

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 27th July, 2016

The House met at 2.30 p.m.

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

PRAYERS

PAPERS LAID

Hon. Kamanda: Hon. Speaker, I beg to lay the following Paper on the Table:-

The Report of the Departmental Committee on Transport, Public Works and Housing on the consideration of the bilateral air services agreements between the Government of the Republic of Kenya and the governments of the Socialist Republic of Vietnam and the Republic of Liberia respectively.

Hon. (Ms.) Abdalla: Hon. Speaker, I beg to lay the following Papers on the Table:-

The Reports of the Departmental Committee on Environment and Natural Resources on its consideration of:-

- (i) The Senate Amendments to the Forest Conservation and Management Bill, 2015; and,
- (ii) The Senate Amendments to the Natural Resources (Classes of Transactions Subject to Ratification) Bill, 2015.

Hon. Speaker, I also have another one that is not here, the Mediation Meeting on the Water Bill.

Hon. Speaker: Well, to the extent that you acknowledge it is not here, it means I have not even approved it.

Hon. (Ms.) Abdalla: Much obliged Hon. Speaker.

Hon. Speaker: Let us move on to the next Order.

NOTICES OF MOTIONS

APPOINTMENT OF HON. OMULELE TO CHAIRPERSON'S PANEL

Hon. A.B. Duale: Hon. Speaker, I beg to give notice of the following Motion: -

THAT, pursuant to the provisions of Standing Order Nos.16 and 17, this House approves the appointment of Hon. Christopher Omulele, M.P. as a Member of the Chairperson's Panel.

BILATERAL SERVICES AGREEMENTS

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

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works and Housing on consideration of bilateral services agreements between the Government of the Republic of Kenya and the governments of the Socialist Republic of Vietnam and the Republic of Liberia respectively, laid on the Table of the House today, Wednesday, 27th July, 2016, and pursuant to Section 8 of the Treaty Making and Ratification Act 2012 approves the ratification of bilateral services agreement between the Government of the Republic of Kenya and the Governments of the Socialist Republic of Vietnam and the Republic of Liberia respectively.

Hon. Speaker: Let us move on to the next Order. Sorry, Hon. Members. There was supposed to be an appraisal by two Committees, namely the Departmental Committee on Defence and Foreign Relations and the Departmental Committee on Education, Research and Technology. However, it appears like that will happen tomorrow afternoon. I do not know whether the two Committees are aware.

Hon. Midiwo, the Floor is yours.

Hon. Midiwo: Thank you, Hon. Speaker. I rise under Standing Order No. 17. I have just heard something very strange raised by Hon. Duale purporting to give notice of a Motion.

Hon. A.B. Duale: I gave notice of a Motion and I was not purporting!

Hon. Midiwo: You may have but you were purporting. Hon. Speaker, this is a House of rules. I am in the House leadership and I am sitting here with my Whip. We do not know under which Standing Order Hon. Duale is choosing a Member to the Speaker's Panel without consulting us. If I remember well, there is a procedure for that. Sometimes we light fires that are unnecessary. That is utterly unprocedural and it amounts to disrespect. It cannot work.

Hon. Speaker: Hon. Midiwo, why do I not just rescue you from yourself?

(Laughter)

Hon. Midiwo: Yes. Please.

Hon. Speaker: Because you purport to be rising under Standing Order No.17, if you read it carefully, there is nowhere written that the Speaker, as the appointing authority will come to move a Motion here. The Speaker is at liberty to appoint the Leader of the Majority Party who is also the Chair of the Committee on Selection to move a Motion on his behalf. The appointment is made by the Speaker in consultation. The only requirement is: "In consultation with the parties." I confirm that he has been in consultation with yourself, Hon. Nyenze, and Hon. Mwangi for nearly the last four months with regard to your preferences.

In the event it has become impossible for the party from which Hon. T.J. Kajwang' is from, who was discharged by myself, to provide me an alternative, the Speaker has, therefore, determined that the party or the leadership thereof is not keen to provide a preference. Given the fact that the Standing Orders provide for four Members of the Chairman's Panel, and also granted that I have to consider all the parties represented here, two of the Members of the panel are from the minority coalition. The only thing I needed to consider from that coalition is whether the Member is to come from the Orange Democratic Movement (ODM), Forum for Restoration of Democracy-Kenya, (FORD-K) or the Wiper Democratic Movement (WDM).

Fortunately, WDM is already represented in the panel by Hon. Jessicah Mbalu. I also considered, for avoidance of doubt that the ODM is the senior partner in that arrangement and

that Hon. Chrisantus Wamalwa is the Deputy Whip from FORD-K. Therefore, I chose that the person I will appoint will be from ODM and nothing limits me from doing that.

Hon. Midiwo: Hon. Speaker, that is not the correct position.

Hon. Speaker: A notice of Motion has been given. You will be at liberty to oppose tomorrow when it comes before the House. There is nothing. You want to engage in an argument. The Motion will be brought here. Hon. Midiwo, just resume your seat. We will not engage on this. Standing Order No.17(3) provides for that. Hon. Kajwang' is the Member who has been discharged after notice was given. Remember, the replacement should have happened within seven days but for orderly conduct of business, I had granted that. I am also the Chair of the Parliamentary Service Commission (PSC). I had to allow sufficient time for Hon. T.J. Kajwang', who was discharged to arrange the exit for some of the staff that are attached to him. You may go and contest wherever you may wish to contest this but that is the position – that we cannot stay forever waiting to be given names and no name is coming. I have, therefore, acted, in the exercise of my powers under Standing Order No.1, to appoint. Let us proceed. There is no more argument on that.

Next Order!

BILLS

Second Readings

THE WAREHOUSE RECEIPTS SYSTEM BILL

Hon. Speaker: Hon. Members, debate on this Order was concluded. What remains is for me to put the Question, which I proceed to do here.

(Question put and agreed to)

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

THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL

Hon. Speaker: Hon. Members, again, debate on this Bill was concluded yesterday. What remains is for me to put the Question, which I hereby do.

(Question put and agreed to)

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

THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLIES APPROVAL) BILL

Hon. Speaker: Let us have the Chairperson of the Justice and Legal Affairs Committee. There was an indication that the Member for Ol Jorok, Hon. Waiganjo, will move debate on this

Bill. This is a Bill emanating from the Senate and we agreed that we will be giving Bills from the Senate some priority on Wednesday afternoon.

Hon. Waiganjo: Hon. Speaker, I beg to move that the Public Appointments (County Assemblies Approval) Bill be now read a Second Time.

This Bill has emanated from the Senate. The purpose of this Bill is to give a legal framework to the county assemblies.

Hon. Midiwo: On a point of Order, Hon. Speaker.

Hon. Speaker: There is a point of order.

Hon. Midiwo: Hon. Speaker, I thought we passed the other alteration. I wanted to raise a different point of order. It is totally a different subject. So, I want Hon. Duale to relax.

Before we move to the Business of the House, I want to rise on a point of order to raise a very important issue to our society. This issue of betting which is permeating our society---

Hon. Speaker: Hon. Midiwo, now you are completely out of order. The Member is moving for the adoption of this Senate Bill. I am aware you had indicated that you will be raising that issue. In fact, you should have raised that when we were on statements. You had approached the Chair to be given an opportunity. I am aware that the issue you are raising is a major one but let us allow the Member to move the Bill and then we will look for an opportunity.

Hon. Midiwo: Thank you, Hon. Speaker.

Hon. Speaker: Proceed Hon. Waiganjo.

Hon. Waiganjo: Thank you, Hon. Speaker. I was saying that this is a Bill for the approval of public appointments by county assemblies and for connected purposes. That is the title of the Bill. This Bill is long overdue and it has come at the right time.

The objects and purposes of this Bill is to provide for the procedure for the approval of public appointments by county assemblies. As members know, there does not exist any legal framework for the procedure of approval of public appointments in county assemblies. This has precipitated a problem whereby the county assemblies do not have a legal framework on how and what to look at when they are appointing public officers. The Bill also has an objective of providing clarity and guidelines of county assemblies as they exercise their functions of approving public appointments. It is an important function of the county assemblies and Members of County Assembly (MCAs) to ensure that the public appointments they make in their assemblies are in consonance with the law and that they also comply with the constitutional provisions on appointments.

This Bill also provides for the appointments under the Constitution or any other law for which the approval of a county assembly is required. That shall not be made unless the appointment is approved by the relevant county assembly in accordance with this Act. This is important because some of the constitutional provisions state what a person should have for them to be appointed to public office. So, this is just a piece of legislation to ensure that the Constitution is followed and that constitutional provisions are complied with.

The other important objective of this Bill is to ensure that whenever the county assemblies make appointments, there has to be an advertisement inviting applications for appointment to an office to which the Act applies.

This Act specifies that the candidate shall be required to appear before the relevant county assembly committee. The importance of this objective is to make sure that whenever an appointing authority of a county is making an appointment, the public is made aware and there is an advertisement to show that kind of appointment will be made. This is to ensure that an ordinary member of the public will appear after seeing the advertisement and will have an

opportunity to know about ongoing appointments within the counties. They need to know that people who are appointed are known to them, qualify and those who meet the legal and the constitutional threshold. After the advertisement, it is required that the committee of a county assembly, pursuant to a notice issued under Sub-section 1, does the appointment within 21 days. This ensures that once the advertisement is made and the notification is done, the public is informed of the person nominated by the nominating authority. This is important because an ordinary Kenyan would know that a proposed nominee is from the county, meets Chapter 6 of the Constitution and meets the academic qualifications.

The way counties are appointing is a very sorry state of affairs. They are appointing officers who do not meet the threshold of the qualifications that are required. Counties are making appointments based on the person you know. They appoint people who are illiterate and cannot hold dockets they are appointed to. It is important that this information gets to the public so that they can appear during an approval hearing and indicate whether the person nominated is a graduate. Within a county, the public will know if a person is learned or not. Information about the nominee under Clause 4 of the Bill is done with regard to the issues specified under Clause 7 of the Bill. As I said, those issues include academic qualifications. They are subjected to approval hearings.

The Bill states the public place where approval hearings should be heard. The importance of this is that a nominee will appear before the relevant committee of the county assembly. Once an appearance is done, the nominee is vetted. They will appear with their academic qualifications and they will be subjected to a formal interview. This being an open public hearing, nominees can defend their nominations, explain their expertise and relevance to the docket they are nominated to. The public can weigh the kind of nominee who is being brought forward. The public is also given an opportunity to ask questions.

Clause 5 of the Bill indicates that these proceedings will be open and transparent. This ensures that if there is any issue that a member of the public would like to pick with a nominee, then it is very open. A member of the public can express if the purported nominee does not qualify. They will look at the procedure for nomination. We have seen a lot of issues happening. For instance, we at times question how certain appointments are made. This will remove any doubts in the minds of the public that any public nominee has met the necessary qualifications. They will look at the procedure. For instance, if it was an application, did you apply, and did you meet the qualification? Approval hearings are the right places to answer those questions. It is also important to note that an approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background. The importance of that clause is to indicate and caution our counties from making appointments based on nepotism and tribalism. In some counties, every officer is from a specific ethnic group and they even use their mother tongue when conversing.

In Nyandarua County, which is predominantly Kikuyu, you find that all public appointments are given to that particular ethnic group. This is an important section of this law which will ensure that whenever an appointment is made, it is not based on tribal affiliations or nepotism. Right now, it is very easy for people to be appointed because they are relatives of a governor. For instance, if there is a public appointment and the nominees are brothers, sisters or children of a governor, it is more likely that they will get these jobs. This law will expose what has been going on in our counties. We know for a fact that jobs are dished out through nepotism. You will also realise that some people who get these appointments are not qualified but are

appointed because they campaigned for the governor, or are related to the speakers of various county assemblies. This law will expose the rot in our counties.

This law ensures that an ordinary Kenyan can contest an appointment. An ordinary Kenyan can rise on a point and say that they do not agree with a certain appointment and because there is an approval hearing, they will be required to give evidence. Therefore, people will be given a fair hearing. Natural justice will prevail in this case. Therefore, whenever this is contested, nominees are given an opportunity to be heard and defend reasons for their appointment. This Bill is going to bring sanity to the appointments within counties, bring balance and give opportunities to people who qualify and may want to work in counties without necessarily having to know anybody. They will be appointed based on their qualifications and not because of whom they know, what they give, the tribe they come from and their relationships with the appointing authorities.

The Bill says that relevant county assemblies committees will operate like the High Court. When we say that committees of this House operate like the High Court, at times we apply double standards. For instance, if I misbehave or disrupt business in the plenary, and we have seen this before, the Speaker, in his wisdom and using the law, can decide to bring order back to the plenary or to the committee. How is it then that we are not able to enforce our rules and Standing Orders? That is what happened recently. If the disruption that had happened here had happened before the High Court, the judge would not even take you through contempt proceedings. He would give a summary execution and then you find yourself behind bars.

This Bill also states that the county assembly committees have the powers of the High Court. These committees have the power to compel your attendance and to produce documents. If this committee summons you and then you refuse to appear before them, the law at Clause 12 states clearly that you will be eligible to pay a fine of Kshs200,000 or be convicted and sent to jail for a period of one year. It is very important even as we make these laws to make sure that these laws are enforced, and we have a manner in which we enforce them. We must also obey our Standing Orders. When we pass this Bill, we will give counties and their committees powers of the High Court and guidelines on appointments. We shall also know the people who are appointed work for Kenyans, but they do not work for their own selfish ends.

The other important thing is that the person who is vetted must give a statement of his net worth and tax status. Because this is a public approval hearing, the public will know. If you get a docket and you start working and then in a year you have two lorries and a farm of 100 acres, and yet when you were appointed to that position, your net worth and tax status was nil, the public will ask how you amassed this wealth overnight. As we go to the next election, it is important to relook into the law of wealth declaration which requires us and our governors to declare their wealth. As we move forward, we shall know we have public officers who are not only patriotic but also who meet the requirements of Chapters 6 and 10 of the Constitution, and will take up their mandate to work for Kenyans and their country.

I thank you, Hon. Speaker. I beg to move. I ask my Chairman, Hon. Chepkong'a, to second.

Hon. Speaker: Hon. Chepkong'a, you are now in the House.

Hon. Chepkong'a: Thank you, Hon. Speaker. I was keenly listening, but there were loud consultations. I rise to second this Bill. This is the Bill from the Senate and it concerns county governments. This is a very important Bill.

First and foremost, this is a replica of what we have as the Public Appointments (Parliamentary Approval) Act which we use when conducting approvals, with regard to

appointments of Principal Secretaries, Cabinet Secretaries and all other appointments that require approval by this House. The county assemblies have been groping in the dark, when it comes to public appointments and approvals by county assemblies. The members of the County Executive Committees (CECs) are supposed to be approved by the county assemblies, upon recommendation by the governors.

Right now, we do not have a uniform or universal legislation that governs the approval activities by county assemblies. It is important that legislation must be enacted to ensure that there is due process. The rule of law requires that no one should be subjected to a process that is not consistent with the laws of this country. The Constitution is clear under Article 50 which requires that there must be fair administrative action, whenever one is vested with powers to make a decision to ensure that they comply with the Constitution.

This legislation ensures that there is due process in the approval of appointments at the county assembly. It also sets out the timelines within which the county assemblies must approve the appointments when referred to them by the appointing authority, which in this case is the governor of that particular county. It sets out very clear timelines as it is in our Standing Orders and in the Public Appointments (Parliamentary Approval) Act which governs approvals in this House. It also sets out a very clear road map when a person is rejected by the county assembly. To bring back that person for re-vetting, it has to be through a certain process. It sets out the situations in which a person can be brought back for vetting; that is if certain facts that existed at that time were not true. It sets out what needs to be done.

The proposed legislation seeks to empower county assemblies or the committees of the county assemblies by giving them power similar to that of the High Court, when it comes to enforcement of attendance by witnesses and on cross examination. I have my doubts with regard to this. This is an area that the Committee will move an amendment. The county assemblies should not be given the same powers as that of the High Court. County assemblies operate within certain jurisdictions. They cannot have the same power as the National assembly. They should have the same power as that of the Magistrates Court but not that of the High Court. This is a proposal from the Senate. It is important to look at this section and amend it. There must be an appeal process. The county assembly is equivalent of the Magistrate Courts but the Senate is equivalent of the High Court. So, the county assembly cannot have the same powers as the appellate court. It defeats the purpose of appealing.

We know that the governor is expected to appear before the county assemblies. When he refuses to do it, the Senate has the overriding power to summon him to answer questions of malpractices in their counties. We have seen them appearing before the Senate. The county assemblies cannot have the same powers as the Senate. There must be some differentiation. I am very happy with the Bill because it sets out the criterion which the county assembly will use in approving. The Bill also gives out general guideline with regard to questionnaires. We have some serious issues at the county assemblies. The former Chief Justice clearly stated that the capacity at the county assembly is wanting. I was told there is translation in some counties because they use vernacular. So, it is important to set out questionnaires on what they need to ask so that they ask relevant things. In some counties, they can be asked how they take care of their cows. That is not a relevant question. It could be important to that particular community, but that is not a criterion for purposes of approval. The questionnaire as set out in the schedule is very important for those counties. As you may know, we made attempts in the Elections (Amendment) Bill that has gone through the Second Reading. We had suggested that Members

of County Assembly must have a minimum qualification of a diploma and hopefully, by 2022, they are supposed to have degrees.

Many of us have been lobbying and we have been told that we are anti-democracy. That leadership cannot be equated with education. We have many serious problems and it is important to set criteria to follow, if we agree to let them go scot-free by not passing the proposed Bill as it is.

Hon. Speaker, with those few remarks, I second.

Hon. Speaker: Hon. Members, before I propose the Question allow me to recognise students and pupils from the following institutions:- Matungulu Girls High School, Matungulu Constituency, Machakos County; Midlands Grammar School, Bomet County; Matuma Primary School, Maara Constituency, Tharaka Nithi County; Church View Academy, Meru Central Constituency, Meru County; St. Mary's Junior Academy, Tigania West Constituency, Meru County and Nandi Hills Primary School, Nandi Hills Constituency, Nandi County.

Both the students and pupils are welcome to observe proceedings of the National Assembly.

(Question proposed)

Hon. Speaker: Hon. Daniel Maanzo, you have the Floor.

Hon. Maanzo: Thank you, Hon. Speaker, for giving me an opportunity to contribute to this very important Bill. A lot has been happening in the counties when it comes to hiring. Definitely, there needs to be a law, which will guide on how counties will engage. In fact, there have been questions as to whether counties should hire employees on contract or on five-year term. There has been conflict of different laws in relation to this matter and this law will be very important.

I have perused it and I am persuaded that a lot more needs to be done probably at the Third Reading. Certain things proposed in this Bill need to be more clear such as will they hire on contract or renewable in five-year term and is this model constitutional? The counties should follow the national model of this House. The way a Cabinet Secretary of the national Government is appointed should be the same for the counties, to bring uniformity.

The tragedy at the counties has been that some people have been hired politically and are not qualified or there was no public participation as required by the Constitution. Therefore, this law will serve as a good example in that regard and legalise the process at the counties. There has been lack of boundaries properly fixed by law. That has contributed to the inefficiencies in counties. Employees and Ministers of county government are extremely important. A good example is the Ministers for Health in different counties. Some of them have no medical background and have inefficiencies in qualifications to hold such positions.

Due to lack of guidelines, such Executives have been hired without proper methods and instances have occurred where there have been demonstrations, allegations and counter-allegations on their qualifications. Also the Department of Health which is now devolved under the new Constitution is not being handled in the right way. That is just one of the examples, they are many. There are instances whereby County Executives who are not qualified for certain jobs are hired because of being associated, campaigned or is related to the Governor or any other elected persons in the region. Then the appointment is one of collusion and thus they are not effective enough.

The new Constitution foresaw a situation where devolution would be successful. One of the ways of making it successful is making sure that the laws are good and constitutional. There have been issues as to whether county assembly committees should have similar powers as the National Assembly Committees. One of the guiding principles so that we are at par is that our Committees powers are the same as those of the High Court jurisdiction. Is the county assemblies' committees' jurisdictions equivalent to the one at the national level? I propose that the jurisdiction of the county assemblies committees should be equivalent to a Senior Magistrates Court. The two are not at par by practice, therefore, the law guiding that practice is such that the committees at the county assembly may not really enjoy similar power as Committees of the National Assembly. That has been left out and because it is a matter of jurisdiction, we can be guided by precedents and practices of other jurisdictions similar to ours with the new law. We will make a law that is good for people and serves prosperity of the country. I support the Senate Bill on the Public Appointments (County Assemblies Approval Bill, 2014) and urge Members to support.

Thank you, Hon. Speaker.

Hon. Speaker: Let us have the Member for Garissa Township.

Hon. A. B. Duale: Thank you, Hon. Speaker. I rise to support this Bill because it should have been here in the 10th Parliament. Just like the way we passed the Public Appointments (Parliamentary Approval Act 2011) - it is now used by this House in the vetting process of the National Executive appointees; both the Cabinet and Principal Secretaries and other constitutional office holders who require National Assembly's approval.

What is happening in the counties is like a one man show. This is because County Executives or County Ministers are appointed without guidelines or provision in law. They are brought to the assembly and what they do is guillotine. I am sure in all the 47 counties half of the ministers in county assemblies are people who have never gone to school. They have no degrees, some of them have serious issues of integrity under Chapter Six, others are not tax compliant, others have not repaid the Higher Education Loans Board (HELB) loans and some have their finger prints as criminals. Just because they come from the same clan as the governor, they are neighbours, they paid or their community voted for the governor, they are given big positions in the county assemblies.

We have no problem with that, but they should vet them the way we vet Members of the National Executive to, at least, make sure that the nominees have the required education qualifications which can be verified by the Commission for Higher Education. The Ethics and Anti-Corruption Commission (EACC) writes to the National Assembly on the status of a nominee. This should also apply to county governments. If the person being nominated for a position of the CEC has any criminal record, the Director of Criminal Investigation (DCI) must provide that information. If the person being vetted by the county assembly as the CEC member for finance is involved in money laundering, tax evasion or is non-compliant in paying taxes, the Kenya Revenue Authority (KRA) must give that information. That is why I think this Bill is timely. Never again will a governor appoint somebody of opaque academic credentials, a criminal, or somebody involved in economic crimes, tax evasion or money laundering to run our dockets. That is why you have seen the reshuffles in the 47 county governments are at the whims of one person. If I give you the example of the counties in northern Kenya, most of the people who are CEC members are people from the Diaspora. They are people who were taxi drivers in London. Some of them present papers of qualifications which cannot be verified. So, you are making somebody a CEC member for finance at the county government and he does not even

know the basic tenets of good bookkeeping, but because he comes from the clan of the governor or he is a stooge of the governor he is appointed. We must take good governance to county governments.

Secondly, this law can only be used by an academically qualified county assembly. There are county assemblies where proceedings are done in vernacular because members cannot speak one sentence in Kiswahili or English. That is why we must put some basic educational qualification. A Form Four certificate is okay. If all MCAs can read and write and they have a Form Four certificate, then with this law they can vet individuals presented to them.

I will bring a number of amendments to this Bill at the Committee of the whole House stage. It says nationality. That nationality must be confirmed. It is not that when you have a green card or dual citizenship you can become a CEC member. Knowledge of languages must be specified, whether you speak English, Arabic, French or Germany. I agree with Hon. Chepkong'a that we cannot elevate a county assembly to the status enjoyed by the National Assembly and the Senate in terms of the powers they share with the Judiciary. A father and a son in one homestead cannot have similar powers. The father of the county assemblies is the Senate. The Senate can enjoy those powers. If you want to enjoy those powers and you are in the county assembly, you graduate through the will of the people and come to the Senate. We must have certain segments in terms of sharing of power.

In this law, we must also bring out the issue of gender, disability and inclusivity among all the people to be appointed. The county assembly can say: "The list sent to us is not gender inclusive" or "the list sent to us does not conform to the provisions of the Constitution in terms of regional balance". We expect a Somali to be a CEC member in Siaya County. We also expect somebody from Nyanza or central to be a CEC member in Maasai land or in North Eastern. You will find all CEC members with their governor and deputy governor conducting their meetings in their mother tongue. I think that must be looked into.

This is a very good piece of legislation. I am sure it will reduce instances of abuse of power by governors and their cronies in appointing people to key positions that involve managing huge resources that go to counties. This Bill is timely and I support it. At the Committee of the whole House stage, I will bring relevant amendments.

I beg to support.

Hon. Speaker: The Member for Kiminini, you have the Floor.

Hon. Wakhungu: Thank you, Hon. Speaker. I rise to support this Bill which is long overdue. I was just wondering what framework county assemblies have been using in vetting CEC members and chief officers. No wonder there have been a lot of chaos in many counties. A lot of corruption, tribalism and nepotism have been going on just because we never had a clear framework.

Chapter Six of the Constitution on leadership and integrity is very critical. It is important that it is operationalised so that we can have a questionnaire the same way it happens here at the National Assembly when it comes to vetting CSs and Principal Secretaries (PSs). There must be clear criteria so that vetting is only done for senior positions. People like clerks and drivers should not be subjected to such a process.

In terms of good working conditions and for any work to be done effectively and efficiently, there must be a match between the qualification for a job and the job description. When it comes to vetting, it is important that when a matter comes before a county assembly, the MCAs must look at the job description. If the CEC member is in charge of infrastructure, it is important he or she is an engineer. There should not be a mismatch between the qualification for

the job and the job description, whereby you get a cook as a CEC member for roads. If we entertain that, we are going to have many problems.

As we move forward, vetting should also look at experience. Experience will add a lot of value and help when it comes to issues of experiential learning. It is also important that there must be the element of regional balance because it is outlined in the Constitution. At least 30 per cent of all county government appointments must come from outside the county. So, it is important that this matter is institutionalised so that regional representation is put into consideration.

As we move on, academic qualification is very critical. We have seen many people moving out and within a year they come back with a degree. It is high time we understood where such degrees come from. This is the responsibility of the CUE. We have many universities, some in the streets. Some people go there and within a year or less, they have a degree and yet there is no evidence to show that they ever attended any class. It is, indeed, important that when it comes to education, we must be able to check. Any academic certificate must be verified by CUE or through the university one went to.

Tax compliance is, indeed, key. Any person that is going to be given a job must have a tax compliance certificate. This can only be issued by KRA and it must be verified because there are people getting tax compliance certificates and yet they have not complied with their tax obligations. A certificate of good conduct is also important. It must be got from the DCI. I get worried because as much as the EACC is supposed to clear one, we have seen cases where it has not been doing a good job.

Hon. Speaker, the EACC have not been doing a good job. They do not take their work seriously. I am in the Appointments Committee. I remember the time we were vetting Chirchir he was given clearance by the EACC. Later on, they brought a report of a case that was still under investigation. It is high time we looked at the EACC. The reports they have been giving are very sketchy, shoddy and they do not give full disclosure. It is, indeed, important that we get correct information from this Commission.

When it comes to the HELB, it is also necessary that a responsible Kenyan gets clearance. You must clear the loan that you were given while at the university so that, that money can help other students who cannot afford to pay their fees. We have many cases of people who have been referred to the Credit Reference Bureaus. The Central Bank of Kenya (CBK) had issued two licences. The Credit Reference Bureaus need to be devolved. You can imagine somebody coming from Trans-Nzoia County having to travel all the way to Nairobi to get clearance from a Credit Reference Bureau. This is going to be hectic. The institutions that are supposed to clear people must look for ways of devolving their services to counties. Alternatively, they can offer their services online for the convenience of people who reside outside Nairobi.

On the issue of the questionnaire, I know that they have borrowed from the national one. That questionnaire needs some amendments. In fact, I am working on a Bill to amend what Mungatana had put in place. We have been using that tool five years down the line. We have been saying that we are going to improve it.

Hon. Speaker, you have been the Chair of the Appointments Committee. It is also high time we improved that tool so that when it comes to the next general election, we can increase the threshold. Otherwise, it is a good thing. I can see that the Senate has started working. This is something which should have been done long time ago. Although it has come a bit late, it is a good thing and I call upon this House to support it.

I support.

Hon. Speaker: Let us now have the Member for Nakuru East.

Hon. Gikaria: Thank you, Hon. Speaker, for giving me the opportunity to support this Bill from the Senate.

This Bill was published a long time ago. It has eventually found its way to the National Assembly. First of all, I want to give an example of Nakuru County. I just wish this Bill had become law long time ago. The Governor took a name of the County Secretary to the County Assembly, where it was rejected. Subsequently, that name was reaffirmed by a court of law after some members of the civil society went to court. The Transition Authority went through the backdoor and seconded him to Nakuru County Assembly. He was there for three years. The other day, he was kicked out. He has since gone back to court. If this law was in place, the County Secretary who has been rejected four times could not persist.

The specific time that has been given in this Bill, under Clause 2, is very important. Within a specified period of 14 days, after it has gone to the assembly, it should be committed to the process of vetting. The openness of the process is something that is very crucial. Unfortunately, the issues they have indicated there as regards the public giving evidence might scare off the public. Somebody may want to challenge the appointment of another person by giving false information. We need to look at it so that we do not use the same process to scare off the residents within the county.

The criterion is just a replica of what we have in Parliament. Members of the public bring documentation. We are in the process of enacting a law regarding public information and access to that information. Without that law being in place, as a resident of Nakuru County, I may want to access certain information I would like to use against a certain officer but that information may not be forthcoming. It is important for us, as the National Assembly, to expedite that process so that any person can access information.

Article 11(a) gives the appointee an opportunity to appeal in case he is rejected. It is democratic for us to have that clause to enable an appointee who has not been treated fairly to appeal. The clause gives an opportunity to an appointee to appeal.

I am concerned with Article 12, which talks of the powers of the committee. First, under the County Government Act, the composition of the committee has been mentioned. It provides for ways of getting the select committee to undertake the vetting. I am not privy to information on the County Government Act but I think it is important to know who is in the vetting committee at the county level. Of course, it should be inclusive of different parties at the county level. It should have gender balance.

In Nakuru County, we have six different parties represented in the county assembly. The composition of vetting committee needs to come out clearly, if it is not indicated under the County Government Act.

Article 12 talks about powers of the committee. It says that the committee shall have powers to summon any person to appear before it. The words “any person” need to be qualified. If I have no interest in giving evidence, I should not be forced to do so. Should the committee just summon me even if I do not show any interest? The aspect of “any person” needs to be qualified by indicating that it should be those people who have shown interest in terms of giving evidence. Otherwise, as it is, Clause 12(3) provides for fines against any person who may give false information. False information is a subject of discussion. Who decides what is false? Is it a court of law or the committee? The committee might just be a bogus one. Its members may decide that whatever information you are giving them is false. We need to understand what false

information is. That must be qualified by a court of law. If we leave it for a committee to decide, its members may have some reasons to say that the information being given is false.

If you look at Article 12(2)(c), you will find that the committee may issue commission or request to examine a witness abroad. How does one examine a witness abroad? Are you going to invite the witness or it is the committee going to spend some money to travel abroad to seek evidence? We need to re-look this provision during the Committee of the whole House.

Article 13(3) says that any expenses that may arise in the implementation of this Act shall be provided from gifts, grants and donations. That is a little bit dangerous. If we are going to tell a committee that their expenses will be catered for from some gifts, grants or donations, it becomes scary. Expenses of a select committee or a vetting committee must be put in the county's budget. Otherwise, if we allow gifts or donations to be the ones that will go towards meeting the expenses of the vetting committee, that is not acceptable. We need to budget. Let it come from the public. Assuming the same gift or donation is given by the same person who is being vetted, what happens?

It is important for us to look at that clause very clearly. If you also look at Clause 3(b), you will find that it says such monies may in future be provided by the National Assembly. We do the allocation to counties and they need to do their budget from the allocation that has been given. We cannot burden the National Assembly again to start giving monies to cater for expenses or for county vetting unless the money is put under the total sum that we normally give to counties and they do their budgets and cater for the expenses as it is.

The health issue is also a subject matter. The young people are complaining. Somebody left university a year ago and will stay for five years without employment, and yet you want to use the same HELB loan to deny him an opportunity to be appointed in a committee. This HELB aspect needs to be looked into. It is not fair for us to deny our young people opportunities. It is not their problem because if a young person cleared his university education, he or she is not employed and therefore is not able to repay his HELB loan, he or she should not be denied a chance.

Clause 25, on statement of net worth is important. As Hon. Waiganjo had said, let us not just use it as a paper for production. We want to use that after two or three years to look at your net worth. If we use papers of your net worth for purposes of vetting---

Hon. Speaker: Let us now hear the Member for Igembe Central.

Hon. Kubai Iringo: Thank you, Hon. Speaker, for giving me this opportunity to contribute to this Bill.

Hon. Speaker: Sorry, Hon. Iringo. Before we give you your time, allow me to recognise the presence of pupils from Kimwagit Primary School, Bureti Constituency, Kericho County. Welcome to the National Assembly.

Proceed, Hon. Iringo.

Hon. Kubai Iringo: Thank you, Hon. Speaker, once again. This Bill has come a bit late because it is a 2014 Bill but it was crucial that this is passed and brought to Parliament. It is going to bring order in our counties and put them on the alert so that they can do their appointments procedurally and at the same time check on those county officials, especially the governors, who are running counties like their own businesses where they pick employees the way they want.

It will also give county assemblies, especially the committees, which will be vetting these officers more teeth and clout in resisting the influence of county governors who have already infiltrated county assemblies and made MCAs look like their errand boys. Whatever the

governor feels should be done, they have to comply with because maybe there were no stringent laws for this purpose yet at the same time they do it so that they can get favours from the governor.

Once this law is put in place, it will be very clear and it will be easy for the committees to get the right candidates for particular jobs. When they are vetting, they will also do it according to the law. County governments are no different from the national Government, the Public Service Commission (PSC) or any other body which employs in this country. Therefore, once this one is entrenched into law, it will be easy to challenge some of those who were appointed through nepotism, for example. Some are qualified but there was no criterion to determine that.

That notwithstanding, I strongly feel that we need to move some amendments. For example, those people who give false or misleading information need to be punished. Sometimes it becomes very difficult, as one of my colleagues has said, to qualify or to ascertain the level of false information. Maybe it can be done just to disqualify that candidate because if you give wrong information, then maybe you are not qualified and you are left out in the nomination.

In the first schedule, the criterion of vetting is done and there is a nice questionnaire. This one should be strictly followed, vetted and looked at seriously. It should also be updated once in a while.

There should be a term of office once these officers are in office. I strongly feel that if you have been employed in the right way and you are qualified for that public office, I do not see why you should be in the office for only five years and we recycle you. Political seats can be recycled after five years but if you are an employee, you need to be permanent and pensionable or you have some specific period of service and you should also have exit package. It should not be that you can be dismissed just like that so that we do not have people who will be out of office not because it was their will but because their boss or the person who put them there has left. Once they are employed, procedurally via this Bill, I strongly believe that they will be working independently. They will be working as officers in the offices and discharging their mandate without any coercion from maybe the governor who could be saying that he is the appointing officer. The appointing officer will be the county assembly which vetted that person and found that person to be qualified. Once they work independently, it would be even easy for them to deliver on their mandate properly.

If you go to most counties today, you will find that most of the county executives do what the governors want and not what they want. At times you will find all of them following the governor to a meeting and when you go to the offices, there is nobody there because they all went for a particular meeting to drum up support for the governor and to campaign for him.

I saw an incident where even some county executives were running out with stones chasing away Hon. Aburi Mpuru when he wanted to go to their meeting. They came out with stones and chased him away while shouting. It was very shameful. We need people to work professionally as per their mandate and not because they are sycophants of certain individuals.

I support. Thank you.

Hon. Speaker: The Member for Butula, you have the Floor.

Hon. Onyura: Thank you, Hon. Speaker. I rise to support this Bill which is good. It is a Bill that will assist in strengthening the counties because as we know, our counties are fairly young and have a lot of teething problems. I feel that once we have such systems, we will be assisting our counties in delivering and performing well.

I have looked at the document. It will assist very much in clarifying the process and also as a guideline to ensure that there is a systematic way through which recruitments are done. The

fact that this will also lead to consistency and standardisation within counties is a good thing compared to what is happening now. We have different approaches and ways of recruiting as many people as there are counties. The fact that we now have a document that will assist in ensuring consistency, predictability and fairness is a good thing.

Also, the Bill gives some timelines and deadlines. There is a section that indicates that there must be a notice of, at least, 21 days before the interview can take place. That allows time for the appointees and nominees to prepare themselves, get the required documents and appear properly before the vetting committees. There are times when candidates are hardly given any time to prepare. They may be given a day or two despite the fact that preparation may involve travelling and looking for certain documents. Sometimes we even feel that perhaps the short time is deliberately given to favour certain candidates. The fact that we now have a document that lays out the timelines within which the various processes should take place only makes it fair for everybody.

The spirit of openness and transparency that is expressed in the Bill is good. The fact that the names of the nominees and candidates will be announced in newspapers that have national circulation is a good thing that promotes openness and transparency.

The other area is that there is a guideline to define where the focus should be in evaluating the candidate. The Bill indicates clearly that the focus should be on the academic qualifications, experience, professional training and integrity. That also protects the candidates from having to undergo questions that may be irrelevant, too personal or not well-intended. It is a good Bill that will give guideline to those who are charged with the responsibility of ensuring that we get efficient and well-qualified people to work in our counties. That is very crucial because we would like devolution to succeed. Our hopes are in devolution. The success of devolution will largely depend on the quality of staff that is hired. Unless we have the right methodology and approach, we might end up with the wrong people in the right places.

The Bill also gives the right of being heard. As much as it promotes openness and allows members of the public to write in and make comments on candidates and nominees, it allows them the right to be heard, so that the allegations against them are not just taken at face value. If allegations are made, then, those who make them should be prepared to substantiate. I support the fact that the vetting committees should have powers to summon anybody that has made allegations to clarify, verify and produce any documents or evidence with regard to those allegations, so that we do not allow people to make loose allegations against others.

I have also looked at the questionnaire that has been put there and it is fairly standard. It is important to have those kinds of questionnaires, so that when you have so many candidates, you have fairly similar information on each of the candidates rather than leaving it at the level of the application. Everybody has their own style of application and you may miss certain details. The issue of standardising the questionnaire and application form is a good one. It is a fairly standard practice. It is a good practice in the process of employment or hiring staff.

It was not clear in that Bill how the terms and conditions of various positions will be determined. It is not clear whose responsibility it will be. There may be need to ensure that the terms and conditions of employment for various fairly similar positions or functions are as close to each other as possible. Otherwise, there may be distortions if certain counties pay higher or lower salaries to certain cadres or professions than other counties. For example, if we are hiring the chief of staff at the professional level, a doctor or a teacher, it will be good to see that this is fairly consistent in all the counties. That can only be so if we have some guidelines as to how that will be done or who will be responsible for that.

It is obvious that this is a good Bill. The biggest problem in this country is not lack of documents, laws or good policies, but the application and enforcement. I hope there will be a way of cross-checking to ensure that there has been adherence and proper application of this law.

I support the Bill.

Hon. Speaker: Hon. Members, before I give a chance to the next Speaker, allow me to recognise the presence of teachers and pupils from Marell Academy from Kanduyi Constituency, Bungoma County. Welcome to the National Assembly.

(Applause)

The next speaker is the Member for Narok North.

Hon. ole Kenta: Thank you, Hon. Speaker. I would also like to join my colleagues in supporting this Bill. It is a very important and timely Bill.

We have seen what has been happening in the counties. There has been a gaping legal *lacuna* as far as appointments are concerned. This has been abused by county governments especially by the governors. In fact, in most counties, governors are the ones who determine who will be employed and the positions they will hold without looking at the merit and qualifications. County assemblies have been neutered and are used as rubberstamp. Most of the appointments are either of relatives, friends and cohorts without due regard to the relevant qualifications.

The Bill is very exhaustive so there will be need for further improvement. The most important things are academic qualifications and experience. The procedure to be used is professional and will make it difficult to push forward people who are not qualified. The fact that there is need for advertisement of the positions opens up the pool of employees or people who are qualified. Originally, governors have just been selecting people without interviewing them. This has cost a lot as far as expertise is concerned. Before the appointments, the vacancies must be advertised in newspapers with a wide national circulation. There should be time for people to prepare and appear in public and that is very meaningful. This will be very useful.

My colleagues have said that committees of county assemblies should not have the same powers as the High Court, but I think they should. The only challenge will be if those committees are not qualified. In fact, the danger will be that they will not even know what kind of questions to ask specific applicants. That is why the issue of educational qualification of the representatives of the people is important. Although I believe in equal rights and the fact that people have the right to elect their leaders, they should elect people who will properly articulate the issues of the day.

We should not look at all these things in isolation. If you have to give power to somebody, that person should also be able to utilise that power and make it benefit not only him, but the county or country as a whole. The other very important thing about the Public Appointments (County Assemblies Approval) Bill is the questionnaire. This is very important when it comes to questioning and the aspects that interviewers look for. In the past, we have seen people being questioned on their personal lives in public, which is very embarrassing. Having this questionnaire will deal with qualifications, experience and all the other requirements. It is a very important thing.

Without belabouring the point, I believe the questionnaire is exhaustive without being too personal. This is a Bill that we should support. Whereas we will need to add more meat, it is timely. We should support it as a House.

Hon. Speaker: Member for Gichugu Constituency.

Hon. Barua: Thank you, Hon. Speaker for giving me this opportunity to contribute to this important and timely Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014).

As I start, I support the Bill. The three years we have had county governments have been a very good and valuable lesson. We have seen things being done in a way they have never been done before. The operations of counties and money appropriated for the interest of many Kenyans have been treated by the people in charge as personal property. This is particular to certain governors. Time has come for us to ensure county governments operate as formal entities with common procedures, so that discrimination is not seen to be the order of the day in these institutions.

The key purpose of devolution was to take services to the people. It was to ensure access to justice and fairness so that every person, poor or rich, is able to access opportunities and jobs based on their qualifications. The people who are being recruited in most of the county assemblies are those who are close friends or with financial muscle to influence decisions and appointments. The common *mwananchi* with qualifications has not fairly benefitted in access to opportunities. That is why I support this Bill.

In the counties, resourceful people have not been consulted or put to use as long as they are not in the same camps with the governors. Just like Members of Parliament or other elected leaders, governors are there to protect public resources and manage them fairly.

There have been many cases of favouritism. Cases of governors recruiting relatives in very prime positions have been documented across the country. Nepotism has been observed. On interviews, this Bill provides a very good framework. What is going to be considered in recruitment and hiring is what matters and counts. It is not a matter of how close you are and to who or how much you have. It is a question of whether you have what it takes to serve in those positions.

I am happy to know that this Bill is considering and giving work experience 25 marks out of a hundred. It is quite substantial. Education and training are other key ingredients of good service. If one does not have relevant education and training, it will be very difficult to serve or offer the services as expected by the people. I am happy to note that this has been given 25 points. Other things to be considered are interest to the job, knowledge and integrity. If we can follow this to the letter, we are going to have county governments being operated professionally.

In terms of advertisements, it is important to have advertisements in newspapers with national circulation. Some of the county governments' jobs attract a wide spectrum of skills and people from far and wide could be interested. These advertisements should be done in a way that they catch the attention of everybody who could be interested regardless of tribe or any other consideration. It will also be important for us to see that, at least, 30 or 40 per cent of people serving in positions in county governments come from outside these counties. That is one way of getting experience from outside. This will ensure there is objectivity in public service.

As I speak, some senior and junior officers in most counties are basically employees of the governor. They are campaign managers, errand boys and girls of the governor. This must stop if we are going to have a sustainable foundation for county governments.

The other aspect I would like this Bill to consider is the issue of posting. I do not think it will serve well for administrators to be placed in their places of origin. Allow me to explain this. I have seen that even the ward administrator is from the same ward. The sub-county administrators are also from the same sub-county. These people can be posted to different wards from the wards they are brought up. Their performance can be affected by being known and

being familiar in the area. This would bring in objectivity and eradicate the possibility of interference based on the knowledge of their past.

If this is followed, it is not only going to be good for county governments, but also employees. The feeling of self-confidence and adequacy for a job one has been recruited on merit is going to give one the drive to serve better and be objective in his or her work. If this is not going to happen, we will have a situation where appointees will serve for a period of five years as long as the governor is in office. Otherwise, if one is elected based on other extraneous considerations, he or she may not objectively serve another governor in case of change of guard in office.

In terms of powers of the committees, several people have ventilated on this. My opinion is that these committees may not necessarily be given powers of the High Court because the Committees of this House have those powers. The question we should ask ourselves is whether committees of county assemblies are equivalent, both in power and responsibilities, to Committees of the National Assembly. If they are equivalent in one way or the other, so be it, but if they are inferior, they should be equated to another position in the Judiciary. That is why I support Hon. Maanzo's proposal that this Bill should recognise their powers as those of a senior magistrate.

The other aspect is salaries. Most county government appointees earn very hefty salaries. Their jobs are very lucrative. This is not something we can take for granted. They are people who are remunerated and hold serious responsibilities. So, these appointments should be done professionally. There is also need for harmonisation because we have officers serving in the same areas under the national Government arrangement. It is not going to be fair for an employee of a county government to earn double what an employee of the national Government earns. This is happening in terms of County Commissioners and County Coordinators, which results in low morale.

Something has been mentioned about the requirement of Higher Loans' Board (HELB) clearance which may affect young graduates. The important thing to be considered is whether the candidate has been paying loans or not. As long as one has been repaying the loan, he or she should be cleared.

With those few remarks, I support the Bill. I call upon this House to ensure that gender consideration, representation of the youth and people with disabilities are put in place.

I beg to support.

Hon. Speaker: Member for Sirisia. The next one is Member for Likuyani.

Hon. (Dr.) Kibunguchy: Thank you, Hon. Speaker, for giving me this opportunity. Let me start from the end. We are setting up committees in county assemblies to vet and go through appointees, yet, as a House we are running away from a very serious issue of making sure that MCAs have some basic background knowledge and education to undertake such an important aspect. Therefore, I agree with the Departmental Committee on Justice and Legal Affairs that is going forward to put down basic education standards for MCAs. We should not overlook this. Going forward, it should be very important.

Let me now go to the beginning. I support this Bill from the Senate, but I have some reservations. One of them is that this Bill has not come out very clearly to talk about the face of the county. Kakamega County, where I come from, has 12 sub-counties. It is completely cosmopolitan, but most employees come from just one area where the governor comes from. Certain sub-counties do not have even a single employee in the county hierarchy. I wish this Bill looks at that. In terms of the face of the county, we should look at the sub-counties within the

county in terms of tribal composition. Obviously, like many of my colleagues have said, we should look at the marginalised groups in the county especially the youth, women, people living with disabilities and minorities, so that we have inclusivity and equity. These are the two aspects I would have liked this Bill to look at.

The other aspect is whether these employees should be on permanent and pensionable terms or on contract. It would have been better for it to be clear. If the governor does not go through during the next elections or he goes through, there is no guarantee that the Executive will be reappointed. We should have a situation like what happens nationally where the Executive leaves with the governor.

Secondly, professional employees should be on permanent and pensionable terms. Doctors and accountants working in the counties should be on contract. Again, taking the cue from Kakamega County, most administrators, be they at the sub-county level or ward level, are like spanner boys of governors. They are at the beck and call of the governor. They do all other things, but spend very little time serving the community. They spend most of the time serving the governor.

I agree the aspect of advertisement has been captured in the Bill, but advertisements need to be in the papers. Again, quoting Kakamega County, most of the advertisements are online, which is okay. That is the direction the country is going, but we have not quite reached there. It should be very clear that the advertisements should be placed in the newspapers with a wide circulation, so that we can attract people from far and wide within the county and the country.

Finally, let me touch on qualifications and experience. It is good that it has come out. We need to emphasise very seriously that the people who have been put in these positions do not qualify. If you look at some professional dockets like health, I find it very sad that we have an employee in health with very little or no knowledge of what health entails. They walk around harassing doctors, nurses and other workers who are highly qualified yet they know very little about health. This also happens in areas like roads and finance where we need people with qualifications not only to serve in those areas, but also to have enough experience to look at long-term projects that have a long-term impact in the county.

I wish the Senate would come up with a similar Bill. We are now dealing with employees or personnel. I wish they could come up with a similar Bill to deal with other aspects of the county like contracts and contractors. Again, if I pick an example of Kakamega County, most if not all the contractors come from where the governor comes from. Then it becomes very difficult. For example, a contractor is sent to Likuyani Constituency to do jobs that Likuyani people can do very well like putting up Early Childhood Development (ECD) classrooms. We have people in the area who can do a better job. I wish the Senate would come up with that. This is a cake that has come to the county. Let it benefit as many people in the county as possible. Let us spread the jobs and contracts as much as possible as we look at the whole question of equity and inclusiveness which is well captured in our Constitution.

I support this Bill, but I wish we could have one, two or three amendments to make what is good even better.

Hon. Speaker: Member for Turkana Central.

Hon. Nakara: Mhe. Spika, nashukuru kwa kunipatia nafasi ya kuchangia Mswada huu ambao umechukua muda. Hata hivyo, tungependa kulishukuru Bunge la Seneti kwa kuuleta kwa wakati unaofaa. Nazishukuru bunge za kaunti kwa sababu miaka hii matatu zimekuwa zikifanya kazi bila mwongozo wala mwelekeo. Wamejaribu sana. Hatungependa kuwalaumu sana kwa sababu walianza juzi juzi. Hatuwezi kuzilingalisha bunge za kaunti na Bunge la Kitaifa maana

hili limekaa miaka mingi. Nawashukuru wawakilishi wa kaunti kwa bidii ambayo wamefanya ili kufikisha serikali za kaunti mahali zimefika.

Jambo la kwanza ambalo ningependa kuzungumzia ni Mswada huu unatusaidia kuwapa wawakilishi wa kaunti majukumu ili wajue jinsi wanavyoweza kufanya kazi yao wakiwa na mwongozo wa kisheria na pia wakiwa na uwezo na mamlaka waliyopewa kisheria ili mtu yeyote atakayepinga uteuzi huo aweze kusimama katika sheria waliyopewa.

Bunge za kaunti zinahitaji mwongozo huu ili wanapoteua watu katika nyadhifa mbalimbali wafuate mpangilio uliowekwa kisheria na mtu yeyote atakayepinga ataweza kwenda kortini na kutumia sheria hii kujipatia mamlaka.

Kuna mambo ambayo ningependa kuchangia kwa ufupi. Jambo la kwanza ni kuhusu kuwajulisha wateuliwa wakati wa mchujo. Watu wengi wanaopata mwaliko kwenda mbele ya kamati za bunge la kaunti hawajui wakati wanaostahili kufika mahali pale. Lazima watu hao wajulishwe kupitia magazeti ya kitaifa ambayo yanasambazwa nchi nzima ili wajue ni lini wanatakikana kwenda mbele ya kamati za bunge la kaunti. Pia, wanapaswa kujulishwa kuhusu vitu ambavyo wanapaswa kuwa navyo wakati wa mchujo. Wakati mwingine, mteuliwa anaenda pale bila kubeba vitu vyote anavyostahili kuwa navyo kwa sababu hajajulishwa mapema kuhusu vitu anavyofaa kubeba.

Ili kuwasilisha habari hizi, bunge za kaunti zinaweza kuandika barua pepe au kumpigia simu. Pia, wanaweza kumwandikia barua ili kama mtu huyo hayuko katika sehemu yenye mtandao wa rununu au redio, aweze kupata habari kupitia kwa watu wengine. Tumeona kaunti nyingi zikipoteza watu ambao wanastahili kwenda kwa mchujo kwa sababu njia za kupeana habari au za kuwafikia ni ngumu.

Jambo lingine ambalo Mswada huu umetusaidia ni kuupa umma nafasi ya kuwakagua wateuliwa. Umma ndio unawajua watu kuliko maandishi. Mswada huu umeupatia umma nafasi ya kukagua watu na kupeana nafasi kwa mtu yeyote kutoa sababu za kueleza kwa nini mtu hafai kuteuliwa. Tukifanya hivi, tutapata watu ambao wanaheshimika, ambao wana sifa nzuri na ambao wanakubalika. Hata wanapopewa kazi, umma utasema ulichangia. Wakati huu ambao tuko, habari hizi lazima zifikie umma kwa njia ya magazeti ya kitaifa ili wajue wakati wanaoweza kwenda.

Wakati umma unamkagua mtu, lazima pia upeane ushahidi wa ukweli kwa sababu tusipowalinda wateuliwa na kuachia umma nafasi ya kuwakagua bila ukweli au ushahidi kamili, tutapoteza watu wengi kwa njia isiyo bora. Kwa mfano, kama nilikosana na wewe au nilikushinda mahali fulani, utatumia njia hiyo ya kunipinga na kupeleka habari za uongo kwamba mimi ni mbaya. Kwa hivyo, ni lazima pia tuweke sheria kwamba shahidi yeyote ambaye anaenda kuwakilisha umma lazima awe na ushahidi wa ukweli na kama hatapeana ushahidi wa ukweli, basi sheria imchukulie hatua ili tupunguze mashahidi ambao wanatoa mambo ya uongo kuhusu mtu aliyeteuliwa. Ni vizuri tuwalinde walioteuliwa kwa sababu tukiua umma upeane ushahidi wa uongo, tutakuwa tunawapoteza wateuliwa wazuri.

Mambo ambayo yanatumika kuwateuwa watu lazima pia yawekwe hadharani. Kwa mfano, kama wateuliwa ni wengi, ni kitu gani kilichowafanya wateuliwe? Lazima waseme ili mtu yeyote akiwa na pingamizi aonyeshe kwamba mtu huyo alikuwa na uwezo kuwashinda wengine. Mtu anaweza kuwashinda wenzake kikatiba kama vile kutumia kitengo cha jinsia hata kama hana kisomo cha juu. Kwa hivyo, ningependa jambo hilo lisaidie katika mwongozo wa kuwachagua wafanyikazi.

Jambo lingine ni kuhusu wakati wa kupeana ripoti kuhusu mteuliwa. Inachukua muda kwa mteuliwa kujua kwamba amekubalika. Huenda ameteuliwa kwa wadhifa fulani lakini

hajapata ripoti. Utapata mtu ameteuliwa lakini yule mwingine hajaambiwa kwamba hakufaulu katika mchujo. Ni vizuri pia kwa wale ambao hawakubahatika kuteuliwa waambiwe sababu ambazo ziliwafanya wasiteuliwe na kamati ya bunge la kaunti.

Akiambiwa sababu ya kuteuliwa kwake, mtu ataridhika. Sisi sote tunahitaji kuambiwa sababu ya kutoteuliwa kwa mtu Fulani. I lazima mtu aridhike ya kwamba hakuteuliwa kwa sababu ya jambo moja au lingine. Jambo lingine ni lile la kukataliwa kwa wateuliwa. Mswada huu unatusaidia kusema kuwa mtu yeyote ambaye anakataliwa, ni sharti apewe sababu ya kukataliwa. Nikimalizia, tunafaa kuchunga Bunge la Seneti wasichanganye wateuliwa. Kuna watu ambao wameajiriwa na lazima waendeele kufanya kazi katika kaunti. Kuna watu ambao walijajiriwa kwa muda fulani lakini kuna sheria ambayo Seneti inataka kuleta kusema kuwa baada ya miaka mitano, tunaondoa walioajiriwa na gavana fulani. Tukifanya hivyo, itakuwa siasa, tutaharibu rasilimali ya Serikali, tupoteze wakati na uwajibikaji hautapatikana.

Lazima tujue kuwa magavana wamepeva mamlaka na Katiba.

Hon. Speaker: Member for Suba.

Hon. Ng'ongo: Thank you, Hon. Speaker. I was engaged in some serious discussions with the Chairman of the National Government Constituencies Development Fund (CDF) Committee. I want to say that the practice of approving appointments is new in this country. I know it has been there for a while now, but it is still a new concept. When this practice began with the promulgation of the Constitution, even at the National Assembly level, we did not have the legal framework to guide the process of approving appointments until Hon. Mungatana brought a Bill that helped us in trying to regulate and bring order into the approval process. An exercise as important as approving public appointments cannot be left at the discretion of committees or any other person who is approving them. When we started approving appointments, all manner of questions were flying around a lot of which were bringing an embarrassment to the National Assembly. That practice is still going on at the county assemblies. For the Senate to bring this legislation, which will formalise and bring clarity on the procedure of approval of appointments, is a welcome move.

Hon. Speaker, I heard concerns being raised about the provision of Clause 12 of the Bill with regard to powers of the assemblies when they are conducting this exercise, that they will be equivalent to the powers of the High Court. My colleagues expressed reservations and concerns with regard to that provision, but I do not agree with them. I think this provision is clear that the committee which will be approving or vetting these nominees will have same powers as the High Court only to do the following: Enforce the attendance of witnesses and examine them on oath, affirmation or otherwise, compel the production of documents and issue a commission or request to examine witnesses abroad. I do not see anything wrong with giving county assemblies powers of the High Court to deal with those specific assignments. It is important to empower assemblies when they are executing their constitutional mandate.

Now with clarity, I hope our assemblies will execute the function of approving appointments with responsibility. I am not trying to demean the importance of these assemblies. I know they are important and that is why people of this country decided to create legislative organs at the counties.

At times, MCAs refuse to approve appointments not on the basis of merit and objectivity, but on other considerations. They pass without much consideration, some of the appointments that ordinarily if subjected to proper scrutiny and vetting, would not pass the test. We have heard of counties where people did not go to a university classroom, but possess documents purporting to have university degrees yet those positions required a first degree as a minimum qualification.

County assemblies do not take their time to look at the authenticity of the documents presented to them. I wish our assemblies exercised this responsibility seriously. I want to urge our county assemblies to start regarding themselves as real legislatures. They are not the defunct councils. They should start biting.

Some of the responsibilities that should ordinarily be executed by our county assemblies are being executed by the Senate. This is a total letdown to devolution. I agree with many people that the enemies of devolution in this country are the county assemblies. They have a responsibility to oversee counties. They represent electorates and they should exercise their responsibility in a manner that will promote the interest of their electorates. We do not want to see county assemblies that treat the Executive with kid gloves. We are not advocating for fights in the counties, but we are advocating for objectivity. We want to hear cases where county assemblies reject appointments and budgets based on objectivity and not because their allowances have been reduced and used elsewhere. We want to see counties rejecting lower allocations for improvement of roads and provision of water and go ahead to cut foreign travels. I am one of the people who think allocation to counties should be increased. The counties can do much more in terms of provision of services with the little they have.

As I wind up, I do not understand the value of Clause 13 of the Bill and I hope the Committee that will bring us the Report on this will clarify it. It states that:-

“(1) For avoidance of doubt, nothing in this Act may be construed as providing for or dealing with –

(a) taxes;

(b) imposition of charges on a public fund or the variation or repeal of any of those charges;”

It looks like a clause that has been uplifted from some other legislation. I do not understand how Sub-clause 3 says:-

“(3) Any expenses that may be occasioned in the implementation of this Act shall be provided from –

(c) such monies as may, in the future, be provided by the National Assembly for defraying the expenses incurred in the implementation of this Act.”

I do not know why the National Assembly is getting involved in provision for money to actualise this Bill when it becomes an Act. Why do we not talk about county assemblies providing that money for whatever they do? I want to imagine that this is an error. If it is not, we need to be told the purpose that this clause plays.

[Hon. Speaker left the Chair]

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

Hon. Temporary Deputy Speaker, if this Bill is enacted into law, then, there will be order in our counties in terms of ensuring that this important constitutional mandate given to our 47 county assemblies is executed with objectivity and within a legal framework.

With those remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Johana Ngeno.

Hon. Kipyegon: Thank you, Hon. Temporary Deputy Speaker, for allowing me to make my contribution to this Bill.

As most of my colleagues have said, this Bill is long overdue because most governors have not put matters of appointments into serious consideration. Appointments to positions, especially the CECs and chief officers, has always been done by the governor without serious consultation with MCAs. This Bill is very timely. It will allow serious competitive appointments to positions in the counties.

Most of the people who serve in the counties did not go through serious vetting. It was only done by the County Public Service Board which was appointed by governor to assist them to sanitise members whom they wanted to employ in particular positions. The products of the County Public Service Boards have never been of any good to the county. This Bill is timely. Most people who were qualified to serve in positions like CECs and the COs were literally removed from the list of interviewees because their political alignments were different, yet they were qualified in most of the counties especially in my county.

I support this Bill. I know very well it will go a long way in assisting us to get the right people to serve in certain positions in the county. The only problem that we have in this Bill is the question of tyranny of numbers in county assemblies. Sometimes in the National Assembly, we find it hard to reject people who we know have some background which does not fit to serve in public positions, but because of tyranny of numbers, we normally look at them, scrutinise them and allow them to serve. We thought that we did our best to get the right person to serve in the Ethics and Anti-Corruption Commission (EACC) position. However, he has not served in that office. He has so many issues, for example, matters of corruption, integrity and incompetence yet he passed in this House. Sometimes the problem of tyranny of numbers destroys the importance of having vetting panels and approvals by the counties and the National Assembly.

This Bill will allow county assemblies to take the powers which they are supposed to have from the governors. Governors have been having these powers. We only hope that MCAs will use their powers to serve the people and recruit the right people to serve in those positions without necessarily falling prey to the governors and the tyranny of numbers. We were discussing a Bill here which was talking about the education level of MCAs. We thought the most fundamental part of the obligation of MCAs is to make appointments or to vet employees to serve in certain positions. For example, you want to have CECs with degrees or masters. It is quite abnormal for somebody who did not go beyond Standard Two to question the qualifications of CECs. It is important for MCAs to have certain qualifications which can allow them to vet employees for certain positions.

Contesting suitability by members of the public is also very important. Sometimes we look at the qualification of a person, but we also need to look at the suitability of that particular person, so that we know if he is fit to serve in the position he is being vetted for. This is the major work of MCAs. The vetting committees of county assemblies will look at the procedure of appointment, constitutional requirements and suitability of candidates. These are the three fundamental things which are needed in any appointment to a position. Constitutional requirements and suitability of a candidate are very important.

There is also the issue of rejection of the person to be vetted or approved by county assemblies. What is the procedure if members of a vetting committee reject a candidate? This part of rejection is quite important because in most cases, governors normally bulldoze people to those positions. There is a clause which allows for rejection. It allows MCAs or vetting

committees to exercise their powers on matters of qualification and suitability unlike where the governor bulldozes and does whatever he wants regardless of whether the candidate is qualified or not. This clause provides that the governor may not bring back one of the candidates who have been rejected. This is good. I like this part because some people will misuse powers. The powers of those committees are comparable to the powers of the High Court. I agree with one of my colleagues who proposed that the powers of the county assemblies should be equal to those of Senior Resident Magistrate or that level because their position is not comparable to the one held by the Senators.

Candidates must produce records from EACC or the Criminal Investigation Department (CID) to prove their credibility. It is very unfortunate that some officers of the EACC are not credible. I am wondering whether candidates will prove their credibility because the EACC have issues. We should have a very credible EACC, so that whoever goes there to get documents is cleared by a very credible Commission. There is another requirement dealing with the Higher Education Loans Board. This law was meant to assist students from poor families to access education just like the rest of Kenyans. Imagine of a situation where somebody has just finished university and is being asked whether they have cleared their HELB loan. How will someone who has never been employed clear a loan? The requirement should be removed because it is not necessary. The moment somebody is employed, they can repay the loan.

There is another requirement by the Credit Reference Bureau (CRB), which was meant to block people who have defaulted bank loans from borrowing from other banks. It was not meant to deny them employment opportunities. This requirement should only apply to bank defaulters.

I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your time is over. Member for Vihiga Constituency.

Hon. Chanzu: Thank you, Hon. Temporary Deputy Speaker, for the opportunity to support this Bill. This is one of the Bills which should have come when devolution was set in place. Unfortunately, instead of Senators playing their role according to the Constitution, they spent most of their time on supremacy wars with the National Assembly. They did not look at what needs to be put in place in order for county governments to function effectively and efficiently as was contemplated in the new Constitution.

Devolution was meant to devolve resources, power and authority. Those are very heavy responsibilities which require the competence of people who are mindful about the welfare of those they serve. When Senators were engaging in supremacy wars with the National Assembly, governors and MCAs took up their roles because they were funded in the 2013/2014 Budget without taking into account the roles they were supposed to play.

It is not too late for this law to be put in place and implemented quickly. I keep on wondering how all that money which has gone down the drain will be recovered. Look at the amounts of money that has been wasted because of governors collusions! I have seen cases in my Vihiga County of total collusion between the governor and some MCAs. Instead of MCAs knowing that the assembly can allocate them money for their wards, they prefer to go to bed with the governor, so that they can get money easily in form of handouts. I find this very ridiculous.

I believe educational qualifications are important. The CPSB is already in place and should address the problem of people who were handpicked by governors for purposes of fulfilling their own interest. In fact, an issue was raised here about county secretaries. It also happened in my county that someone who had been seconded there by the Transition Authority

(TA) was used as the county secretary. It became very difficult for that lady to serve the interests of the people.

There is need for a lot of cleaning up, so that we can get the right staff because of the amount of money which has been wasted through these collusions. For example, somebody with no qualifications at all and a Standard Six teacher being appointed Chief Officer of Transport and Infrastructure in the county leads to a situation where roads are done in villages where they are not supposed to be done. We have Constituency Road Committees which are supposed to work together with the Kenya Rural Roads Authority (KeRRA) on these kinds of roads. Awarding of tenders for roads which are supposed to be handled by county governments is done very fast, so that these fellows can get money to pay contractors and get their share. That is why there has been a lot of wastage.

I read in the *Daily Nation Newspaper* yesterday the Controller of Budget reporting about the absorption of funds by county governments. Some rankings were explained. When they talk about absorption, they should say how the money was spent. A lot of money has been wasted because of not having the right people in place, collusions and lack of a law like this one in place. Most of that money has been spent on things that are not justifiable or do not add value to the people they serve.

They spent money on corruption and in a hurry. A small county like Vihiga bought vehicles worth Kshs.25 million without following the right procurement procedures. These vehicles, which were bought to serve as ambulances, are all broken down. When you go to garages like Toyota Kenya in Kisumu, they are grounded there and are still incurring a lot of expenses. This is because we do not have the right people running the counties and this is caused by the manipulations of governors.

This law should be put in place. We have problems with people who serve in commissions in this country. When we were drafting the Constitution, we took into account the fact that we had eight provinces and to be fair to Kenyans, we decided to have eight commissioners to satisfy that requirement. Therefore, we ended up employing a commissioner to represent every province thus having nine commissioners. Although the Constitution talks of having between three and nine commissioners for effectiveness, it is costly.

I watched news on television yesterday which indicated that staff of the Judicial Service Commission, who are highly paid, want a salary increment. They also have very many commissioners. We should not continue having a commissioner to represent a province. We need to get selfless people who can serve. You can even have one person or two people, but the person should know the scope of the job. He should know in his heart that he is employed to serve the entire county fairly.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Namwamba Ababu, the Member for Budalang'i.

Hon. Ababu: Hon. Temporary Deputy Speaker, county governments are a form of government. This is something we have to accept is going to be part of our governance structures for a long time. It is important we institutionalise the nature, structures and character of county governments. One of the best ways to institutionalise a system of governance is to streamline the public service to ensure that the manner in which it is recruited or hired and the manner in which it is managed is streamlined, institutionalised and procedural. That, I believe, is the primary purpose of this piece of legislation.

We already did this with the national Government when this House enacted, in 2010, a Private Member's Bill, moved by the then Member for Garsen, Hon. Danson Mungatana, that provided a framework for public appointments in the national Government. I dare say that before that Bill came to this House, we had had a very chaotic arrangement of attempting to engage public servants through vetting by this House. It was like groping in the dark. We were attempting to undertake an exercise without a legal framework. It was like a sailor in high seas attempting to get to a destination without a compass or any sailing guide. It is the same scenario that we have experienced with county governments. We put in place these governments and we expected them to hire various cadres of civil servants without providing a legal framework for them to undertake that critical task.

Therefore, I want to fully support the enactment of this piece of legislation because it will answer to a very critical need in the process of putting in place a credible and effective Civil Service to run the affairs of county governments. This will ensure that we standardise the process across all the 47 counties. It will provide standards in the sense that we will have a clear procedure on how officers for various positions in the governments are recruited. We will have standards in terms of qualifications. Qualifications are key. The qualifications required for any particular cadre of civil servant be it in Turkana, Kwale or Busia, will be pretty much the same.

Before I go on too much, there is one clause of this Bill which may run the risk of being considered unconstitutional. That is Clause 12 of the Bill, which purports to hand the vetting committee similar powers as those of the High Court. Looking at the wording of Clause 12(2)(a), (b) and (c), the drafters of this Bill merely imported, word for word, provisions of Article 125 of the Constitution. In fact, I will invite you to put the said provisions of the Bill we are debating now side by side with Article 125 of the Constitution. For the avoidance of doubt and for the record, allow me to read what Article 125(1) of the Constitution says:-

“Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.”

The corresponding Clause 12(1) of the Bill reads:-

“The Committee shall have power to summon any person to appear before it for the purpose of giving evidence or providing information during the approval hearing.”

The devil is in Article 125(2) of the Constitution, which reads that:-

“For the purposes of Clause (1), a House of Parliament and any of its committees has the same powers as the High Court—

- (a) to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;
- (b) to compel the production of documents; and
- (c) to issue a commission or request to examine witnesses abroad.”

The corresponding provision on the Bill reads as follows:-

“For the purpose of Section 1, the committee shall have the same powers as the High Court—

- (a) to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;
- (b) to compel the production of documents; and
- (c) to issue a commission or request to examine witnesses abroad.”

It is word for word. My concern is that Article 125 of the Constitution is an express granting of powers similar to those of the High Court of Kenya to the Houses of Parliament, namely, the Senate and the National Assembly. I am struggling to understand how an ordinary piece of legislation, because that is what this Bill is, can purport to transfer constitutional powers to another level of representation, in this case the county assembly.

Hon. Bowen: On a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Ababu, let us hear the intervention by the Member for Marakwet East. Hon. David, what is out of order? Is it a point of order or a point of information?

Hon. Bowen: Hon. Temporary Deputy Speaker, it is a point of order together with a point of information.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Which point are you rising on?

Hon. Bowen: It is a point of order, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): For a point of information, he has to agree to receive the information.

Hon. Bowen: Hon. Temporary Deputy Speaker, I did not want to interrupt my good friend, Hon. Ababu Namwamba, especially on Article 125 of the Constitution, but the same Constitution under Chapter Eleven, Article 195 gives county assemblies powers to summon witnesses. If you allow me, I will read it.

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

Hon. Bowen: My good friend, Hon. Ababu Namwamba, said that the power to summon witnesses is only vested in this House and the Senate. I think it is not true because Article 195 of the Constitution gives the same powers to county assemblies. Allow me to read it.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Can you inform him and let him accept the information?

Hon. Ababu: Hon. Temporary Deputy Speaker, I am duly informed.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Order! Hon. Ababu Namwamba, do you want information from the Member?

Hon. Ababu: He already handed me a *fait accompli* by sharing information without seeking my consent, but the information is appreciated. While I acknowledge the same, I do not see any reason why a statute would carry, word for word, the text in the Constitution. Whether it is unconstitutional or not, this is just bad draftsmanship. You cannot import the intent of the Constitution to the statute without lifting the entire text of the Constitution. That is an area where I believe the drafters can do a bit of cleaning up. I can see the red light and I will plead for a couple of minutes to conclude my submission.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Since you are raising a very important issue, allow me to add you about a minute and a half.

Hon. Ababu: Thank you, Hon. Temporary Deputy Speaker. The importance of this Bill nonetheless, can really not be gainsaid. As I said in the beginning, it is important that county assemblies have a civil service that is professional, effective and has a level of certainty in terms of tenure. As has already been said by previous contributors to this Bill, we have a scenario today where public officers or civil servants in the county governments serve and operate in a manner that you would imagine they were youth wingers who served at the call of the governor. I dare add that any person serving in the civil service must be aware that they enjoy a certain irreducible minimum level of security for their jobs, and that whether or not they support the governor, politically speaking; they are in those offices to serve the general public in the county.

This law must, therefore, provide a framework where you are engaged by the county government not as a youth winger or a political sidekick of the governor, but as a person hired to serve the best interest of the county. This law should be able to guarantee that.

Finally, the question of quality, professionalism and qualification of people who are engaged to serve in these governments must be of the highest standard possible. The same level and standards of professionalism that we expect of persons serving in the national Government should be transferred to the county governments. Not necessary the same level of qualifications but the same level of standards and professionalism has to be similarly expected of county government employees. Otherwise, this is a law whose time is overdue. I believe, with the enactment of this law, the management of the county affairs will certainly be much---

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Your one minute is over. The next one on my request list is the Member for Kimilili, Hon. Suleiman Murunga.

Hon. Kasuti: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to add my voice to this Bill. I wish to state at the outset that whereas I appreciate what the Bill is set out for, apart from the county assemblies looking at the standards and employment of our new officers in the counties, they should also look at the bloated workforce in the counties. Some of the people who are serving in the county governments were employees of the former county councils. The assemblies tend to overlook them. They are not given any opportunities as such. So, apart from new employment being generated in the counties, the county governments should be giving opportunity to the people who were there before the formation of those governments.

This Bill will streamline a lot of things that have not been going on properly in the county governments. Therefore, we should be giving a lot of emphasis to this Bill so that any employment in the county governments can be looked at properly to ensure that the officers being employed are officers who are above board and they can render proper services to the county governments.

In my county government, most of the officers who have been employed are sidekicks of the governor. They tend to take instructions from the governor rather than give the services to members of the public as expected of them. The county government's salaries and remuneration packages tend to be better than those of the employees of the national Government. Therefore, most people who are well qualified have gone to seek employment in the county governments rather than continue serving in the national government. A Bill of this nature will be able to streamline remuneration in both the national Government and the county government. That way, qualified people will be able to serve in either the national Government or the county governments without giving preferences to the county governments.

Most of the things that I would have loved to talk about have been said by my colleagues. If I continue and try to give more facts on this Bill, I will just be repeating what has already been said.

With those remarks, I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Thank you. Next on my request list is the Member for Rarieda, Hon. Nicholas Gumbo.

Hon. (Eng.) Gumbo: Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill.

This Bill is summarized in the First Schedule. The First Schedule gives the guidelines that ought to be followed when making public appointments, which require vetting by the county assembly. I notice that in the First Schedule, which includes the questionnaire under (d) states

that the submission of false information in the questionnaire shall lead to automatic disqualification. It is my view that most of the people we see in many county assemblies tend to provide information which they deliberately know is false. I think disqualification alone is not enough. If this law is to be effective, we should criminalize provision of false information, especially where that information is intentionally provided to defeat the course of a fair process.

Hon. Temporary Deputy Speaker, I notice that under (f) there are a lot of questions that the nominee must answer. I am particularly interested in question No.10, on the issue of nationality. I find this a very good provision because this information does not ask the county where the nominee is coming from. This is important. The intention of the devolved Government was never ever to convert Kenya into tribal enclaves, but this is what is happening. In fact, I have only attended one meeting of the so-called cabinet with the governor and his cabinet. Most of these so-called cabinet meetings are transacted in mother tongue. It is unacceptable. These are serious high-level positions. We cannot use devolution as an affront on national conviviality in this country.

The requirement that certain percentage of the employees of any county government must come from outside should be strictly enforced. It is common knowledge that any country which regards the entire spectrum of its community as a covenant of brotherhood may prosper. If we are going to use the county government to convert Kenya into tribal enclaves, we have lost it. Any progress that we are going to make will account for nothing because the progress of any nation is like a symphony. I cannot say that Siaya County where I come from is doing very well, while I pay total disregard to Tharaka Nithi of my good friend, the aspiring governor for Tharaka Nithi, MP for Chuka/Igambang'ombe, because that problem that is within the same country will spill over to my Siaya no matter the progress we are making. The issue of nationality is important.

A time has come when we as the people of Kenya must proudly profess our nationality. Of course, it is not our choice that we were born into the communities where we were born. In as much as we did not choose those communities, we cannot use the fact that we are born into certain communities to literally dismember our nation by converting counties into tribal enclaves.

I also notice that Clause 14 is on requirement for education levels. It is very clear to list in reverse chronologically order each university college or any other institution of higher learning attended, and indicate in respect of each dates of attendance, academic award obtained, whether the degree was awarded and dates on which such degrees or awards were given. This is a very good provision because it will isolate what we call academic gaps in qualifications that some of us purport to have.

I remember a certain case when we were sitting as the Committee on Constituencies Development Fund (CDF), and somebody appeared before us wanting to be a member of the CDF Board. He presented himself as a professor in one of the private universities. This is a fellow who failed CPE, who got Fourth Division in Form Four and got two subsidiaries in "A" Level. How on earth does such a fellow sit in a classroom and call himself a professor? If you look at that so-called piece of paper called professorship--- That is why I have always insisted that other than academic qualifications, you must demonstrate logically. You cannot have a degree before you go to class one and you cannot have a degree before you go to Form Four and pass the exams. This is a very good provision. It is important. It will isolate academic gaps and it will also show the chronology of professional growth.

Clause 15 is on employment record. We sit with you in the Public Accounts Committee (PAC). You remember that when we did the report on the Judiciary, one of the problems that were carried by this House was the reason for the existence of problems that were there in the reconstituted Judiciary. That is because yes, the Chief Justice was highly educated, the Deputy Chief Justice was highly educated and even the Chief Registrar of the Judiciary was highly educated. But all these three who were the heads of the Judiciary, one thing they had in common was that none of them had notable experience in leading a large organization. In fact, none of them had had notable experience in working for a public institution. The fact that we are insisting on employment record is a very soft way of saying that no school, no college, no university in this world teaches experience. It is something that you get because you have been there for the time that you have been there. A time has come.

I came from the private sector. I am blessed by God to have sat here, now this is my ninth year, I know the dynamics in public service are very different from the dynamics in private sector. The considerations in public service and the inertia of public service are completely different from the inertia of the private sector. Therefore, when we are looking to give people high positions in public service, we cannot be deaf to the requirement that they ought to have had some experience in public service. It becomes a problem how you see things. You cannot just jump from the private sector and want to lead at a very high position in the public sector without having had that experience.

So, it goes to say that much as we are going to demand all these qualifications, it is not just enough for people to state in a curriculum vitae qualifications. It is also important for people to present certified copies. When we say certified copies, even those commissioners of oath who certify documents which are false ought to be penalised through a statute such as this one.

Lastly is on the issue of deferred remuneration in lost income. It has to be taken into account because moving forward, the fact that you are going into a new position should not necessarily in some respect equate to walking backwards in so far as personal progress is concerned.

With those remarks, I support.

Hon. Ganya: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to this Bill. At the outset, it is a very good Bill. The county assemblies in our counties are new institutions and, as such, they need to put in place the necessary procedures and legislative framework for them to operate and function well.

This is about vetting. When we vet, we do it for suitability for that position. It is to check the academic qualifications to ensure that the person is well qualified for the job as well as for integrity. It is important to give the necessary procedures and the necessary legal framework for the Members of County Assemblies (MCAs) to do the vetting in their committees. To be a Member of Parliament in Kenya and to be an MCA, you just need to speak either Kiswahili or English. You do not need any formal education. I wonder how somebody with basic education or none - because it is not required - can become an MCA. We have MCAs who have never seen a classroom today in this country and yet, they are supposed to vet highly qualified professionals. Most of the Members of the County Executive are graduates with even Masters degrees and some with PhD. They are supposed to see to it that those officers who will work for the county governments are well-qualified in terms of academic qualifications. They should also be suitable for that job as stipulated in Chapter 6 of the Constitution on leadership and integrity.

As we deal with the election law which we are working on now, we should ensure that Members of the County Assembly (MCAs) and Members of Parliament (MPs), both in the

Senate and in the National Assembly, are well-qualified for the job. We should change the law to ensure that they actually have degrees - if not a second degree, then at least the first degree. I am not sure we are up to the task as it is today. There are so many MCAs that I know, even in my own Marsabit County, who have not been to school. If they have, may be just up to Standard VII.

While this is a very good Bill, I am not certain that the people we are giving these jobs have the necessary expertise and qualifications to undertake the tasks they will be given. This is because of the weaknesses, faults or shortcomings in the electoral law in this country, and that needs to be addressed.

The Bill is good and it is a procedural one in terms of what needs to be done when vetting is done by the MCAs. It gives the necessary requirements that are supposed to be undertaken as well as what we should not do when we vet. It requires that you come up with a report on the suitability of those individuals who have been vetted.

County assemblies will make a decision in plenary. This is a good Bill from the Senate in terms of enabling those young institutions in the county assemblies to undertake their constitutional duty as required by the law.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Let us have Hon. Ali Rasso.

Hon. Dido: Thank you very much, Hon. Temporary Deputy Speaker. I rise to support this Bill. As the Member for Saku representing Marsabit County, this Bill is four years late. Counties are already up and running and yet, we do not have a sort of constitutional order to help them in recruiting staff.

Article 175(a) of the Constitution states that:-

“The county governments shall be based on democratic principles and separation of powers.”

In the county where I come from, the assembly does nothing other than rubber-stamp appointments. I can see my brother, Hon. Chachu Ganya, is laughing. That is the reality across our Republic, not necessarily in Marsabit County. This is really sad.

Second is on the issue of efficiency and practicability of how counties should function. There is the issue of a bloated work-force. From the beginning counties used the county assemblies to vet and oversee their staff employed. Sometimes, counties struggle to engage in serious development because most of the money is spent on recurrent expenditure.

This Bill brings some orderliness on how staff is recruited and how individuals are employed. As far as counties are concerned, there must be some order which this Bill provides.

The Senate should have gone further to state that for this country to be a unitary state, we need to put a cap on what percentage of staff in a county should be local and what should be countrywide. As it is today, our country is more divided.

In most of our counties, we have sanitised employment to the locals and the tribes in a particular community. There must be a way of looking beyond the small counties of Isiolo, Marsabit or Mandera and bring in experts or people who are more qualified, who are not necessarily locals from that particular area, if those counties must make progress.

I do not wish to poke a lot of holes in this Bill at this point in time. As we head to the Committee of the whole House Stage, we can suggest some of the amendments that the Senate should introduce to not only improve this Bill, but also to ensure the best individuals are employed by our counties across this country.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Rasso, amendments are welcome at the right time. Such amendments help us make better laws in this House. Let us have Hon. Christine Ombaka, Member for Siaya County.

Hon. (Ms.) Ombaka: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity.

I want to start by highlighting the fact that for public appointments, advertisements are normally done. I wish that in the advertisement, it is made very clear that the county government that is advertising for the job puts a rider on the advertisement that it is an equal opportunity employer where women are allowed to apply. That comes out quite a lot in other advanced countries. When they place advertisements, that rider is put there. It is an equal opportunity employer that allows women to apply. That will encourage more women to apply. That is my first observation.

The other one is that the qualifications that are required are good. First of all, it talks of academic qualifications. This is very important.

In the Departmental Committee on Education, Research and Technology where I sit, people come with various qualifications from other countries. They come with certificates that are written in other languages that we do not understand. This must be translated into English so that we know that when you graduate from a certain university in other countries, you are either awarded a degree, diploma or something to that effect. That must be made clear. Candidates that come for interviews for those jobs need to carry with them the translation of the certificates that they carry or they have from other countries. That is the second observation.

When it comes to the experience of those looking for employment, experience is a big challenge to many young people who graduate today. They say they do not have the experience and are therefore locked out of jobs. That needs to be relaxed. We need to know how long one needs to have that experience to have these jobs. Is it one, three or 10 years? We need to be fair to young people who are graduating so that we do not demand experience of so many years. That way, we will recruit more Kenyans.

The other is about gender. I noticed the gender bit was being used in my county, but it was not very well done. The fact was that there were too few women who applied for the jobs. Men were recruited. It took a long time to look for somebody. That is why I like what other people have contributed here and said, that we need to include people who come from other regions so that if you fail to get a woman in my county, it is easier to get one from another county over there to come and take the job. That will encourage more women to get jobs, not necessarily women from that county.

The other was regional balance. What is emerging is that in the counties, because there are many constituencies, people begin to argue that this or that constituency is not represented. That is like a tribal issue although you speak the same language in the county of question. People are beginning to regionalise those jobs. Maybe, it is a good thing or not. In the other way, it might end up being ethnic in the sense that you are fighting for positions within your county, but looking at different constituencies. It is quite a challenge.

There is the element of integrity which is not coming out strongly. The integrity of those looking for employment is vital. You do not just need a police abstract. We need letters of three referees. Normally, three referees would normally write a letter recommending one for a job. We need to take these letters very seriously and call where a person has worked before. That is so that we know whether that person left that job in a good way and he can be employed in this

other area or if he had some problems there. That will help us understand the person better and go ahead and employ.

These are some of the areas I really wanted to emphasise on.

The last one is about the governor who seems to have too much power over the county and the people that are employed there. They can fire and hire and yet, it is the county public service boards (CPSBs) or a vetting board that can hire. But, when it comes to dismissing a person, the governor does it alone. There is something wrong there. That needs to be tightened so that the governor does not fire anybody just because they do not agree. They take it single-handedly and fire. The Governor fired some person in my county. That person went to court and won the case and has been reinstated. Look at the shame that happens when a governor takes too much power for himself.

Some of these things must be checked, guarded and practised. Otherwise, the Bill is good and I support it.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member representing the people of Marakwet East Constituency, Hon. David Kangongo.

Hon. Bowen: Thank you, Hon. Temporary Deputy Speaker. I stand to support the Bill. This is long overdue given the Constitution which many Kenyans voted for, especially on the part of devolution. Going down to the county assemblies, it is important this Bill is in place.

I have seen the purpose of the Bill is to standardise the procedures and processes of appointment of new officials by the county assemblies. It is also to provide light and guidance so that we have standard guidelines of appointments across the 47 counties. Apart from the appointments, we also want the Senate and the Salaries and Remuneration Commission (SRC) to extend a piece of legislation. That is so that we can have a standardised remuneration across the 47 counties. Different counties have their remuneration schemes. If you see the allowances the Member of County Assemblies (MCAs) in Nairobi get, they are different from those at the counties in western and Rift Valley regions. I am so happy that we have a piece of legislation to guide the county assemblies in employment.

I would also suggest the Election Bill which is before this House to be fast-tracked so that we have specific qualifications for the MCAs and Parliament. You cannot have a member of a committee with lesser qualifications in the education standards and yet, he or she is going to vet a professor, PhD holder or people who are very qualified. It is good we also appreciate that the issues that we have had, especially between the county assemblies in this country and the governors, are based on that. We have seen certain counties requesting to be dissolved. Here is an example of a case where you have a governor who is a professor of law and a county assembly where you have people of Standard Two or Three. The reasoning gap is so wide that they cannot agree on some issues. These are the areas which should be controlled. There are some County Executive Committee Members (CECMs) or the so called ministers of the counties who are professors. You want the same county assembly people who are Standard Seven or Eight to vet such people? It is not going to work. We will not get the right people in the right positions.

Going to the questionnaires or schedules attached to this Bill, the issues of experience are very important. My colleague Dr. Ombaka has talked about it. If we are employing the youth, we should know a majority of the unemployed people in the country are the youth. It becomes hard to meet this criterion of experience. These are people who have just graduated from university. Some of them graduated almost 10 years ago. They have been seeking jobs from one city to another. They may have been in Nairobi for five years. With the new constitutional dispensation,

we have counties. When there is advertisement in the counties, they run back there to get jobs. Then they are told they must have five or six years of experience. Where are they going to get it? These are people who have been tarmacking on the streets and there is an opportunity. We need to look into this so that we give experience to different positions. When looking for somebody to be the county secretary, you can ask for an experience of seven or eight years or the relevant qualification. That is a big issue.

The level of education for the people to be vetted is very important. I see the criterion developed by the Senate is very nice. We will get the right people into the right positions in our counties. For the first time, I appreciate the Senate House. This is the only Bill with a lot of substance and relevance I have seen emanating from the Senate. The Bills we have seen before were not addressing key issues, especially when it comes to devolution.

Hon. Temporary Deputy Speaker, the only problem in this Bill is Clause 12 which my colleague, Hon. Ababu Namwamba, has talked about. It is already provided for in the Constitution. We have it under Article 195. It gives powers and privileges to committees of county assemblies to summon witnesses. There is no need to again copy the same Articles of the Constitution into a piece of legislation. I will seek that this part of the Bill be deleted so that the Constitution applies.

On the issue of regional balancing, which most of my colleagues have spoken about, we can see that every county has become tribal. When you come to Elgeyo Marakwet, where I come from, 99 per cent of all the employees are people from Elgeyo Marakwet County and yet, there are other tribes living within the county. There are some other tribes living in Tharaka Nithi County or in Kiambu County. This is another area we need to check because the Constitution also provides for the security of minorities in our counties so that we give every Kenyan a chance to serve in the counties. By doing so, we will bring unity and cohesion into our country and live as Kenyans and not as tribes.

I do not know the relevance of marital status with the kind of employment one is applying for. Whether you are single, divorced or widow, I do not know the relevance of that. How does it affect one when applying for a certain position? I thought it is only my qualifications, what I have and done before, the references in my CV and my performance that matter. These are some of the small issues that need to be looked into so that you do not turn away someone because he is not married or divorced and yet, he is qualified. For example, if he is divorced, you say because she does not have a husband or he does not have a wife, he or she should not appear before this committee.

I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Silverse Anami.

Hon. Anami: Thank you, Hon. Deputy Speaker. From the outset, I support this Bill because it gives opportunity for a systematic approach to the implementation of Chapter Six on integrity and eventually provision of rights to Kenyans, especially by allowing public participation. This is very important. In the time we have been implementing activities of the county governments, we have witnessed a lot of shortcuts, under-deals and corruption. It is important that we have a framework that will deal specifically with the issue of appointments of Kenyans to specific roles in management of county governments. It is also important for us to support this because it will give sense to the wishes and provisions that are provided for in the Constitution. It is better, therefore, for us to scrutinise every provision and clause here to make sure that it gives the wider space for public participation, wider space for youth, women, men participation and a cross-section of the vulnerable people, especially the disabled. This is

important. We need to be very specific from the outset on the provision on people living with disabilities. Where is the specific provision that provides the space for the female gender and the principle of equitable distribution of resources?

Devolution was to deal with the issue of marginalisation. We realise that there is even other marginalisation at the county level. We have some communities that have not gained access to services. Others have been denied because they are potentially a challenge to the re-election of the governor or some county executive committee member in the county government. We need a framework like this one to check inequalities and to provide a level playing ground for Kenyans. There are people who make applications and had their hopes in the county governments; they had their hopes in devolved governments. They have been waiting with all the qualifications but because of the underhand deals that are in existence in county governments, they have not seen light of the day.

I would like to support this Bill so that we can provide procedures, regulations and controls on appointments of those personalities. The people involved in the vetting especially at the county assemblies, we have witnessed compromises that have been entered through the governor providing external or international travels to MCAs. We need people of credibility to take up the role of vetting people who provide services at county governments. It is important for us to keep revisiting this issue of the threshold on who qualifies to be elected as a member of the county assembly. We need people with credibility. This should happen even during the process of nomination. It should be provided for in the Elections Act and in the process for electioneering so that we have credible people. It is embarrassing that people with lesser morals and lesser intellectual capacities are put in the responsibility of vetting people who evidently have higher morals and who evidently have higher intellectual capacities. It defeats the purpose. We cannot have a Standard Eight or a Form Two graduate vetting a university graduate. It defeats the purpose of the exercise. We must be systematic in dealing with these processes of appointment so that we do not defeat the same purpose for which we are setting these frameworks. When we come to Committee of the whole House, we need to look into this matter so that we can achieve the highest benefits from this Bill.

On the whole principle of public participation, we should have evidence that it has taken place on a fair and equal basis for everyone. We should not have public participation that is not public. Public participation should be open to all the people concerned. People should participate in an equal manner. The principle of equity should also be played here because when you place a public inquiry on an extreme end of a county, then people living on the other extreme end cannot access that forum where they can participate in this public endeavour. This law should, therefore, be very specific that everyone will be given equal opportunity to participate even if it is through the media or a questionnaire broadcast on a local radio station. There should be 90 per cent participation by the public and above. It will not be a sham like the way we have witnessed. You hear of public participation and people are not aware about it or when people go there, they are not prepared because the questionnaire has not been set. We need to get interested in these details because those are the ones that will guarantee participation of the public.

Distribution of resources will start with the services that will be provided by these appointees. If these appointees are appointed from one side of the county, then we will have skewed distribution of resources. So, while considering this Bill, it is important to appreciate that political leadership suffers from the temptation of skewed distribution of resources. There should be a feedback process. We should prescribe a feedback process where at the middle or end of every year, we can have feedback which tells us the number of people from Shinyalu, Ikolomani,

Butere and Malaba constituencies who have participated. We will then go on that way and have this feedback published. That way, we can see whether the public appointees that have been appointed to specific counties have served the citizens of that county equitably.

With those considerations, I support this Bill. I am looking forward to a time when we will go through every aspect of the Bill with a tooth comb. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Amendments are welcome. Let us have the member for Chuka/Igambang'ombe.

Hon. Njuki: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity to contribute to the Public Appointments (County Assemblies Approval) Bill.

This Bill has come a little bit too late because the county governments and county assemblies have been in existence for the last four years. We have done a lot of injustice by letting the counties operate on what they thought were their laid down ground rules. We should have brought legislation that can guide them on how to make a functional government.

I do not want to deny that the county governments have created a lot of employment, but it is their ineffectiveness in delivering their services to the people that is really wanting. This is because of the nature of the criteria that was used to recruit those people. I know we have in place the county assembly service boards and the county service boards, but even the formation of those particular bodies was not done well. If you look at the Constitution on how they were formed, apart from the guidelines that were given by the Transition Authority (TA), you will laugh at some of them as just a bad idea. This is because some of them are comprised of the speakers' and governors' cronies who assisted them during the elections. Some of them lost during the elections while others have no qualifications. They were simply rewards.

This Bill is going to put sanity and provide guidelines for posterity so that we do not tailor-make a body for the purpose of serving the governor or leaders who are in place at that particular time. It should be something that is going to be used by many county governments to come.

One chronic disease that is ailing the counties is a bloated payroll. They have a lot of employments that cannot be sustained by the resources that are available, and that is why counties have very little amounts of resources allocated or left for development. The Recurrent Expenditure has been found to be very high in most counties because most of it goes to salaries. At times, we do not understand whether it is by sheer coincidence that governors continue employing while on the other hand some of their employees go for months without salaries. I do not see any logic in seeing advertisements in newspapers today for jobs, one year to elections, having been in existence for four years. In a county that is not paying salaries, you find a long list of new employees. Qualifications that are put in those advertisements leave some of us amazed. We have a reason to believe that some of them are tailor-made to fix some specific people who are to be absorbed into those counties.

Late last week in Tharaka Nithi County, there is a constituency that has not paid salaries for Early Childhood Development (ECD) teachers for the last six months and yet, we have a long list of advertisement for jobs coming up in the next few months!

There was an interesting job of village administrators who are equivalent to chiefs. The qualification was supposed to be secondary education or equivalent to the same without giving a specific grade. Saying secondary qualification would mean that anybody who stepped into a class in secondary school is qualified to apply for that job. If the grade is not given, maybe as "C" Plus, "D" Plus or "D" Minus, then it means that it is not relevant. In this case, as long as you

can prove you went to a secondary school, then you qualify for that job. Chiefs who are employed by the Ministry of Interior and Coordination of National Government, have a minimum qualification of grade “C”, how can they have counterparts who have qualifications that are just mere secondary school, whether it is in Form One or even a few months in secondary school? Are these jobs being made for particular people? In the same advertisement, there was also a road overseer. Are they supposed to inspect, or take care of roads so that they do not get damaged? What are their roles? The advertisement did not have any job description. For counties that do not have money to be doing this, then it means that there is no legislation in place to guide them and standardise what is happening in the whole country. If you look at the legislation that is here to guide the national Government on employment, you will find a certain job group in County No. 1 and also find exactly the same one in County No. 47. This is, however, not the case in the counties. They will pick them depending on the whims of the Executive of that particular regime. Availability of resources should be a factor. While the county assemblies vet would-be appointees, they should find out from the Executive whether they have the resources to employ the workforce. If we continue employing, we will affect the development budget for the next financial year. We will end up with a government of employing without resources or development for the *mwananchi*.

The other issue that has been mentioned by a few of the Members who spoke before me is the issue of representation, in terms of nationality. I know that the Transition Authority (TA) had set aside 30 per cent of employment opportunities for people from other counties, but this is rarely observed in most of the counties. In 2014, a very good doctor was ejected out of Tharaka Nithi County because he does not come from that community. They did that so that they can employ one of their own. This is a shame because it does not matter whether a doctor comes from the moon or another planet, as long as he can render the medical services required by patients. That is the most important thing.

There is a group for protecting the governors, which has been described in this House. There is one that is called RDF in my county. I do not know what “R” means but it represents somebody’s name. The RDF forces are paid informally. There has been an attempt to formalise their employment by running employment advertisements that favour them. Their names are included in the payroll so that they can continue drawing salaries in case there is change of government.

Lastly, civil servants are involved in politics. Unlike the civil servants in the national Government, the chief officers and the members of the County Executive Committees (CECs) in the counties are directly involved in politics. They campaign for the regime of the day, leaving you wondering whether they can deliver services impartially. We will address this issue during the Committee of the whole House.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Elgeyo Marakwet.

Hon. (Ms.) Chebet: Thank you, Hon. Temporary Deputy Speaker. I was giving up.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Member, use your minutes to contribute.

Hon. (Ms.) Chebet: Hon. Temporary Deputy Speaker, I am happy to support this Bill. It has come at the right time. We all know that the public service is the backbone of a government. If we have the wrong public service, it means we have the poor delivery of service by the government. We need to start from the beginning. We should use advertisements to attract qualified personnel to apply for available positions. The qualifications in the advertisement

should be indicated very clearly for each of the positions, so that we can attract qualified people. There have been issues with the number of years of experience in the advertisement. Sometimes, we have problems with our young people. They would like to join employment service but, because of lack of experience, they get into problems. When employing, we should consider young men and women who have served on attachment or internship to contribute to years of service. We also need to look at salary scales and progression, so that one does not become dissatisfied after serving for some time. The salary given should be commensurate with the qualifications that one holds. We also need to look at the 30 per cent ethnic balance rule from other communities. We do not have homogenous communities working in the Civil Service. We need Kenyans from different counties to enjoy serving in other counties. Vetting is very important when looking at qualifications for appointments. We need to have a Civil Service that is well vetted in terms of integrity and qualifications. Sometimes, we have problems in counties where we have county assemblies that are vetting professionals and yet, they do not even understand the qualifications and responsibilities required.

The Public Service Board (PSB) should play an active role in making sure that appointments are made according to the specified criteria. We do not want problems of over-employment by recruiting many people and duplication in departments or cases whereby the governor has an upper hand in recruiting people, sometimes without even considering the role of PSB.

With those few remarks, I support this Bill. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Member for Njoro.

Hon. J.K. Ng'ang'a: Thank you, Hon. Temporary Deputy Speaker. I also rise to support this Bill. There are some issues which have been mentioned by various Members and I do not want to dwell on them such as education, experience and integrity. There are some areas I would like to highlight.

This country is blessed with people with good brains and who are well educated. The youth are frustrated and tend to go abroad to look for employment. It is high time the county governments and national Government thought twice about the idea of recycling spent forces. It is very embarrassing to find the youth loitering around looking for employment and yet, there is somebody somewhere who is a grandmother or grandfather of over 60 years and is still being retained in a particular job because of experience.

Therefore, the youth give up and we know the consequences. The Government, when it is desperately in need of experts in specific fields, goes shopping around the world looking for the best brain and the person they end up getting is a Kenyan. I know quite a number of people who have been imported to give services to their beloved country. It is high time the county governments and national Government used the youth in their prime age other than wasting them. We have spent a lot of money in educating our youth, but that money is going to waste.

Thank you, Hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): The Member for Wajir South, Hon. Abdullahi Diriye.

Hon. Mohamed Diriye: Thank you, Hon. Temporary Deputy Speaker. I wish to also support this important Bill. It provides for the procedure of approval of public appointments by the county assemblies. It also provides for clarity and guidance to the county assemblies as they exercise their function of approving public appointments. The approval by the county assemblies is very important and a must. It is high time this law came into force so that what happened when the county governments came into place does not recur, and so that we can synchronize the

exercise. That is because public appointments at the national level are vetted by the National Assembly. It is also very important for the county assemblies to vet any public appointments at the county government level. This will also build the capacity and growth of our county assemblies and county governments. We have very young county governments whose capacities we need to build. Coming into force of such law is very crucial. It is part of the growth of the county assemblies.

I also wish to say that when a job vacancy arises at the county assembly, the advertisement requirements as put in law should clarify the criteria. Sometimes, you see a requirement of 10 to 15 years experience and yet, we want to promote the youth to get jobs. Sometimes, it locks out the youth and becomes an exclusion criterion. As said by Hon. Kiuna, we keep regurgitating old guards and people who are grandparents and yet, we have young professionals with high qualifications but who do not have jobs. Sometimes they ask you: Where do I get the experience if I am not given the opportunity to first serve in the Government. Therefore, the advertisements should be very clear on the criteria, the academic qualifications and professional experience. The level of experience should be enough to perform that function and should not be prohibitive to the applicants.

One thing which I wish to make clear is that the county governments have appointed many young people to high job groups, which is very commendable. One thing we still wonder is: There are people who have been appointed to very high job groups like chief officer in Job Group "S". When some of them left Government service, they were teachers or medical doctors. When the term of the county governments expires, are they going to go back to their original job groups? What I am saying is: Somebody who was in Job Group "M" has been appointed as a chief officer or Director at Job Group "S" in a county government and yet, when he or she was working with the national Government as a teacher, they were in Job Groups "M" or "N". When the term of the county government expires, is he going to go back at Job Groups "M" or "S"? This is something which we need to clarify even as we make this law to cater for the rights of the individuals who have been serving the Government for a very long time. It will be very unfair if a chief officer at Job Group "S" goes back to the national Government where he previously worked at Job Group "M". That is a big gap which the law has not catered for. I would wish to bring amendments at the appropriate stage so that people who are in higher job groups go back to their original jobs in the same job groups they are currently serving in.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I have only two other requests and I wish to bring debate on this Bill to a conclusion. Allow me to give the Member for Baringo and Kiharu one minute each and then we can close debate on this Bill because time is over.

Hon. Mwaita: Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute to this Motion. I support it because it is timely. In fact, this public appointments law should have been enacted three years ago in line with the one which was done in 2011 by this august House. That is because it will be able to give clarity on how people are appointed, unlike what is happening in counties where there is a lot of nepotism and people are appointed indiscriminately. If you are not a sycophant of the governor or the speaker of the county assembly, you do not get employed. Within the county assembly itself, there are certain areas which are marginalized. Minority communities are not considered for employment. This particular Bill talks about a questionnaire. I want to support what my other colleague had said. In the questionnaire, there is a place where it talks about marital status. Marital status should not

be an issue. I recall that when we were vetting the Governor of the Central Bank of Kenya, the issue of his marital status came up. He said he was single by choice. In future, we should not be bringing in the issue of marital status.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Your one minute is over. You are on record as being in support of the Bill. Member for Kiharu!

Hon. Kangáta: Thank you, Hon. Temporary Deputy Speaker. I support the Bill but I would like to propose two amendments. The first one is that once the report is debated by the committee, it will be taken to the plenary of the assembly. However, it is not clear from the law as to whether the assembly must debate and thereafter vote on the same report. It follows without saying that, that will probably be the most illogical thing. The particular section is not clear.

Secondly, there is the issue of whether an applicant held a political position. The Bill proposes a disclosure of whether one was in politics. It is good that we put it in black and white that the fact that you were in politics will not be a disadvantage to you. Otherwise, people may disclose such information, only for it to work against them. It is wrong for politicians to be punished for being politicians at some point in time.

Thank you.

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, I would have liked to call upon the Mover to reply, but he is not in. Also, our time is up. Therefore, the Mover will reply when this business resumes next time.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Mbalu): Hon. Members, the time being 6.32 p.m., the House stands adjourned until Thursday, 28th July, 2016 at 2.30 p.m.

The House rose at 6.32 p.m.