili.

We will now go back to our normal business. It has been one of the most difficult mornings. We will now resume what we are used to. Next we will have a notice by Hon. Wandayi. I believe he is ready.

ADOPTION OF PAC REPORT ON NATIONAL GOVERNMENT

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Deputy Speaker, I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Public Accounts Committee on the examination of the Report of the Auditor-General on the Financial Statements for National Government for the Financial Year ended 30th June 2015. Thank you.

Hon. Deputy Speaker: Next Order!

QUESTIONS

Hon. Deputy Speaker: We will start with the Questions and first is the Member for Ganze, Teddy Ngumbao Mwambire.

Question No.144/2018

PROGRESS MADE IN SETTING UP STRUCTURES FOR KAUMA SUB-COUNTY HEADQUARTERS

Hon. Teddy Mwambire (Ganze, ODM): Hon. Deputy Speaker, I have the pleasure to ask Question No.144/2018 to the Cabinet Secretary for Interior and Coordination of National Government.

- a) What is the progress made in setting up the structures of the newly established Kauma sub-county headquarters in Kilifi County?

- b) What modalities have been put in place to demarcate the boundaries of the two newly created Kauma and Chonyi sub counties in Kilifi County?

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: That will be replied before the Departmental Committee on Administration and National Security. Next will be Hon. Member for Teso North Constituency Hon. Oku Kaunya.

Question No.146/2018

MEASURE TO EQUATE AND CONVERT FOREIGN ACADEMIC QUALIFICATIONS

Hon. Oku Kaunya (Teso North, ANC): Thank you, Hon. Deputy Speaker for giving me this opportunity to ask my Question to the Cabinet Secretary for Education.

- a) Is the Cabinet Secretary aware that thousands of Kenyan students who graduated in foreign countries, especially Uganda, have had challenges in ensuring foreign qualifications attained are converted to Kenyan equivalents?
- b) Could the Cabinet Secretary for Education explain the due procedures required to equate education qualifications obtained in Uganda to those under our national systems?
- c) What measures is the Ministry taking to fast-track the process of equating and converting these foreign qualifications?

Hon. Deputy Speaker: We will defer Question No. 147 and 153 because the Members have made genuine requests. Hon. Hiribae you had said you are having an appointment with a Cabinet Secretary. Since you are here, ask your Question but Question No.147 is deferred. So, Question No.153.

Question No.147

SCOPE OF WORK DONE ON MALEWA ROAD IN EMBAKASI CENTRAL CONSTITUENCY

(Question deferred)

Question No.153

REPLACEMENT OF OLD ARMS ISSUED TO KENYA POLICE RESERVISTS

Hon. Said Hiribae (Galole, FORD-K): Thank you, Hon. Deputy Speaker. My Question is directed to the Cabinet Secretary for Interior and Coordination of National Government.

When is the Ministry considering replacing all the old arms issued to Kenya Police Reservists nationally, particularly in Tana River County, with automatic ones in view of the current incessant security threats?

Hon. Deputy Speaker: That will be answered before the Departmental Committee on Administration and National Security. Hon. Members, if you make a request to have a Question deferred especially because of other engagements, even if you come, we will still defer. That is the last Member we are giving an opportunity because once you say you want your Question to be deferred, it means you have made up your mind.

Therefore, when we make that decision, it should be binding. Today is the first time we are having such an issue where a Member requests for a Question to be deferred and then appears. Maybe we have given him the benefit of the doubt. Next is Hon. Abdul Rahim Dawood, Member for North Imenti.

Question No.154

STATUS OF IMPLEMENTATION OF TASKFORCE REPORT ON DELINEATION
AND DEMARCATION OF GREATER MERU

Hon. Rahim Dawood (North Imenti, JP): Thank you, Hon. Deputy Speaker. My Question is No.154/2018 directed to the Cabinet Secretary for Lands.

- a) What is the status of implementation of the Taskforce Report on Delineation and Demarcation of the greater Meru District and the boundary between Tharaka and Tigania districts which was appointed vide Gazette Notice 11412 of 4th December 2008 under the chairmanship of Zachary Ogongo?
- b) What measures is the Ministry undertaking to ensure that the disputes between the Meru and Tharaka Nithi counties are resolved and in particular land disputes at *Kwa Ng'ombe* in North Imenti Constituency?

Hon. Temporary Deputy Speaker, I want your guidance because I had asked a similar Question to the Cabinet Secretary for Interior and Coordination of National Government. There was buck-passing between his Ministry and the Ministry of Lands. I want directions so that when this Question is being answered the Ministry of Interior and Coordination of National Government should be involved as well. This is an issue about land boundaries.

Hon. Deputy Speaker: Have you said you had asked a similar Question?

Hon. Rahim Dawood (North Imenti, JP): It was similar because it had security issues but they said they had nothing to do with land boundaries. If this goes to the Departmental Committee on Lands, I hope, I will not be told it is under the Ministry of Interior and Coordination of National Government.

Hon. Deputy Speaker: That will be replied before the Departmental Committee on Lands and let us wait and see what they have to say.

Hon. Rahim Dawood (North Imenti, JP): Thank you, I stand guided.

Hon. Deputy Speaker: That marks the end of Questions. Let us go to the next Order.

MOTION

ESTABLISHMENT OF APPRENTICE TESTING AND CERTIFICATION CENTRES IN CONSTITUENCIES

THAT, aware that the informal sector constitutes an important component of the economic activities and development process in Kenya representing about 82.7% of employment in the country; further aware that the workers in the informal sector engage in commercial activities outside the realm of the formally established mechanisms since there is no clear policy framework in place to regulate their operations by the Government; noting that most workers in the informal sector acquire skills and knowledge mainly through apprenticeships but have no access to technical skills upgrading as many lack requisite academic certificates; recognising that apprenticeship in the informal economy represents the main road map to skills development in most developing countries and appreciating that the National Industrial Training Authority (NITA) through its training centers in Nairobi, Mombasa, Kisumu and Athi River plays an important role in industrial training targeting workers in the formal and informal sector; this House urges the Government to establish suitably located and facilitated training and testing centers in every constituency to assess the experience and competence of the apprenticed workers particularly in the informal sector and consider putting in place mechanisms to have them awarded with certificates based on their competencies and acquired skills.

(Hon. Charles Njagua on 24.10.2018)

(Debate concluded on 7.11.2018)

Hon. Deputy Speaker: Hon. Members, I can confirm that we have the requisite quorum to enable us to put the Question. I proceed to put the Question.

(Question put and agreed to)

BILL*Second Reading*

THE COUNTY PENSION SCHEME BILL

Hon. John Mbadi (Suba South, ODM): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Yes, what is your point of order, Hon. Mbadi?

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Deputy Speaker. I stand on Standing Order No. 49. The Bill before us is the County Pension Scheme Bill by Hon. Muriuki Njagagua, but Standing Order No. 49(1) says:

“(1) No Motion may be moved which is the same in substance as any question which has been resolved (either in the affirmative or in the negative) during the preceding six months in the same Session.”

I sit in the House Business Committee (HBC) and this Bill was brought and there is a bit of confusion. Why? This is because not long ago, this House actually considered a similar Bill which was moved in this House by Hon. Duale, the Leader of the Majority Party. The Bill was the County Government Retirement Scheme Bill 2018. The one we have today is the County Pension Scheme Bill 2017. The introduction of the Bill by Hon. Duale, which is now in the Senate, says:

“An Act of Parliament to establish the County Government Retirement Scheme for employees in the service of county governments to provide for retirement benefits for those employees and for connected purposes.”

The introduction of the Bill before us says:

“An Act of Parliament to establish the County Pension Scheme to provide for the management and administration of the scheme and for connected purposes.”

These two Bills are almost similar in nature intending to achieve the same objectives. When I raised this matter in the HBC, it was considered that it should be considered in the House whether we should proceed with it. My thinking is that Hon. Njagagua could have brought amendments to the Bill that we considered at the time we were considering that Bill in the Committee of the whole House so that we could have captured anything that is in this Bill that was not captured in Hon. Duale’s Bill. I have heard there are some stakeholders who probably wanted a few things to be incorporated in that Bill. In the absence of that, two things can happen. The stakeholders can approach the Senate because the Bill is in the Senate. Alternatively, they can wait for six months to lapse and then Hon. Njagagua can bring amendments to an Act of Parliament that is already in place. If we deal with it, we are going to have two laws in this country that are basically addressing the same thing. I do not think that is prudent use of our time as a House.

Further, it brings confusion because then how would you decide which law to use in managing the pension funds of county government employees. I seek your guidance and consideration that this Bill, in my view, should not be considered by this House, if we have to strictly follow our rules. There was a reason why this House decided to put Standing Order No. 49 in our Standing Orders. The main reason was to avoid these kinds of conflicts in terms of legislation. You cannot have two laws which are basically addressing the same thing. What I would do is if I am not happy with a particular law which is passed by the House, I would just change the title and bring almost the same things to this House.

So, Hon. Deputy Speaker, in my considered opinion, which I seek your guidance on, I would recommend that Hon. Njagagua either pushes his amendments to the Senate or alternatively waits for six months. Finally, this law has a transition period of five years. So, it will not hurt even the stakeholders who are affected. They will not really hurt because there is a five-year period within which we can still amend and bring those provisions that we left out in the earlier legislation.

Thank you, Hon. Deputy Speaker.

Hon. Deputy Speaker: I will open to a few Members so that we can make a decision on how to proceed. Let us hear the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Deputy Speaker, number one, this is a Private Member's Bill. Number two, this Bill was processed by the HBC last night for it to appear on the Order Paper and my good friend, the Leader of the Minority Party, was in that meeting last night that endorsed this Bill to be on the Order Paper. There are a number of reasons why this Bill must be here based on the discussion that took place in the HBC. First, we as the HBC have no powers to kill any Private Member's Bill. That debate was asked that if it is not unconstitutional... When we looked at the Order Paper, the only Bill which was before the House by a Private Member was the one by Hon. Njagagua.

Secondly, the Departmental Committee on Finance and National Planning – and the Chair is sitting here – tabled a Report on this Bill which every Member can access. In that Report, the Committee – and the Chair can confirm it – has stated it very clear that when we come to the Committee of the whole House on this Bill, the Committee will only deal with the items which have been left out by the previous Bill. Thirdly, we have passed many election laws. If there is a Bill on election laws, that does not stop another Member from bringing another Bill on election laws. The Departmental Committee on Finance and National Planning has tabled a Report and in their Report, they had the right to say: “Because we have had another Bill, we reject this Bill” and advise the Member and the House.” However, they have tabled a Report here which copies are available. In the Report, they are saying that on the issues that have not been captured, we will deal with this Bill at the Committee of the whole House. We do not need to kill the Bill of a Private Member. When we go to the Committee of the whole House, the Departmental Committee on Finance and National Planning will guide us and they will not deal with issues which have already been dealt with by the County Government Retirement Scheme Bill, which we have sent to the Senate and which we do not know the outcome.

Lastly, let me make it very clear - and it is also in the public domain - that the Council of Governors, during their summit meeting, had issues with the County Government (Amendment) Bill. They minuted it and wrote to Parliament saying that the Bill that we passed did not deal with issues affecting staff in the counties. I agree with Hon. Mbadi that when we dealt with that Bill, we provided transitional clauses on how to manage both funds.

Hon. Deputy Speaker, the most important document that you will use to give direction is the Report of the Departmental Committee on Finance and National Planning. The Departmental Committee on Finance and National Planning should have said that they had issues with this Bill or that the issues had been dealt with in the other Bill so they did not see the need for it. The Departmental Committee on Finance and National Planning tabled a Report without giving a prejudicial way forward. We will deal with this Bill during the Committee of the whole House and agree on areas left out by the previous Bill.

This Bill is before the House procedurally. Hon. Mbadi and I discussed and our main issue is the Report of the Departmental Committee on Finance and National Planning. The Committee can guide us on the way forward. I have no problem either way.

Hon. Deputy Speaker: I am trying to look at two Members. Let us have Dr. Makali Mulu. I do not see any excitement by Hon. Maanzo Kitonga to participate on this one. I would have given him the opportunity.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Deputy Speaker. Listening to the presentation by the Leader of the Majority and Leader of the Minority, both arguments have merit. The question we need to ask ourselves is: In terms of the use of time, would it be fair that the House is taken through a Bill which has a lot of similarities to the one in the Senate or would it be better if we only address the gaps by allowing amendments? That is the question you are being asked to guide the House on, Hon. Deputy Speaker.

What is a Private Member's Bill? It is important that we also support Members' Bills in this House. Generally, you are saying the same thing. However, in terms of efficient use of our time as a House, I propose that the best way is that if there is another Bill - unless there is a serious problem and that Bill is the same - we allow those gaps to be filled at that level. We would get a law within a very short time. We have been in this House for many years and we know how long the processes of First, Second and Third Readings take.

Hon. Deputy Speaker: I will give more Members an opportunity to speak to this because I have three choices. First, is to accept Hon. Mbadi's request and, therefore, drop it completely. I have another choice of stepping it down for consultation and the third choice is to allow Members to proceed and debate. As Members contribute, let me hear you on those three different avenues of dispensing with this issue. Either we drop it completely, step it down for more consultation or allow Members to proceed and debate it and then thrash out all those issues at the Committee of the whole House Stage.

Is that the Member for Mandera North?

Hon. Major (Rtd.) Bashir S. Abdullahi (Mandera North, JP): Thank you, Hon. Deputy Speaker. From the word go, I go with the option of dropping the Bill. We will be wasting this House's time because we will have to go through the First, Second and Third Readings.

As it has been said by the Leader of the Minority Party, the same Bill is in the Senate. If the Private Member has issues with that Bill, he can still fill in at that particular time so that we only talk about his amendments or concerns as a stakeholder.

This Bill specifically affects counties. Sometime back, we talked about why the Senate is meddling and engaging in things which do not concern them - things that concern the nation. When they get involved in things that are specific to the counties, we want to usurp their powers and do it for them. There should be no suppression of tasks or work. That means they want to do what we do and we want to do what they do. My advice is that we drop it. It is in the Senate. Let the concerned parties go there and propose amendments.

Hon. Deputy Speaker: I hear you. Let us have the Chair of the Departmental Committee on Finance and National Planning.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Deputy Speaker, as we debate about this particular Bill, it is important for Members to understand the genesis of all those issues.

To bring Members to speed, before the new Constitution came into being, county governments were in place but with different names. There were county and municipal councils. Those particular local governments were under different pension schemes. There was a pension scheme for casual employees which was then managed under LAPFUND, which was a creation

of an Act of Parliament. There was another scheme for permanent employees. They were under what was called the LAPTRUST, which was created by a Gazette notice by the then minister of local government.

With the new Constitution coming into being, county governments have two levels of Government just like in the national Government. There is the county executive and the county assemblies. Those two levels of government in the counties have distinct service boards. There is the County Service Board and the County Assembly Service Board. During public participation, there was a clear difference between the two levels of government. The county assemblies under the County Assemblies' Forum had a different position on how pensions should be managed. The county executive which was under the Council of Governors had a different view.

If this House has to make some mark in the management of pensions of county governments in the country, we will not manage that by burying our heads in the sand. We must be very open to the reality that in the national Government, the National Assembly and the Senate belong to a pension scheme which is managed by Parliament. The national Government Executive belongs to a different pension scheme. During public participation, they asked why they were forced into one.

Hon. Deputy Speaker, just give a minute. If you do not give me a minute...

Hon. Deputy Speaker: Order, Hon. Limo. You are asking me to give you a minute and you have already taken five minutes. You are already debating. I have heard that you want us to proceed.

(Hon. Joseph Limo spoke off record)

Hon. Limo, you have made your point. You cannot be allowed to debate. You have said that you support that we continue debating this matter. You have given your reason. You will have an opportunity to debate now. Being the Chair of the Committee, you will have all your time. Let us give the opportunity to the next person who is Member for Ndihiwa.

Hon. Martin Owino (Ndihiwa, ODM): Thank you, Hon. Deputy Speaker for giving me this chance. I request that we step down this Bill for consultation. We have two Bills. One, I have not seen the previous one. If we were to debate these two Bills, we need them together. It appears that the HBC has extended the mandate to decide to this House. We should give them time to consult further on this.

Lastly, if it comes to the Committee of the whole House, to debate two Bills and merge them into one is impossible. So, I recommend that we step it down.

Thank you.

Hon. Deputy Speaker: What is it Leader of the Minority Party?

Hon. John Mbadi (Suba South, ODM): Hon. Deputy Speaker, the Chair of the Departmental Committee on Finance and National Planning has not understood my issue. What he has said is not true.

Hon. Deputy Speaker: Please do not debate.

Hon. John Mbadi (Suba South, ODM): I am not debating. Hon. Deputy Speaker, we considered in this Bill all the issues that the Chair of the Departmental Committee on Finance and National Planning is talking about. That is the issue of LAPTRUST and LAPFUND, including even employees whether they are working in the Executive or National Assembly. Those are issues that we debated here at length. Let me just put this point.

Hon. Joseph Limo (Kipkelion East, JP): On a point of order, Hon. Deputy Speaker.

Hon. Deputy Speaker: Is that the Chairman of the Departmental Committee on Finance and National Planning?

Hon. Joseph Limo (Kipkelion East, JP): Yes.

Hon. Deputy Speaker: Proceed. What is your point of order?

Hon. John Mbadi (Suba South, ODM): I am on a point of order.

Hon. Deputy Speaker: Yours is not a point of order. Let us have the point of order, please. Unfortunately, your intervention is way down in the slot. So, please let me give you from another microphone. Proceed.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Deputy Speaker, is the Leader of the Minority Party in order to mislead this House that the two Bills are the same? I had explained that in the stakeholders' consultation, there was a clear demarcation that the COG is supporting the County Pensions Scheme Bill which is here now and the County Assemblies Forum was supporting the County Retirement Pension Scheme Bill. They are two Bills. If we bury our heads as he wants us to believe, do we then dissolve the National Assembly and the Senate pension scheme and join the Executive? Can we hear from Hon. Mbadi, if he is misleading the House? Can he also say we dissolve ours and join the Executive?

Hon. John Mbadi (Suba South, ODM): Hon. Deputy Speaker, it is interesting that the Chairman of the Departmental Committee on Finance and National Planning did not even understand the Bill that we passed and he is the one who chaired it. The Bill that we passed collapsed the LAPTRUST and LAPFUND into one scheme. We have given then transition period of five years. I am saying that there could be issues that were left out but it is very simple. This Bill is still at the Senate. There is another House of Parliament. That is why Kenya is a bicameral system. The stakeholders like the COG can go to the Senate, push their agenda there and then the Senate can seek for concurrence with us. Having another Bill which we are going to debate and it has a lot of content which is the same with the previous one is a waste of time.

Finally, there is another alternative which I have put across here. Hon. Njagagua can still bring amendments to the Act of Parliament after six months. I said that we have five years before this Act becomes fully operational. Hon. Njagagua can still bring amendments after six months. However, it is very untidy that we can pass a Bill to handle the pension issues or retirement benefits at the county, and then we come up with another Bill which is handling pension in the counties and pass it. If you want to refer to matters of pension in the county, which Act do you go to? I have never seen that since I came to this Parliament. It is causing confusion. I do not know why the Chair wants us to get into that confusion.

Hon. Deputy Speaker: Hon. Maanzo, I was really looking out for you. I know when you want to speak but you did not look like you wanted to do it before. I think that you have gathered some evidence.

Hon. Daniel Maanzo (Makueni, WDM – K): Thank you, Hon. Deputy Speaker. It is clear that this is a Private Member's Bill and the other Bill which is before Senate is from the Government. Therefore, the Private Member has rights and instructions to serve Kenyans whom he represents. The best option is to step down this Bill for consultation. I am sure by now Hon. Njagagua who is a senior lawyer is also guided by our debate, so that as the Mover of the Private Bill he may be persuaded to also pursue the interest of the people he is representing either at the level of the Senate or to carry on with the Private Bill as it is. Consultations for one week will give us a way forward, so that we can save the House's time.

I thank you.

Hon. Deputy Speaker: Hon. Members, I am beginning to narrow to two things. I have removed the one that we are going to remove it completely. So, it is either we step down or we proceed. We are now narrowing down. Let me hear from Hon. Njagagua. As you speak, if you do not mind, give us the difference between the two Bills and then we will make up our minds and proceed.

Hon. Charles Njagagua (Mbeere North, JP): Thank you very much, Hon. Deputy Speaker. I have listened to my colleagues. Some of them are saying that we are wasting the time of this House and that the two Bills are similar. Others are saying that I can wait for about six months and then come back and bring amendments to the Act.

At the outset, I wish to state that from where I stand these Bills are not similar. One pursues the issues of pension from the point of view of the governors. The one that was passed is the one for the county governments. Like the previous speakers have said, this matter came squarely before the HBC yesterday in the evening. It was allotted time. The Departmental Committee on Finance and National Planning which went through the public participation phases gave a Report that this Private Member's Bill must and should be debated in the House. If at the debating level the House feels that it should not proceed, then the House will pronounce itself on my Bill. At this point in time when a Member who sat in the HBC and gave it time to be debated comes and says that it should be killed, I do not think that is the right thing. When he says that it is untidy to pass this Bill, that is unparliamentary. He is saying that the HBC gave time and slotted a Bill to be debated which was untidy. I urge that you allow this Bill to proceed for debate.

Hon. Deputy Speaker: It will be difficult for me to give you more time, Leader of the Minority Party. We have heard your comments.

(Hon. John Mbadi spoke off record)

What is it Leader of the Minority Party? That should be very specific to the issue of the HBC.

Hon. John Mbadi (Suba South, ODM): Hon. Deputy Speaker, it will be dishonest for me to sit in HBC, pass something and then I come and raise the issue here. When I raised this matter in the HBC, we said that it was difficult for HBC to remove a Bill from the records of Parliament. The Bill was already read here First Time. So, it can only be removed from the House through either Members rejecting or accepting it, or the Speaker making a ruling. That is why I decided to come and raise it here because in the HBC, you cannot take off Bill from the records of Parliament. That is the procedure.

Hon. Deputy Speaker: Okay. Hon. T. J. That should be it.

Hon. T.J. Kajwang' (Ruaraka, ODM): Thank you, Hon. Deputy Speaker. Allow us to also put our minds to this, so that the House can be properly guided. First of all, I must congratulate the HBC for bringing this Bill before us. When there is a Private Member's Bill, the HBC should facilitate the Private Member to bring it to the House as much as possible. To that extent that they found it reasonable that it should appear in the Order Paper and we discuss it as a plenary is commendable. It is now the business of the House to see how to deal with it. It is proper that we answer the Member. The Member has a right to process the Bill. We need to help him see how his legislative vision comes to fruition. The issue we are dealing with is a deeper one. There is a constitutional aspect to what we are dealing with.

In terms of Article 109 of the Constitution, we need do things which end up as precedent for reference and use tomorrow. A Bill can be initiated in any of the Houses. A Bill concerning county governments may be initiated in this House and referred to the other House. If we are not careful how we handle a Bill that we have passed which is still pending in the Senate, and in the middle of discussion a Member realises that there are some legislative interventions which may be similar to what has been passed, but which were not incorporated, we need to be careful because we will have a myriad legislations that are of the same intention but appearing as different Acts of Parliament. Senate and the National Assembly are one Parliament. So, we should have harmony in how we approach this matter.

Hon. Deputy Speaker: Are you saying we proceed to debate it or we step it down?

Hon. T.J. Kajwang' (Ruaraka, ODM): I am trying to persuade my friend, whom I am sure has looked at Article 109 of the Constitution, that we need to consider it a little bit more by stepping it down and consulting, as the Leader of the Minority Party suggested and I concur. Let us take these views to the Senate. They may or may not be incorporated, and if they are not incorporated, my friend has an opportunity to bring the Bill back here as an amendment and we will bring in whatever has not been incorporated. But, trying to have two pieces of legislation that are competing for space will be very untidy as a Parliament, whether it is the Senate or the National Assembly.

I am trying to persuade my friend that he should...

Hon. Deputy Speaker: There is a problem here because there are three classmates involved. One is pulling in one direction, the second one the other direction and the third one in the middle. That becomes a bit of a problem.

Hon. Njagagua, I will not disclose the third one, but the two who just spoke are classmates. Hon. Njagagua, if this matter is stepped down and you process any differences that are there with the Senate, will that be a problem for you? If you are unable to do that you come to the House and proceed.

Hon. Charles Njagagua (Mbeere North, JP): Hon. Deputy Speaker, before I make my comments, you have proposed two options, that if it is not, we take one direction and if it is, we take the other direction. I seek your clarification on that.

Hon. Deputy Speaker: I am asking if you will lose anything if this Bill is stepped down then you process it in the Senate. If it is not processed to your expectations, you proceed with it in the National Assembly as a Private Member's Bill.

Hon. Charles Njagagua (Mbeere North, JP): With tremendous respect to the question you have posed to me, Hon. Deputy Speaker, I humbly request that you let this House discuss the Bill this morning.

Hon. Deputy Speaker: Okay, Hon. Members, we are not going to take any more time on this matter. We have already taken enough time on it. I am trying to see what loss we will have by stepping down the Bill. I am also trying to look at the loss we will incur by proceeding. From where I sit, I do not want to participate in making decisions in one way or the other, in terms of how the Bill will proceed. I see the House is divided right in the middle. So, it is a real problem. The easier way for me is for you to have the opportunity to make your decisions. That is the right procedure, in my thinking.

I will allow the Bill to be processed and proceed then Members will have an opportunity to either reject whatever would have been moved by Hon. Njagagua or accept what he will move. Whichever direction you take, I will not be the one to decide for Members. So, that is the easier bit for me to rule. Let us proceed with the Bill. The Leader of the Majority Party has said

that this matter was transacted in the House Business Committee. The Chair of the Committee has told us that they have a Report and they have supported it. So, we will allow Members to make their decision at the right time. That is the easiest way to resolve this matter.

Wasting time, it may seem to be. If eventually things turn out to be the same, we would obviously have wasted time, but we will see a way of recovering the lost time.

Mover, proceed.

Hon. Charles Njagagua (Mbeere North, JP): Hon. Deputy Speaker, thank you for that well considered ruling.

Hon. Deputy Speaker, I beg to move that the County Pension Scheme Bill, National Assembly Bill No. 49 of 2017, be now read a Second Time.

The main crux of the Bill is that after the promulgation of the Constitution in 2010, there was no single piece of legislation that was going to cater for pensioners in county governments. As we speak today, many employees of the county governments do not save their money. We must appreciate that the benefits of saving are myriad. We have seen a situation where former councillors have petitioned this Parliament that they have not been paid their pension.

I will approach this matter in a three-pronged manner. I will give the global picture on pensions, pension schemes and savings as they are in Kenya and in this current Bill. We appreciate that the easiest form of growing pensioners' money is through savings. We have a situation in our country where people who come to invest in our blue chip companies in the stock exchange use pension funds from outside this country. Insurance schemes can actually use pensioners' money as a form of saving and grow the pensioners' savings. The worst bit of our savings is that our pension schemes invest in real estate and land and that is money that is not easily available when needed. That is why I am proposing in the Bill that we must encourage the county employees to save.

The Bill establishes the County Pension Scheme and in it are relevant clauses on interpretation. At the same time, the County Pension Scheme will be administered by a board. The board will have trustees who will be appointed by the Cabinet Secretary. For one to qualify to be a trustee, one must meet certain key qualifications like being a holder of a degree from a recognised university in Kenya. Such a member must be qualified in one of the following disciplines: Law, Economics, Finance, Agriculture, Nursing, Medicine and Actuarial Science. For one to be a trustee member, in addition, one must meet the qualifications set out in Chapter Six of the Constitution so that we do not have persons with wanting qualifications managing people's pensions and money

Hon. Deputy Speaker, the trustees will come from various organisations. The trustees will be drawn from representatives of the Council of Governors (CoG), the county assemblies, the Public Service Commission (PSC), county assembly bodies, and at least five other members. We must appreciate that in all those representative bodies, the pensioners will be well catered for, in that they will have trustees from all the various organisations I have stated. Of much interest is that the representative from the PSC will sit on the matter of gender balance so that if the other representatives from the other organisations do not have the element of gender representation, this person will step in to cure the problem.

Once the trustees come into place, they shall be gazetted by the Cabinet Secretary before they formally begin their job. It is the same Cabinet Secretary who can remove such a member, if he is incompetent in performing his duties or if the member misconducts himself or if the member is negligent in the performance of his duty. Again, the Cabinet Secretary can remove such a member if he is bankrupt.

A trustee may also, in his own volition, cease to be a trustee if he resigns, or if by death, or if the member is negligent in the performance of his duty, or misconducts himself. If he is outright incompetent in performing his duties the board may, in its own volition, appoint or co-opt members who will assist it in furtherance of board's duties. Any such people that they co-opt may not exceed five, but they may be a minimum of three members.

The board also has a prerogative of appointing a *sharia* supervisory committee. These will be members who are conversant in *sharia* law who will advise the board on matters of *sharia* law. Any trustee appointed will serve for a term of three years and is eligible for renewal of his term for a final term of three years. Since the money and the resources of the board are limited, the trustees will serve on part-time basis. Members of this scheme will be contributing 12 per cent of their pensionable emolument while the sponsor who is the employer will contribute 15 per cent of the member's pensionable emolument.

In total, the scheme will be receiving about 27 per cent of the workers' pensionable emoluments. This will go a long way in assisting such contributors and members in their retirement age so that we do not have a situation where when a member retires, he is unable to meet his basic obligations.

This Bill also proposes that the board will appoint an administrator. The administrator will be a corporate body. This corporate body will be a company formed under the Companies Act and under the provisions of this Bill. The administrator will be able to take care and manage the resources and the investments of the members. The sponsors and the employees will keep proper books of accounts of the scheme and file necessary and mandatory statutory notices. At the beginning of each financial year, the administrator will give estimates and expenditure of the scheme.

The Bill also proposes that we shall have tenure of office, which I have said will be three years. The trustees will be remunerated for the reasonable work they do. Once a vacancy arises, the relevant Cabinet Secretary will be in a position to fill that vacancy as per the provisions of this Act. The administrator will again be able to take care of the investment and the surplus funds of the scheme and also give audited accounts.

The board will formulate policies related to the scheme. It will also collect contributions from the members and pay various benefits to people entitled to those benefits. Generally, the trustees will exercise prudent management skills in matters of members' contribution. We have known a situation in the past where funds of members were misappropriated and members' pensionable funds were not remitted. Anybody who gives false information to the board or wilfully neglects to remit money to the trustees is guilty of an offence and is liable to imprisonment for a term of two years or a maximum fine of Kshs5 million or to both the fine and imprisonment.

The administrator shall again appoint a custodian. It is the custodian who will keep all the relevant titles, assets and receive monies for and on behalf of the trustee. The custodian again will execute all relevant documents for and on behalf of the board. As I said earlier, the administrator will be a corporate body and will incorporate the closed funds and this scheme.

As I wind up, we must appreciate the role that the pension plays for Kenyans and the world at large. We have said that if pension funds are used prudently, we will not see a situation like that of former councillors. They were in executive positions but they were never pushed to make their remittances. That is why, with tremendous respect, they have now filed a petition to this Parliament that they need pension. We do not wish to see the staff, those seconded from various ministries to the county governments or the new members who are employed by county

governments, languishing in poverty after retirement. We know that after retirement one gets more beating in terms of medical bills to pay. Others pay school fees for their children. It is this pension that will assist them in meeting their basic needs. Hon. Members have said that Parliament, on its Motion or on being petitioned by anybody, can amend the Pensions Act.

With those remarks, I beg my colleague, the Chairman of the Departmental Committee on Finance and National Planning, Hon. Limo, to second.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You beg to move. Did you say Hon. Limo? Hon. Limo, you have the Floor. You can use the next microphone.

Hon. Joseph Limo (Kipkelion East, JP): Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Limo. I think you are still not on record. Give him another microphone. I think that one is okay.

Hon. Joseph Limo (Kipkelion East, JP): It was not working.

The Temporary Deputy Speaker (Hon. Patrick Mariru): There seems to be a technical hitch. Just a minute, Hon. Limo! You could use the next. I am sorry that you have to keep moving.

Hon. Joseph Limo (Kipkelion East, JP): I hope I will not be required to move again. All the same, I am capable of moving everywhere.

As I stand to second the Bill by Hon. Njagagua, I thank him for the work he has done. You know, coming up with a Bill and pushing it to this level is not easy. Therefore, we need to thank him especially recognising that Private Members' Bills are very few. It is because it is not very easy. They are still in the pipeline.

The county pension scheme came to our Committee last year. In line with what we are required to do, we did public participation. On the basis of memoranda we had received by 19th February 2018, which was the deadline for forwarding memoranda by the various stakeholders, we went ahead and did public participation as required by the Constitution of Kenya. The supreme law requires that we do public participation for every Bill or transaction we make on behalf of Kenyans. Quite a number of organisations came to make presentations on the various issues affecting them. Among them were representatives of the Local Authorities Provident Fund, popularly known as LAPFUND. We also had the Ministry of Public Service, Youth and Gender Affairs. In the same meeting, we had a presentation by the Society of Clerks-at-the-Table (SOCATT) (Kenyan Chapter). It is an organisation which brings together all the Clerks-at-the-Table in Kenyan legislative assemblies, including the county assemblies. We also had the Kenya Union of Clinical Officers. It is a union representing clinical officers in all the hospitals in Kenya. In the same breath, we had the National Consultative Forum of County Public Service Boards, which brings together all the 47 county public service boards across the country. We also received views from the Association of Pension Administrators of Kenya, which brings together pension administrators from all over the country. The Kenya County Government Workers Union which is a union for all the county governments' workers made presentations. We also had a Mr. Bii, who was representing the Kenya Union of Nurses. We had the Council of Governors (CoG), which made a presentation.

We also had representation from the County Assembly of Nairobi, who came on their own. We had Hon. Joe Donde, who is popularly known on issues of bank interest rate capping. We had the Kenya National Union of Nurses. Hon. Muriuki Njagagua, who is the Mover of this Bill, appeared before us.

Finally, we also had the National Treasury, which was represented by the Cabinet Secretary, Mr. Henry Rotich.

In all these forums, most of the stakeholders made presentations which were varying in nature. One thing which every representative of these organisations supported is that the county assemblies and executives or the county governments must have a coordinated pension scheme. It is conventional for every organisation to indicate in an appointment letter the terms and conditions of service, including but not limited to the fact that one will be a member of a specific pension scheme upon being confirmed permanent and pensionable. Unfortunately, almost all the county governments in Kenya do not have the leeway of indicating that an employee will be a member of a county pension scheme or county retirement scheme. It is because there is no standard scheme in place. As I stated earlier, the county governments give employees an option of joining the LAPFUND, which was a creation of an Act of Parliament. It is recruiting members from all the counties, depending on employees' preferences. The other one is popularly known as the County Pensions Fund (CPF).

This was a creation of Local Authorities Pensions Trust (LAPTRUST). Therefore, in their view, every stakeholder indicated that it will be appropriate if we could have a pension scheme for county assemblies and county executive. This will make it easy for the county assemblies and county governments to indicate when they are employing so that they have a coordinated way of getting pension. I want to state very clearly that it is important to have a very good pension scheme for employees in this country. It is actually difficult that when you retire you do not have pension. Among the stakeholders who appeared before us, though they were not relevant for this particular Bill, were the former councillors. The former councillors are really suffering because they did not get even a single cent when they were leaving office. They are not getting any payment currently. There is a belief by the scholars that there is something which is called the agony of retirement. The agony of retirement means that when someone retires, within the first five years, they will be seeing their savings depleting but there is nothing coming every month. So, it is important to have something to hold on to when they retire. I will therefore urge this House to consider and ensure that there is a coordinated pension scheme for the workers. I want to reiterate the point which some Members had indicated here. Why are we having confusion? The same confusion we saw during public participation...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. T.J. Kajwang', you have pressed an intervention button, what is it?

Hon. T.J. Kajwang' (Ruaraka, ODM): I am just wondering how much time the speaker has. As I understand, he is just seconding the Motion. I know he is the Chair but he is not speaking like the Chair, he is speaking like a member seconding the Bill. How much time are we going to give him to second the Bill?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. T.J. Kajwang', Hon. Limo is seconding but he is also the Chair of the relevant Committee. He doubles as two. He has 30 minutes from the time he started and I am sure he will be alerted when the time is over.

Hon. Joseph Limo (Kipkelion East, JP): I respect Hon. Kajwang' because in the 11th Parliament he was sitting where you are seated. Therefore, I do not expect that he will have forgotten about Private Members' Bill.

As I second, the formula is very clear and we are talking on what we saw during public participation. When we looked at the councillors who came before us, we did not want our current MCAs to go through that. We do not want our current Members of Parliament or any member of the public to go into a situation where they suffer. I want to make it very clear. If there is any confusion, we saw it during public participation. Our Committee can attest to that, that the county assemblies' forum and the council of governors were talking in different direction

and we really sympathised with that. We cannot bury our heads in the sand and leave the confusion to go on. Their different views were pulling in one direction depending on where they belonged. Therefore during public participation we realised that unless this House stands and makes laws for posterity, we are going to have problems. Currently, the council of governors is asking why the National Assembly and the Senate are pushing them into a scheme they do not want.

As I finish, I want to say that in the Committee of the whole House we have the option of amending this Bill so that it stands for one side of the Government. In its own original form, this Bill is indicating that it is for the staff and officers of county governments. We can actually amend to suit what the Governors need, that is, the county government executive and its officers. We still have an option of amending the other one in the Senate for the officers and staff of county assemblies then we finish all these, and we become a midwife. That is how we are supposed to behave as a House which is responsible to make laws and deal with all the squabbles in the country.

I want to support this Bill which was brought by Hon. Njagagua and say that our Committee has proposed several amendments which we will be moving at the Committee of the whole House. Depending on the consultations which will go on, we can amend it to be in line with what we want to do in this House to bring harmony in the county assemblies and county executive.

Having said that, I beg to second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. John Mbadi, you wanted to speak but I wanted to give one or two people before you so that you listen to them. I know you would have priority in speaking but now that you have stood already go on.

Hon. John Mbadi (Suba South, ODM): There is no harm in speaking at the moment because I had difficulties with this Bill. You were not on the Chair at that time but the Deputy Speaker was. Now that we are debating the Bill, let me just put my points across very clearly. I want to thank Hon. Njagagua for bringing a legislation or proposed Bill to the House. Probably because this Bill came earlier, it would have been better if we dealt with it before the Government Bill that we dealt with. I would say without any fear of contradiction that in my view, the debate and legislation of this Bill will be merely but a waste of Parliament's time. We actually considered a similar Bill with similar provisions which is at the Senate and it would have been more decent if those who have issues with the Bill that we passed, go to the Senate and have their matters addressed.

I have just listened to the Chair of the Departmental Committee on Finance and National Planning, talk about this Bill probably addressing the executive part of the county government or county government executive and the other Bill that we passed addressing the county assemblies. If you look at the objects of the Bill before us, it says that the object and the purpose of the Act is to provide for the adoption of an existing umbrella pension scheme for all staff and officers of county governments, county agencies, associated organisation and other related entities. When you talk about counties, it is like this Bill is going to cover all the staff of counties whether at the assembly or at the executive. There is no distinction. I was waiting to hear what was so unique in this Bill that was not captured in the other Bill that was passed. I am afraid to say that I did not hear that, either from the Mover or Seconder.

The Chair of the Committee has talked about two pension schemes. The LAPTRUST and the LAPFUND. He is forgetting that we have already collapsed those schemes into one through the Bill that we passed and sent to the Senate. I want to read what that Bill was for. It is, “An Act of Parliament to establish the county government retirement scheme for employees in the service of county governments to provide for retirement benefits of those employees and for connected purposes.” That is the Bill, and it went to the Senate. You cannot talk about LAPTRUST and LAPFUND, in five years they are not going to exist. We had already passed a legislation that was collapsing all those schemes into one and setting up what we call County Governments Retirement Scheme. I want to just take this House through a comparison of the two Bills because I have both of them. I want to take this House to the board which is being set up and its functions as spelt out in both Bills. Allow me to move quickly so that the House can realise we are engaging in an exercise in futility. I want to read the current Bill before us.

Hon. Vincent Tuwei (Mosop, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Leader of the Minority Party. What is it Hon. Tuwei Kipkurui, Member for Mosop? What is your point of order?

Hon. Vincent Tuwei (Mosop, JP): On a point of order, Hon. Temporary Deputy Speaker. I take it that the Leader of the Minority Party is engaged in what we said before you came in. We discussed whether debate on this Bill should continue with the Deputy Speaker. For him to tell us how this Bill contradicts the other is unfair to us. For me, the Private Members’ Bill...

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is your point of order? Do not contribute.

Hon. Vincent Tuwei (Mosop, JP): Is it in order at this stage for the Leader of the Majority Party to compare the two Bills before we start discussing it in the Committee of the whole House.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Member for Mosop, you know the Leader of the Minority Party does not need to respond to that. Any Member here has a right to prosecute his or her case, to reject or support. Members take different manners while prosecuting a case so long as one is not offensive to the Standing Order. A Member will rise and support and another will reject. That is your right as Members while on the Floor.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Speaker, I hope you will compensate me for the time taken. In fact, you have put it rightly.

Hon. Ali Dido (Saku, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order! What is it Member for Saku?

Hon. Ali Dido (Saku, JP): On a point of order, Hon. Temporary Deputy Speaker, with due respect to my good friend Hon. Mbadi, I think he should oppose the Bill if he feels so. Comparing the two Bills which were passed at different points in time on the Floor of this House is misleading the House.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Member for Saku, I have just said that while a Member supports or rejects, they prosecute their case in the best way to convince the rest of the Members. I will give somebody who will support and another who will reject as long as you do not offend the Standing Order.

Hon. John Mbadi (Suba South, ODM): I hope I will proceed because those points of order are the same. I am not opposed to the content of this Bill. You have put it rightly that the Deputy Speaker allowed this House to engage on this matter to see if it is necessary to still pass

this Bill or reject it. My opposition to this Bill is because we passed a similar Bill a few days ago. Therefore, there is no need of engaging in another Bill and that is the point I am trying to bring out. If my colleagues cared to listen, they would understand why we are wasting our valuable time in debating a Bill that we should not debate in the first place.

I will read the functions of the board from both Bills. The current Bill says:

“(a) formulate the policies relating to the scheme in accordance with the provisions of Retirement Benefits Act.” The other Bill says, “(a) formulate the policies relating to the scheme in accordance with the provisions of the Retirement Benefits Act, 1997.” The only difference is “1997”.

“(b) Collect contributions and income payable to the Fund under this Act.” The other one says “(b) Collect contributions and income payable to the funds under this Act.”

It goes on to say “(c) Pay out the various benefits to persons entitled to the benefits as provided under the Act.” The other one also says, “(c) Pay out the various benefits to persons entitled to the benefits as provided under the Act.”

“(d) Protect the fund’s assets. The other one also says, “(d) Protect the fund’s assets.”

In fact, they are eight functions in both with the same wordings, uplifted from one Bill to another. If you go further to see the other provisions in this Act on the administration of the scheme, this is what the current Bill says: “The board shall appoint fund managers of the scheme who shall in addition to the duties prescribed under the Retirement Benefits Act to do the following: (a) implement the investment policy of the scheme as provided by the board.”

The other one also says, “The board shall appoint a fund manager of the scheme who shall in addition to the duties prescribed under the Retirement Benefits Act (a) implement the investment policy of the scheme as approved by the Board; (b) Invest the scheme funds and assets in accordance with the provisions of the Retirement Benefits Act and investment policy of the Board; (c) Manage the scheme funds and assets in accordance with the provisions of the Retirement Benefits Act.”

We are literally legislating twice in this House. This is the same thing. I will go on to talk about appointment and functions of custodians. It is word for word from the Bill we passed. In a nutshell, I can go on and on. The question I want to ask is: Why is it so difficult in having those amendments which we think are important and were left out in the first Bill taken to the Senate? We have legislators, each one of us here has a Senator. Why not take these amendments to the Senator coming from your county to debate in the Senate? If the Senate will not have looked at them...

Hon. Cornelly Serem (Aldai, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Leader of the Minority Party! Hon. Serem is on the Floor with a point of order and he is quite persistent. Hon. Serem, what is out of Order!

Hon. Cornelly Serem (Aldai, JP): On a point of order, Hon. Temporary Deputy Speaker. Is it in order for the Hon. Member to refer this House to the Senate when we can legislate our own issues in this House? The Leader of the Minority Party sits in the House Business Committee (HBC). If he had an issue on the same why allocate time and allow this Bill to appear before this House? He should sort his issues in the HBC instead of here. If the Bill is on the Floor, then we should proceed.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Serem, I do not want to repeat what I had said earlier. On the issue of the HBC, I think the Deputy Speaker addressed himself to it. He said the Bill is on the Floor and Members will prosecute it, if I can remember

very well what he pronounced himself to. Hon. Serem and the other Members will definitely get a chance to speak to this Bill as well.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Speaker, you know, I am not killing this Bill but contributing. Hon. Serem is a second term MP, I think I saw him here in the last Parliament. Even if he is a first term MP, he should know this because it is now over one year. I am sure Hon. Jared Okelo will not make the same mistake he is making today.

I am making my contribution on whether this Bill deserves the attention we are giving it or not. He will have his opportunity to explain to this House why we should legislate the same provisions twice. I am not referring this House to the Senate. I am saying it would make more sense for anyone who has issues or additional information to take them to Senate. That is why we have two chambers. Senate will pass those amendments and bring them back to this House for concurrence. In fact, it will be an easy way of dealing with this Bill again in this House.

Secondly, we still have another option where, in the event that the Senate is not going to consider the provisions that we are talking about, which I still do not know anyway, then immediately the Bill is assented to and it becomes law, you have a period of six months after which you can now bring substantive amendments. In fact, you can even change the title of the Act, if you so wish. At that time, we would consider exhaustively and completely all these amendments that were required, which I even do not know up to now. I was listening to the Mover and the Secunder and did not really hear anything so different from what we passed, unless now someone just wants to mischievously hide some information in this Bill that this House probably did not attend to or what they failed to realise in the other Bill.

To me, I think this is actually an abuse of the parliamentary process. If this House would allow something like this to continue, even in future, after a Bill has been passed and I know I have six months within which I cannot bring another amendment to that Bill, I would just bring another Bill with similar contents but just change the title and pretend and mislead the House that I have brought a different Bill. This is very untidy and I urge that this House rejects this Bill now in entirety unless we are convinced otherwise and have those very good amendments, if there are there, by Hon. Njagagua. Hon. Njagagua is a very good friend of mine. I know he is someone who listens a lot. He is also a very experienced legislator. Hon. Njagagua, I am very much willing to support your amendments but the process through which they are being brought to this House, to me, looks mischievous. I know he had very good intentions because as a matter of fact his Bill came first. There should have been debate between his Bill and Hon. Duale's Bill to agree on an abridged version.

In fact, the person who has let us down is the Chair of the Departmental Committee on Finance and National Planning. The Chair of Departmental Committee on Finance and National Planning should have looked at these two Bills way before. Why could they not marry these two Bills? This is not the first time we are dealing with two similar pieces of legislation. These could have been married through a Report.

Hon. Joseph Limo (Kipkelion East, JP): On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Leader of the Minority Party. Hon. Limo, it seems that the presentation of the Leader of the Minority Party is quite attracting points of order. Anyway, you have a right. What is it, Hon. Limo?

Hon. Joseph Limo (Kipkelion East, JP): Hon. Temporary Deputy Speaker, you know I really respect the Leader of the Minority Party, but on this one, he cannot come and intimidate us and impute improper motive on my Committee that we let the House down. Our work is to

process every Bill which comes to us. Therefore, you cannot dictate to us. In fact, if there is anybody who has failed this House it is you because you as the HBC failed to bring this Bill ahead of the other one. Therefore, do not impute improper motive on my Committee.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Limo, even if you are addressing the Leader of the Minority Party, you must address him through the Chair. Leader of the Minority Party seems to have noted your point.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Speaker, if it appeared that I was intimidating anybody, least of all is the Chair of the Departmental Committee on Finance and National Planning. If he can easily be intimidate like that... I thought he was a very strong man. In fact, there was a time I was proposing him to be the Chair of the Budget and Appropriations Committee because I thought he was a very strong man. However, it appears he can easily be intimidated. I withdraw any part of my speech that is intimidating.

I just want to put it that in the HBC, we all know that Government business takes precedence. What I thought the Departmental Committee on Finance and National Planning would have done, as I wind up, was to marry these two Bills because they were both before the Committee and tell us how they want us to proceed. However, now you have put us in a very untidy situation where we are basically dealing with the same Bill in the name of two Bills.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Shall we now have Hon. Tuwei Kipkurui, Member for Mosop.

Hon. Vincent Tuwei (Mosop, JP): Thank you, Hon. Temporary Deputy Speaker. First and foremost, I thank the Leader of the Minority Party for acknowledging a clear fact that the Bill before us came earlier than the Government-sponsored one. First of all, may I take this opportunity to thank the Member for this Private Bill because we have always been encouraged by you, Hon. Temporary Deputy Speaker, to bring Motions that can help us and also make laws in this country.

Under Standing Order No. 141(2)(b), you know for sure that if we do not discuss and debate this Bill, at the end of this year – because this Bill dates back to 2017 – it will die. I thank the Mover of this Bill because he has given it life. I want the Leader of the Minority Party to listen to me also. We have been here and we have been receiving a lot of complaints that the Senate takes too long to pass Bills. I am very happy that this Bill is before us. Should the other one die like the other Bills, let this one be a saviour because from the way things are, if we do not, under Standing Order No. 141(2)(b), this Bill will not see the light of day.

Leader of the Majority Party has made his position clear. May I say that there are issues that, according to this Bill, will be curing what the earlier Bill did not take into consideration. In the Committee of the whole House we shall actually try to improve this one in order to remove the iniquities that were there in the first Bill that, according to the Report we have received from the Leader of the Majority Party, the Council of Governors has also expressed its concerns that, that Bill is not taking into consideration their concerns and interests.

I support this Bill to proceed. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Kimani Kuria, Member for Molo.

Hon. Kuria Kimani (Molo, JP): I thank you, Hon. Temporary Deputy Speaker, for this chance to contribute to this Bill. I have been following the conversation, especially contribution by the Leader of the Minority Party, Hon. Mbadi, and I am wondering really if the discussion of killing a Member's Bill should even be a discussion at this time. The work of a Member of Parliament, above everything else, is legislation and if an Hon. Member has taken his time and

energy for the last one year to draft a Bill that is supposed to cure something that has not been legislated before, whether or not another Bill has come or whether that Bill has gone to wherever it is, I think it is only fair that we support such a Bill.

I also sit in the Departmental Committee on Finance and National Planning and when we took over with the able leadership of our Chair, there was a lot of pending business, one of which was this Bill because in the last Parliament, where the Leader of the Minority Party also served, it was never discussed. However, now we have worked extra hard to make sure that every pending business before our Committee has been prosecuted and that is why this morning we are here to discuss this Bill.

We have had pensions of senior citizens being mismanaged and misappropriated and these are monies that these people have earned over the years only for one to attain retirement age and instead of retiring in peace and enjoying their pension, you find the money has not existed. This is a piece of legislation that is supposed to cure that. For this, again, I really support Hon. Njagagua on it. The issue of LAPTRUST and LAPFUND and combining these two pension schemes to form one scheme is very welcome. As a country, we have too many things doing everything. As you know, if the important thing is to save and invest the pension of these members of county assemblies and other employees of counties, then I do not understand why we should have these two schemes. It is very good that Hon. Njagagua has proposed that these two pension schemes be collapsed into one.

To summarise, an Hon. Member has taken his time for the last two years to develop and work on a Bill, the least we can do as his colleagues is to support that Bill and make sure it is passed into law.

With that, I support the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next is Hon. Oduor Ombaka, Member for Siaya.

Hon. (Dr.) Christine Ombaka (Siaya CWR, ODM): Thank you, Hon. Temporary Deputy Speaker, for this opportunity. I have been amazed about the argument going on between the two Bills that are similar. I am of the view that actually if they are similar, then we need to agree that they are similar and then we can collapse them into one and acknowledge who actually came up with the Bill. That will come later, not now. At this point, there is need to contribute to this particular Bill even though it may be similar to the one sponsored by the Government.

The other issue is about pension. When you talk about retirement, one thinks of going home to die. One time, I read an article about retirement and it was all about going home to die. Why do people look negatively at retirement? When you retire, you terminate your services, go home with no income, live in the rural areas and start suffering from diseases of old age. That is why people get so exposed to dying soon after retirement. That is why going home to die becomes the issue after retirement. That should not be the case. Retirement should be a time when you go home to live your last years comfortably and in a manner that does not reflect that you will be poor and have no services. The contributions that one makes during their working years should be properly managed and disbursed on time.

The experiences we have had with old age in this country is that those who retire suffer. They suffer illnesses, do not have good food, live in bad houses, do not dress well and simply degenerate into a life that they never lived before during their working years. The money that we contribute during the years that we work should be managed adequately. The board that is created should be well-run. I like the idea that thinking about retirement at this time is important.

Teachers have complained about retirement. There are teachers in this country who retired in 1997. In the last Parliament, I was in the Departmental Committee on Education and Research and cases of teachers who retired in 1997 has not been resolved. Teachers have died without receiving their dues. It is a big shame for a country to allow such things to happen. In other countries, retired people are senior citizens who are looked after very well. In other foreign countries, retired people whom they call senior citizens are given free services. When they get into public buses, they have special seats. They have special medical care. They have homes where they can stay when they do not have children or there is nobody to take of them. We are moving towards that direction and need to clean our house first by managing the funds that are contributed for retirement.

My last point is that retirement should be a good time to go home, relax and wait for your days to end. You must spend your sunset years more comfortably. The retirement fund should always be disbursed on time. Your retirement benefits should start coming in during the last month of your working years. They should not delay and subject you to chasing for this money at the headquarters in Nairobi. It is your right and should be disbursed monthly without fail.

My contribution towards retirement is that both Bills coming to this House mean well. They have good intentions and we just need to collapse them into one and ensure that where there are some differences, we panel beat them and come up with one big Bill that will save this country, especially the elderly. This is a wonderful Bill. I support it and thank the Member of Parliament who thought of this Bill to save the elderly. In the villages, the elderly are so vulnerable to various diseases. This is the only way to save them and make them comfortable. We must also know that we ourselves will be old. We will be beneficiaries of the Bills we make in this House.

I support the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next is Hon. Ole Sankok David.

Hon. David ole Sankok (Nominated, JP): Thank you, Hon. Temporary Deputy Speaker. First of all, I rise to give my voice to this Bill.

I have read this Bill and the earlier Bill that we passed two weeks ago. They both look the same. If we continue with this trend of duplicating Bills, competing with each and going to an extent of Hon. Members saying which Bill came first, which came later and who copied who, it will all be in futility. The fact is that there is a Bill similar to this one. It is already in the Senate. Let us wait for that Bill to pass or to be rejected before we start amending the same Bill. If this trend is allowed to continue, it means that tomorrow, I will table another Bill on People with Disabilities when the other one is ongoing and somebody else will do the same. We will have 10 Bills discussing the same thing. I have tried comparing both of them. Apart from some commas, full-stops and English grammar, they have the same message.

Hon. Temporary Deputy Speaker, we expect your ruling to be that this Bill is similar to the earlier one. Let us wait for the other one to go through the Senate. If it fails, we can then start another process. But for now, we cannot use the time and resources of this House to duplicate...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. ole Sankok. What is it, Hon. Muriuki Njagagua?

Hon. Charles Njagagua (Mbeere North, JP): Is the Hon. Member in order to revive a debate that was concluded by the previous Speaker who gave a ruling that Members can proceed and debate this Bill? He is now reviving the same issue. Is he in order to revisit that same matter

barely two hours after a ruling was given by the Speaker? If he was not in the House, he should refer to the HANSARD.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well, Hon. Njagagua. That is true. Hon. ole Sankok, it is impossible to revive that discussion. You can prosecute your case but the ruling was already done.

Hon. David ole Sankok (Nominated, JP): Hon. Temporary Deputy Speaker, I stand guided. I oppose a Bill that looks like the other one. Apart from some grammatical issues and commas, they are both the same. This House cannot use all its time to deal with a Bill that is already being dealt with. I rise to oppose this Bill but nonetheless, I congratulate the Hon. Member for tabling such a Bill. Next time, please, let us not copy paste Bills that are already in the House.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next is Hon. Wetangula Wanyonyi, Member for Westlands.

Hon. Tim Wanyonyi (Westlands, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me a chance to also contribute to this Bill. The rules are clear that when Bills come to the House and the House has allowed the Bill to be debated, it should move on. There is a stage when the House will make a decision. I see no harm in us debating this Bill.

Hon. Temporary Deputy Speaker, before I became a Member of Parliament, I served in the City Council as a councillor. There was a pension scheme there called Laptrust Fund which I was a member. That scheme was optional. You were free to join or not join. Some of us who went there joined immediately. When I was leaving that place, I saw its benefit. Retirement benefits should be something that we should support. When we are legislating, we are trying to say that during your time when you are contributing to the development of this country at your prime age, you contribute to the scheme. When you retire, your lifestyle should not change. You should go into retirement and still have something that can keep you living almost the same lifestyle that you were living before. That is why we have this kind of Bill. We should all support it because we want people who have made contributions to the development of this country not to retire in poverty. We have seen even former Members of Parliament who come outside here and they look so bad. We would like to see people retire into a good life but should not go to die. We do not want people to retire and die immediately.

This Bill addresses very many things. The Leader of the Minority Party was comparing it with the other Bill. It does not matter who copied from who as long as we shall come up with a legislation that is going to give senior citizens of this country something which they will live on after their prime time in their contribution. I have checked and there are some issues like definition of “retirement”. It says normal time and age means, “the retirement age marked by the 60th birthday where the exact date of the birth is known.” Where it is not known, the retirement age is the first day of January in the year in which the 60th birthday is marked. The people living with disability do not retire at the age of 60. Their retirement is not defined here. The people living with disability who are in employment retire at the age of 65 because of obvious reasons. Most of them get into employment at a very advanced age because of the disadvantaged position they find themselves in. This will be a part of the amendment that we may propose to include that omission that will enrich this Bill.

Hon. Temporary Deputy Speaker, I support this Bill and all the discussion going on. Whether this Bill or the one in the Senate pass, it will all benefit the citizens of this country whom we are trying to support. Therefore, I support the Bill. Thank you for giving me an opportunity to contribute to this Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Tum Chebet, Member for Nandi.

Hon. (Dr.) Tecla Tum (Nandi CWR, JP): Hon. Temporary Deputy Speaker, I want to contribute to this Bill. I was an employee of Eldoret Municipal Council for 16 years. I used to contribute to Laptrust and when I retired, I was given my money. There was LAFUND where junior employees used to contribute their pension money. What is the fate of the savings of the employees who were in local authorities, county councils and town councils? What about their properties? Is this Bill going to address the monies which belong to those employees? If it is going to do so, I was wondering why the two pension schemes were not collapsed into one, given a name and then they continue operating. If they are going to be collapsed, what is the fate of the employees of Laptrust and LAFUND? If those questions are answered, I have no issue because we have to safeguard the savings of the employees of the local government before the county government employees. If the two are going to come together, what are we going to do to the earlier employees?

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Edith Nyenze, Member for Kitui West.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM – K): Thank you, Hon. Temporary Deputy Speaker. I stand to support this Bill by the Hon. Member. Retirement is very important for Kenyans. It is very important when we see our people contributing towards retirement because most Kenyans have a tendency of not saving. So, when a pension scheme is set aside for people to save for retirement, it is very commendable and good. During the retirement age, people do not receive their salaries. This is also during the age when people get ailments and they are weak. They cannot even work as they used to when they were in active employment. So, it is very important that this House discusses and deliberates on the County Pension Scheme Bill.

As we discuss this Bill, we should also think of the fate of those who retired early like the teachers who retired from 1997 but have not been paid their retirement benefits. We should also think of those who have retired, like chiefs and civil servants. People retire and payment is delayed. This puts them in a very pathetic situation because one was used to getting a salary and then when they retire, it becomes very difficult to stay without payment. There was Hon. Musila's Bill which was passed in this Parliament. It said that people should be getting their pension benefits immediately they leave employment. If not, they should continue with their salaries until they are paid their benefits. The Government should take care of the payment, especially for the Civil Service. It should not be delayed because this would lead to suffering of our people.

The local government employees had contributed towards their savings. It is my hope that this Bill will take care of those savings which were made by the local government employees. It was turning to billions of shillings. The Bill should take care of them so that they do not lose their benefits through creation of this new pension scheme.

I stand to support the Bill and I wish all Kenyans can save for their retirement. Even if they are not in employment, they can save in Mbao Pension Scheme. They can also save individually through different individual schemes, so that when they retire, they will benefit from their sweat. I encourage all Kenyans to look for a way of saving for their retirement to enable them have a good future.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Ali Rasso, Member for Saku.

Hon. Ali Dido (Saku, JP): Thank you very much, Hon. Temporary Deputy Speaker for this opportunity. I rise to support the Bill. I speak with a lot of integrity because I have seen the previous Bill. When legislating in this House, we must ensure that anything good gives way to the best. As we legislate, even if there was an earlier Bill and there is tremendous improvement to it, we cannot say that the two Bills are similar.

Pension is very important even for us in this House. As we retire in our twilight years, if there will be nobody to take care of us, something must be in place to take care of us. Pension particularly at the county level is a county business. When we discuss issues to do with counties, we must consider the two levels of government – the national Government and the county governments. When Bills appear before the Council of Governors, they must give a nod that it fits into their scheme of things. I believe the Bill is before this House because it is a money Bill. Since it is a money Bill, we should not lose sight that ultimately the Bill is the property of the Senate because of Article 98 of the Constitutions. One of the functions of the Senate is to look after the counties.

This Bill and the previous Bill have issues that we must consider. All Government employees, both at national Government and county governments, are employed on permanent and pensionable terms. The Bill must take that fact into consideration.

When we make this the property of counties, it means that when a county is factoring its annual budget, it will factor what goes into pension. It is not for the national Government to decide what counties must put into their pension kitty.

This Bill and the previous Bill must consider gender. That is why while the Bills appear to be similar, they are not the same. This one clearly considers gender balance or parity in terms of representation in the board. Another issue of representation particularly in the board is the employer and the employee. The employee must have a bigger say than the employer because if the employer nominated four or five members to the board then the employee only nominated only two, of course, parity is missing. For that reason, we need to put aside other interests and deeply look at whose interests the Bill serves not for today but for posterity.

The other area of interest is benefits. Pension is derived from benefits. As we tabulate how much an individual will get after 30 or 40 years of service, it should be calculated to the extent of the benefits the individual accrues from working continuously. What is there? Hon. Njagagua's Bill attempts to address the benefits accruing to the employee.

The Bill also addresses liabilities. I come from County No. 010, Marsabit. Counties have inherited huge debts from previous county councils and this is the second government of counties. They inherit huge debts from the previous government. We must ask ourselves how to manage the debts and who is going to pay them.

In supporting the Bill, I want to say again with a lot of clarity that whereas there was a previous Bill, it does not in any way prevent an Hon. Member from moving a Private Member's Bill. When the two Bills arrive on the Floor of the Senate, the Senate can make a judicious decision on which of the two to adopt or how to marry them. At the end of the day, the two Bills should address the workers' pension in the county governments.

Finally, the Bill is about whether the pension is for the county workers or for Members of the County Assemblies. Hon. Wetangula said that when someone has served his nation with a lot of integrity and provided quality service, they must live throughout their lives with decency and integrity, both for themselves and for their bearers. For that reason, I support the Bill. If there is

attempt from Hon. Members to propose amendment, they are welcome. We should not attempt to kill a Private Member's Bill because there was a similar Bill that preceded it.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Njiru Muchangi, Member for Runyenjes.

Hon. Eric Njiru (Runyenjes, JP): Thank you very much, Hon. Temporary Deputy Speaker for giving me an opportunity to add my voice to the debate on this Bill. I begin by thanking Hon. Muriuki Njagagua for sponsoring this good Bill. Now that it has been indicated that it is properly before the House, it is by far better than the previous Bill. So, we have a reason to support it.

Since we changed the Constitution there has not been a very clear pension scheme for county governments' workers. We are all aware of the challenges that face our people after retirement. So, there is a reason for us as a House to support this Bill so that we can allow our people to live a good life even after retirement. I believe that majority of us have interacted with former councillors. They were not properly organised in the pension scheme. All they tell us is to help them pursue their retirement benefits. They live miserable lives. Many of them are sickly and are not able to afford medication. So, this Bill is going to offer the county government workers both at the executive and in the county assemblies at least something after retirement, something that can enable them have a good life after they have left public service.

Just this morning, I got a call from a few teachers who are sending me to the National Treasury to help them pursue their pension. I was imagining those others who have not been able to have a pension scheme, those that have already retired and want to take care of their families, and educate their kids. It is high time we considered this Bill by Hon. Muriuki Njagagua and help those working currently in our county governments so that in future they do not fall into similar predicament.

With those few remarks, I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Shall we now have Hon. Passaris, Member for Nairobi City.

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Thank you, Hon. Temporary Deputy Speaker. I stand to support the Bill. I commend Hon. Muriuki Njagagua for sponsoring the Bill. We used to have the local provident fund. We know that a number of retired councillors to date, have not been paid their retirement benefits. Now, we are amalgamating through this Bill for the seven counties and their subsidiaries. That is going to be a lot of money. If invested well in projects that can complement and sustain the staff of these entities in terms of their retirement, we will have done a good service to the populace. While we come up with laws like these and we have good endeavours, we want to achieve something positive for the workers knowing that they will become old and they might be incapacitated and have to retire. What is important is to ensure that the investments from this major fund are put to such good use so that when the person retires, the money that they will get from their pension is able to not only sustain them but sustain them in the standards that they were already enjoying while they were employed.

What is also important is for the fund to look at creative ways to invest. When I say creative ways, we know that we have a lot of county employees who are going to live in the cities. If, for instance, the Fund puts up very good low cost housing and allocates them to their members as an option, they will be able to enjoy rent at real time.

We also have a problem with retirement homes in this country. So, I am hoping that when this Bill becomes law and funds start being remitted, they will be looking at creative ways to

invest the funds. You would rather receive a home that you know will give you real time rent than receive a cheque of Kshs50,000 in the year 2030. So, they have to be creative in how they invest the funds. The Fund has to take advantage of the digital platform. If you do so, people will know at real time how the Fund is doing. If you are going to have a retirement benefit and you only get to know at a later stage that the Fund has been mismanaged or the funds have not been remitted by the various counties, there is going to be a problem because you will retire and then you are told that there is no money.

I also feel that the Government should enable people feel that it is proper to make an investment in terms of pension. The Government has to sit down and address what happened with the local provident fund. All the members who are today languishing in poverty made contributions, but the municipal councils did not remit this money. The money was not invested. To make people have confidence that we are managing pension funds with truth and transparency and the Government is taking responsibility, there is need to address what went wrong and find a way to have reparation on the funds that were mismanaged and lost, that have made various retired councillors live in abject poverty.

I support the Bill. I believe that having a Bill is one thing and having people to manage the fund so that it is invested well so as to ensure that people retire with dignity, is another.

With that, I support the Bill. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Next is Hon. Serem Cornelly, Member for Aldai. Use the next microphone.

Hon. Cornelly Serem (Aldai, JP): For record, I would have wished to use a microphone that indicates who I am.

The Temporary Deputy Speaker (Hon. Patrick Mariru): You can still transfer your card. It is important.

Hon. Cornelly Serem (Aldai, JP): This is the House of rules. I felt that I should comply with the rules of engagement in this House. I support this Motion with reservation. As I congratulate the Member for Mbeere who came up with this Bill, I have my own concerns.

One is the justification why some Members of Parliament feel that the LAPFUND and Laptrust must be merged. We are not the users. I have heard the story of the users of the two funds. They are comfortable having the two working hand-in-hand. As we articulate this Bill, we should remember those who served this country with honour and are now living in abject poverty. Unless all of us stand up for them, they will still live in poverty. I was here in the last Parliament and we had the same discussion in this House for the entire five years but the same pensioners that are out there have not seen a penny.

As we discuss the same, modalities of how we administer the same must be looked into. It cannot be the same for someone who retired in 1975 or 1980; it must be different for my uncle who retired in 1995. My mother, uncle or neighbour are earning the same figure they earned the day they retired. The economy of this country has changed. You cannot give somebody half salary of what they were earning in 1995. The figures must match with the economics of this country. If the District Commissioner (DC) retires now with a salary of Kshs100,000, they are sure of going home with Kshs30,000. But, the DC that served in 1990 with a net salary of Kshs25,000 is earning Kshs12,000. The two are former DCs. A police officer that served this country and missed or dodged bullets for all of us is earning half the salary they were earning in 1990. If the salary at that time was Kshs40,000, they are earning Kshs20,000. They could be walking around with a very good title of “Retired Colonel”, “Retired Inspector” so and so, but what we are giving them is a shame. Look at a Member of Parliament (MP). I could be a son of

one of the councillors with a reasonable salary, but that councillor out there that served this country or a former MP that served this country are going home with less than Kshs50,000. We should put modalities in place so that what they are earning will always go with the economy of the country. If the whole Budget of this country was only about Kshs5 billion a year ago, we are now talking about Kshs3 trillion and the guys are earning peanuts. If we are proud of what they have done for us, we should discuss how we can assist them. It should not even be a subject of discussion about the councillors who sacrificed so much for all of us. I could be one of them tomorrow morning. Definitely, I will not be in this Parliament forever. I will be retiring soon, whether voluntarily or forced by voters. But, I will still be a former MP. The councillors who are out there never chose to go home. They were voted out after contributing to this country.

As we discuss this, we should also consider the Members of County Assemblies (MCAs). As we are seated here, they are back home doing what all of us cannot do. We know there are other interests that exist. I am not ashamed to say governors have their interests and the MCAs have theirs. But, governors will always have their say because they have more say. As we contribute, let us make sure the two bodies run parallel. We know the LAPTRUST is being advocated by governors and the LAPFUND is made for the MCAs and the county employees. Let them work parallel. If there is somebody complaining, why do you want to lump them together? Why put all the eggs in one basket? Let us separate. We know what is happening at the NSSF. Had we two bodies, we would not have all this mess in the country. We are not going to merge, let us separate the two. If you meet the Chief Executive Officer of LAPFUND, he has no problem with LAPTRUST. If you meet the Chief Executive Officer of LAPTRUST, he has no problem with LAPFUND. If you meet the two that contribute to LAPTRUST, they have no problem with those who are contributing to LAPFUND. Let the two walk together. After all, Kenyans want jobs. The moment you merge, some Kenyans are going to lose their jobs. If anything, we should expand these bodies. That is my position.

As I stand in this House, I come from a village where I have two former councillors. Both are telling me that they are suffering and they should be paid. How long are they going to wait? How long? Are we waiting for their families to claim their dad or mother were once upon a time MCAs? How long are they going to wait? I am not on my own as I stand here. I am here courtesy of the people of Aldai who want their councillors to be paid. We have the money; let them pay as quickly as possible.

As we discuss this Bill, we are going to advocate for those who are in the system. What about those who have just left the system? We are not poor as a country. We have a Budget of over Kshs3 trillion. We should be able to take care of our own. We are spending a lot of money to take care of wild animals, but we are not willing to spend even a penny on guys who suffered to serve this country. This country is busy out there discussing Mashujaa Day and the rest every year. The same heroes are living in poverty. These are former teachers, police officers, DCs, councillors and the rest.

As we discuss all these, we should look at what we can do for the sake of those who are out there – those who cannot speak for themselves. If this is the only House that can advocate their interests, let us be fair to them.

Thank you. I support the Motion.

(Applause)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Very well. Let us have Hon. Wanyonyi, Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you very much, Hon. Temporary Deputy Speaker for the opportunity. I agree, more than ever before, with the previous speaker, Hon. Serem. What he is saying is exactly what I wanted to say. I think people who have worked and served this country with passion, energy and time need justice. They have suffered. Others like the police missed bullets or they would have died years back. I agree with him and say that this Bill is properly in this House. Those who wanted to say it is not in this House were mistaken.

Employees who put so much time and served this nation with integrity are suffering out there. I have cases where former members of county councils come all the way asking for transport to come to Nairobi. I give them accommodation so that they can go and look for their pension, but they go home empty handed. Therefore, this Pension Bill brought by Mr. Muriuki is properly in this House. We have to look at the fate and plight of our brothers and sisters who served this country years back. The best we can do is to look at this Bill. I hope there will be follow up to implementation at the end of it all when we pass it. All the comments passionately made by Members should be implemented to the letter.

I know five of them who served when the county councils were there. They look miserable. When you go to their homes and look at them, their offspring are suffering, they have not been educated and others are sick. They have to hold *Harambees* to be able to take care of the offspring. Therefore, something should be done. Those who work in pension schemes in this country, please hear us. Let them assist those who retire.

As we talk about it, the value of the shilling in 1980 or 1985 is not the same as today. It has depreciated. Whatever was being given in 1990 is of no value today. We should upgrade our shilling. If somebody was getting Kshs15,000, it should not be the same. What is Kshs15,000 today? It is bus fare from Kitale to this place. We, who are looking at this pension scheme, should also upgrade the value of the shilling today to that time. If somebody was entitled to Kshs 15,000 pension, we should appreciate it so that he can receive about Kshs 80,000. The officers at the pension should not just think that since you were getting a certain amount, you should be getting that same amount, it will be of no value. Our brothers and sisters are suffering out there even after they worked for the good of this country. It is only today that we are seeing corruption. In those days there was no corruption, we had a good system. Today, people are corrupt. That notwithstanding, we should be able to evaluate a shilling. If one was getting Kshs 20,000 please appreciate that because the value of the shilling today is not the same as it was in 1990s.

Last but not least, pension should be streamlined so that if somebody comes from Kitale or Kwale, their transport all the way to Nairobi, should be paid. That is what we see every day. I get so many cases where people are asking me to follow up their pension. Sometimes records are lost or misplaced. A poor lady comes all the way here and cannot find what she came for. This must be devolved to the county level so that payment is made easy. If you come from Trans-Nzoia, be paid there. Why come all the way to Nairobi? Ninety per cent of us have been requested by the former employees to chase pension here in Nairobi. We should ensure that this is devolved to the county level so that they can be paid at a place closer home where he can just take a motorcycle. Given that we are going digital, there should be no point coming to Nairobi. Once you have registered yourself, the payment should be automatic.

We should have a committee or people to advise them on how to use the money. When some of the people get their lump sum, they remarry. You will find that some of them have about five wives and they are not able to keep them. We should have some people trying to tell them how to invest the money they have been given.

I agree that this Bill is properly before this House and therefore we should streamline it so that people do not suffer the way they have been suffering. I support the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Obo Mohamed

Hon. (Ms.) Ruweida Obo (Lamu CWR, JP): Asante, Naibu Spika wa Muda kwa kunipatia nafasi hii. Ninasimama kupinga Mswada huu kwa sababu niko na uwoga. Nina hofu kuwa Mswada huu utaleta madhara zaidi. Waliotangulia kunena mbele yangu wameongea kuhusu madhara ambayo madiwani walipata. Tulipotoka kwa manispaa tukaingia mfumo huu wa ugatuzi, wale waliostaafu hawajalipwa ile walikuwa wanafaa kulipwa. Kwa nini tunaharaka hatungojei Mswada ambao umetangulia na sasa uko Senate?

Naogopa pia isije ikawa hizi pesa zitaenda county na zikafujwe. Tunataka kuwe na mikakati mizuri na tuelezwe zitaenda county vipi tusije kama Wabunge tukapelekwa kwa agenda ya watu wengine. Vita kati ya LAPFUND and LAPTRUST tuwachie wenyewe. LAPFUND inafanya kazi na kuna wale wanaoipenda. Tuwachie wenyewe wachague ipi itawasaidie.

Asante, Naibu Spika wa Muda.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Nyaga Nkatha, Member for Tharaka Nithi.

Hon. (Ms.) Beatrice Nyaga (Tharaka-Nithi CWR, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to support this Bill. Hon. Njagagua is talking about the pension scheme for the county. I want to agree with him that the counties or the employees of the counties are Kenyans, they need to be supported. As we support them, we need to remember there are so many people who have worked for this country diligently and efficiently but they are really suffering. We have so many teachers outside there. Those who retired in 1997 were supposed to be paid their pension but to date, they have not been paid. It is very sad. We need to take care of the people who have worked for this nation. We have the finances and we have our budget, why do we not pay them? Currently, I am following the cases of some people in the National Treasury.

I am following up cases in the National Treasury for some people, but unless you give something, the files are never found. You find someone dies without getting what he should from the Government. Why is this happening in the 21st Century? Why is there no money for pensioners who are supposed to live very humble lives? Somebody in employed at the National Treasury to take care of those files and see to it that pensioners get their dues. However, they are not paid on time and are not given what is theirs. What are those people doing in that office?

Therefore, we should all support this Bill. Hon. Njagagua, this is very important. If we have a similar Bill, at the end of the day, we should sit down and see how we should marry them so they can assist the people of this country. We are not just talking about pension, but how to properly take care of the people of Kenya.

Hon. Temporary Deputy Speaker, I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us now have Hon. Oundo Ojiambo, Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this Bill. I stand to support it because it is

timely and it will go along way in streamlining the pension schemes management for public servants in the devolved units.

All of us are aware that there are major challenges in public pensions. We have many cases of retirees who go for many months without getting their pension dues. As my colleagues have said, the amount given to them does not seem to be adjusted in line with inflation and change of lifestyle in this country. It is disheartening to have so many retirees, and this seems to affect majorly the teachers who spend many years chasing after their pension from the national Government or National Treasury and some even die without having received their pension.

I have gone through this Bill and I must commend Hon. Njajagua for it. However, there are a few observations that I require to make so that we can strengthen or make it more effective in the management of pension schemes. The Bill provides for the list of Members who will form the board of trustees, however there is an omission and there seems to be no direct representative of the contributors. It only lists a number of members, but it seems to have excluded the ordinary members in electing their representative. The only place that seems to suggest that reads: “five other nominees from the county governments nominated from three most representative employee unions.”

Unions are separate entities from the membership. My view is that at the point of the Committee of the whole House, we might consider allowing members to appoint or elect their own to sit in the board of trustees as a common practice in all pension schemes that are either in the private sector or for government bodies like parastatals.

The second issue that I find very commendable is the introduction of sharia that takes care of the Muslim faith that seems to have been ignored in most pension schemes or the Retirement Benefits Act. The Bill provides various service providers as required under the Retirement Benefits Act. However, probably, the issue of the corporate administrator being formed by the trustees might bring a conflict of interest. I would urge the drafter of the Bill to consider a situation where they employ the very many administrators that are licenced to provide administration services by Retirement Benefits Authority.

On the issue of the contribution, the Bill proposes that each member contributes 12 per cent, either higher or lower, as the minister or the board might dictate. I suggest that we tighten up that particular provision and only probably consider a fixed percentage depending on the evaluation by the actuary employed for this purpose. We have had a problem in this country where employers deduct members' contributions but they never remit them or if they remit them, they remit them so late that the investment value is eroded over time. I was fortunate to be involved in an assignment some years back where we had to recommend that various county governments or local authorities, as they were known then, surrender some of their fixed properties like land and buildings to LAPFUND for purposes of offsetting the huge debts that had been accumulated by their failure to remit funds to the scheme.

I note that the Bill proposes an elaborate system of recovering the money but I am not so sure how that can be recovered from a county government considering that there seems to be a provision somewhere in law that you cannot attach government assets to pay for debts incurred. We need to find a formula of how we can get these county governments to honour this in view of the cases where they have outstanding public debt which they have not paid.

As I conclude, it is my call that once the Bill comes into effect and becomes an Act of Parliament those members charged with the responsibility of managing these funds need to be people of integrity. They should manage the funds for the benefit of the members now and in future to avoid a situation where we have so many scandals at NSSF and other government-

related bodies that manage public funds. On the issue of remuneration of trustees, we should not leave it to the board to decide. We have the Salaries and Remuneration Commission that should be given the mandate to basically manage or set the salaries. I do believe that if properly managed, this Fund can be a game changer in terms of investments, especially in low cost housing that can assist the Government to achieve the Big Four Agenda.

With those few remarks, I stand to support. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Tonui Kiprotich, Member for Bomet Central.

Hon. Ronald Tonui (Bomet Central, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to also contribute to this Bill. I support the Bill because it is progressive. I congratulate Hon. Njagagua for coming up with it. He is very active in the House and in the constituency. I saw him encouraging his people the other day to protect his constituency. He is facing the risk of his constituency being scrapped if they do not get the numbers. It is good that you are dealing with that and the issue of pension within Parliament.

Although I support the Bill, we will need to make major adjustments to it so that it serves us well. The funds which are available in this country, to both the national Government and the county governments, come from the National Treasury Consolidated Fund. They come from the same source. They should never be discriminatory. When there is a national pension department getting funds from the National Treasury to take care of pensions for those in the national Government but there is no such provision for those in the county government, that is discriminatory. That needs to be taken care of. This is because county governments are part of the national Government and all employees serve within the same Government.

Noting the fact that only 15 per cent of the national resources are devolved to county governments and 85 per cent remain in the national Government, that means that county governments have less funds available to them. They will not be able to take care of their employees. Therefore, that issue needs to be looked into so that we can see whether they can join the national pension scheme and be taken care of. This is because all the employees in the national Government and the county governments serve the same people. Therefore, there should be no discrimination.

I am happy that new ideas are coming into this Bill. This Bill is very progressive because it raises new issues. It talks of termination of service benefits. We have not heard of that before. It also talks of insured death benefit, insured disability benefit, insured critical illness benefit and unemployment. Those are very important issues.

I also expected a little bit more in terms of transition. The issues of former councillors can also be tackled because they are also suffering. They have really served our people. Some of them have served for more than five terms and are now languishing in the villages and cannot even take care of their medical bills. They need to be considered. They should be captured in the transitional clauses so as to receive benefits to take care of themselves.

Njagagua has said that this is not a 'money Bill' but in my opinion, it should be. This should get funds from the National Treasury so that those issues can be taken care of.

I support the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Gaal Bashane, Member for Tarbaj.

Hon. Ahmed Gaal (Tarbaj, PDR): Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity. From the outset, I support this Bill.

This Bill has greatly improved what county council employees previously complained about. One of the complaints was that funds remitted to their pension scheme were not being submitted. The employees have a right to have their funds sent to the pension scheme. This Bill proposes punitive action for any person or county government that does not submit those funds to the pension scheme. That is a very wonderful idea.

Secondly, the proposal that an investment should be done is a good thing. This investment will add value to the funds available. This will improve the resources available for other benefits of the workers. While it gives opportunity for investment, this Bill also proposes a reserve, such that they do not go to extreme and deplete the Fund.

One other point that is very wonderful is that this Bill proposes *sharia* compliance for the members of the Muslim faith. I suggest that other institutions should borrow from this, even the Parliamentary Service Commission because some of us cannot borrow the loans available because we are worried that this might incur interest on what is being offered to us. So, it is a wonderful thing. A few adjustments should be done to the Bill when it reaches the Committee of the whole House. The Bill is proposing that the LAPFUND and LAPTRUST should be joined together. There is no need. If two different groups within the county government, the Council of Governors (COG) and the Members of the County Assemblies (MCAs), want different funds, there is no need for them to be lumped together. Even at the national level, different parastatals have different schemes. Why should they be lumped together?

These funds should be decentralised. A lot of funds are wasted when people travel to Nairobi, even at the national level, to follow up on their pension scheme. This will be decentralised and it will reduce the cost of travelling to Nairobi.

I support this Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kimilu Joshua, Member for Kaiti.

Hon. Joshua Kivinda (Kaiti, WDM – K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to this Bill. One, I want to thank Hon. Muriuki for coming up with the Bill which is timely and very important. We need to discuss it.

In Kaiti Constituency, I had a meeting with these retirees and they raised the same question about pension. We, as lawmakers, need to support this Bill because some of these people are our fathers. They served this country. They deserve to be paid their pension. I remember there are those former councillors whom we cannot forget about because they did a good job of serving this country and earning little money. They are languishing in poverty in the village because they did not get anything. We need to factor them and remember them because they did a good job in this country. The Bible says what you need others to do to you, do to them also.

I support the Bill. These people need to be paid. With the current technology, we need to pay them at the county level. I cannot imagine someone travelling all the way from Garissa to Nairobi to come and be paid here. Technology is there and we need to consider them in their local areas which are the counties. As I support this Bill, we need proper monitoring. We need to pay them. We need to put some strategies on how we will monitor the payment.

Hon. Temporary Deputy Speaker, I support this Bill. I thank the Hon. Member for coming up with the Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Wambugu Ngunjiri.

Hon. Wambugu Ngunjiri (Nyeri Town, JP): Thank you very much, Hon. Temporary Deputy Speaker. I stand to support this Bill primarily for one reason. We have created a habit of

condemning old age in this country. We have a situation where people are struggling to be considered young because old age is looked at as a weakness.

What I like about Hon. Njagagua's Bill is that he is seeking to give dignity to people who have worked in the county administration or what were local governments at some point. It is imperative for all of us, especially for those of us who make laws, to remember that we will all grow old at some point. If we create structures that ensure that somebody can retire in dignity at old age especially when they have served the local community, it will be important.

I support the Bill on that basis and hope we will make it into a law so that we can have a situation where retired members of county administration are able to be part of their communities in dignity. In Nyeri, I have been approached by the association of retired councillors who are seeking our intervention in thinking about them. We have well-structured retirement pension scheme for Members and a similar one for other government employees. We now have two levels of government. It is going to be very important to think clearly, sensibly and reasonably about how we are going to take care of people who work for the second level of government. This is a very good effort in the right direction.

I support the Bill. Thank You.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Arbelle Marlino, Member for Laisamis.

Hon. Marselino Arbelle (Laisamis, JP): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute to this Bill to establish county pension scheme.

Since its inception, devolution has brought a lot of good to this country. It is very important that we devolve the county pension scheme. As you are aware, the defunct county councils were not remitting their employees' pension contributions timeously because of lack of a clear law to guide them on that. The fact that we have devolution is very important for transparency purposes for counties to manage their in-house activities. It is prudent we support the establishment of county pension scheme.

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

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Gichimu Githinji.

Hon. Gichimu Githinji (Gichugu, JP): Thank you Hon. Temporary Deputy Speaker. I rise to support the Bill by Hon. Njagagua. The Bill, in effect, sets a good base and a good precedent which can be followed by county governments. It gives an opportunity to all the workers of county governments to benefit. It puts them at the same level as those who serve at the national level in terms of having pension and benefiting from a pension scheme.

Though we have two levels of government, all Kenyans are the same. It is only that some serve the national government and others serve counties. So, it is another way of bringing equality to all Kenyans irrespective of the level of government they serve.

I concur with Hon. Members, who support this Bill and I too support it.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Gichimu, you spoke up to 1.00 pm. I was to interrupt you but you finished your case, which is good enough.

Hon. Members it is already 1.00 p.m, the time slotted for this Bill is three hours and thirty minutes. We still have a balance of one hour and fifteen minutes on this particular Bill when it is next slotted by the House Business Committee.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, the time being 1.00pm, this House stands adjourned until today, Wednesday 14th November 2018, at 2.30 p.m.

The House rose at 1.01p.m.