

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 9th August, 2018

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

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

PRAYER

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MACHAKOS COUNTY ASSEMBLY

The Speaker (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting members and staff from Machakos County Assembly Committee on Broadcasting and Library. I request each Member of the delegation to stand when called out, so that they may be acknowledged in the Senate tradition.

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|------------------------|---|----------------------|
| 1. Hon. Conslas Kieti | - | Chairperson |
| 2. Hon. Erice Musembi | - | Member |
| 3. Hon. Paul Nyanzi | - | Member |
| 4. Hon. Loisa Mamau | - | Member |
| 5. Ms. Nora Muteti | - | Clerk Assistant |
| 6. Ms. Emma Nthenya | - | Broadcasting Officer |
| 7. Ms. Kathoki Mwendwa | - | Broadcasting Officer |

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

I thank you.

PAPERS LAID

STATUS REPORT OF KWTA

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 9th August, 2018:

The third status report of the Kenya Water Towers Agency (KWTA)

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(Sen. Murkomen laid the document on the Table)

REPORT ON PUBLIC HEARINGS ON THE
LOCAL CONTENT BILL, 2018

Sen. (Eng.) Maina: Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, Thursday, 9th August, 2018:

Report of the Committee on Energy on the public hearings on the Local Content Bill (Senate Bills No.10 of 2018).

(Sen.(Eng.) Maina laid the document on the Table)

STATEMENTS

ALLEGED MISMANAGEMENT OF FUNDS
BY KENYA POWER

Sen. Khaniri: Mr. Speaker, Sir, I thank you for the opportunity. Pursuant to Standing Order No.46(2)(a), I rise to make a Statement on an issue of general topical concern regarding the mismanagement of funds at the Kenya Power and the latest unexplained increased electricity tariffs; a cost passed to the final consumer.

Electricity is one of the most important amenities in the world today. People from all walks of life; from industries to households, schools, hospitals, small businesses and Government institutions, all require electricity for optimum performance of their day to day activities. It is hard to picture an office without a computer or a household without a mobile phone.

Just the other day, a good number of senior management staff of Kenya Power was arraigned in court to face charges of abuse of office and loss of public funds through knowingly purchasing defective electricity transformers. It is astonishing that the Kenya Power, with the best and most experienced electrical engineers in the country, could purchase such large quantities of defective transformers, but corruption and need for quick kickbacks in the tendering and procurement process explains it all. While the senior management enjoys the fruits of their corrupt activities, the cost of paying for the defective transformers is passed on and distributed among the final users of electricity across the country.

I have always questioned the rationale of replacing all wooden electricity poles with concrete ones all over the country even when the wooden poles are still new and strong. It is a common occurrence for the major newspapers in the country to carry a paid advertisement schedule of power blackout every week. This is usually termed as routine maintenance during which time the utility firm mostly undertakes the replacement of wooden electricity poles with the concrete ones.

In reality, the pole replacement exercise is a business scheme used to rip off electricity to consumers to benefit a few influential and rich individuals. The benefits of

wooden poles are well-enumerated and include the fact that they are environmentally friendly. Using wooden poles also encourages tree-planting hence increasing vegetation and a wide percentage of small-scale farmers benefit from the practice. Currently, there are people with mature trees suitable for electricity poles but lack market as cartels have already oversupplied Kenya Power with concrete poles.

Mr. Speaker, Sir, sometimes back between last September, 2017, and January, 2018, Kenya Power is alleged to have undergone a system upgrade to improve service delivery to the common *mwananchi*. The only thing that emanated from the system upgrade was unexplainable high bills. During the five months, power consumers did not receive their actual bills but rather only received estimates. When one checked with the Billing Department, he or she would be advised to record the readings from their metre and take them to the Kenya Power Office to be given their actual bills.

This is the highest form of unprofessionalism and incompetence, especially considering the fact that there is a monthly fixed charge to cater for such services charges and employees whose only work is metre reading. At the end of the period, Kenyans were slapped with huge bills with no option but to pay because of the monopoly of Kenya Power.

Poor services from Kenya Power is obvious for anyone connected to electricity in the country; from frequent power blackouts to poor customer services; long waits for correction of power problems and rude and corrupt personnel. Replacing a defective transformer usually takes Kenya Power a minimum of two weeks in urban centres while in remote areas up to even a month.

Frequent power surges experiences have destroyed electronic household appliances and business machines and even when the company is bound to repair or replace such appliances, compensation is never forthcoming.

At the height of the recent system upgrade at the utility firm, a lawyer requested affected clients to send him emails and tweets with complaints and within 24 hours the emails were in excess of 600. This is a clear indication of the magnitude of suffering Kenyans who are forced to endure the process of getting electricity from a public owned enterprise.

The Last Mile Connectivity Programme is one of the most important electricity connection projects to be implemented in Kenya since Independence. Through the four-phased programme, the Government of Kenya targeted to increase electricity connection from 40 per cent in April, 2016, to 70 per cent of the total households in the country by April, 2017, and universal access by 2020. Official Kenya Power records show that by the end of the first phase, 314,200 were connected. This is commendable. However, the target is still far from being achieved and it might be derailed further if it is actually true that this programme has been hijacked by cartels.

The Government should double its efforts in order to meet its projected targets, considering the second phase commenced late and up to now they have only managed to connect 22 per cent of the total targeted households. This programme must succeed in order for the country and the general public to get value for money on the loan financing it.

Mr. Speaker, Sir, the latest blow to Kenyans from Kenya Power is the new revised tariffs effective 1st August, 2018. It is a well-known fact that Kenya has had one of the highest electricity costs in the eastern Africa region. For instance, according to statistics by research of June, 2018, Kenyans were paying an average electricity tariff the equivalent of Kshs15 per kilo watt per hour compared to Ethiopia's Kshs4.1, Egypt's Kshs6, Uganda's Kshs12 and South Africa's Kshs9.

One wonders why the Government would burden the consumers even more with the new tariffs that have increased the average total bill by up to 54 per cent for most consumers. The new tariff calculations are more confusing and unfair. It would have been more sensible and honest if the utility firm had removed the monthly fixed charge and reduced tariffs across the board.

Electricity usage and connection has a multiple effect across the country. With the rising of power prices, there is an increase in production costs, triggering a further increase in prices. Apart from capital flight as a result of the high cost production, majority of Kenyans who are already overburdened by the high cost of living and increased taxation will be forced to endure more expensive electricity. Small-scale entrepreneurs will be forced out of the market or decide to downsize, further increasing the rate of unemployment. This is unfair and only an uncaring Government will allow its people to be exploited to such an extent.

As a legislature, we owe it to our constituents to complain and demand better affordable power from Kenya Power to the citizens of this country. Kenya Power is a public enterprise that should strive to serve the general public above making profits.

I thank you.

The Speaker (Hon. Lusaka): Hon. Members, before I allow contributions on that, I have a brief communication to make.

(Interruption of Debate on Statement)

COMMUNICATION FROM THE CHAIR

AMENDMENT TO SPEAKER'S RULES REGARDING MODE OF DRESS BY SENATORS WHILE IN THE HOUSE

The Speaker (Hon. Lusaka): Hon. Senators, as you are aware, the Speaker's Rules are made pursuant to the powers of the Speaker under Section 37 of the Parliamentary Powers and Privileges Act, 2017. The rules regulate the conduct of Senators and also govern the admission and conduct of the members of the public and other visitors to Parliament. Breach of the Speaker's Rules usually results in the matter being referred to the Committee of Privileges for consideration and action.

Hon. Senators, I wish to notify the House that an amendment has been made to the Speaker's Rules regarding the mode of dressing by Senators while within the House. More specially, the rules now allow women Senators to dress in *kitenge* or such other African attire. This follows an appeal by the lady Senators to the Speaker to that effect. Copies of the said amended Speaker's Rules will be circulated to you in due course.

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I thank you.

Sen. M. Kajwang': On a point of order, Mr. Speaker, Sir. In relation to your communication, I wonder why you are not considerate to the menfolk because you have made rulings that apply only to the ladies in this House. The men are tired of the jackets and ties. When you put on a tie, sometimes you feel like you are being strangled. Why can we not have rules that take into account the comfort of the men and the African culture so that Sen. Olekina can come in a *shuka* that reflects his Maasai heritage?

Mr. Speaker, Sir, that ruling has left out a very significant population of this House. I beg that you also extend it to the benefit of the menfolk.

Sen. Olekina: Mr. Speaker, Sir, I welcome your ruling. I also hope that the previous rules that allowed a Maasai to come in here in full regalia are restored. If they are not, then I will be willing to also request that you amend your ruling.

The Senate Leader of Majority (Sen. Murkomen): On a point of order, Mr. Speaker Sir. First of all, I want to congratulate you for the brilliant ruling of indigenising the Senate by ensuring that we recognise indigenous dressing and the way our beautiful women dress in this great Republic. That is welcome.

In fact, as we move forward, certain attire that might be considered extremely western and secondly, replicating the behaviour of other people can slowly be banned by the Speaker, in the long run, so that it will be mandatory for our ladies to adorn the African wear.

Mr. Speaker, Sir, when you retire to make a ruling on how the men will dress, take your time.

(Laughter)

If you say that we can wear African attire there is a danger that a fully dressed Maasai like Sen. Olekina will come here with a *rungu*, sword and a spear. Considering the passionate contributions of people like Sen. Olekina, with a sword and a spear in his hands, we cannot guarantee the safety of the House.

I can almost understand why you took time to decide on the men's side. In the same breath, if Sen. (Dr.) Ali dresses fully as a Somali elder, there will be problems in this House. For the ladies, you made a very good consideration and for the men you will need further retreat, research and a well-documented ruling on that matter.

The Speaker (Hon. Lusaka): Let us have Sen. Wetangula.

Sen. Wetangula: Mr. Speaker, Sir, thank you for the opportunity. I want to speak to the Statement of the Senator for Vihiga.

On the attire, I would encourage you to take a direction, that this is a legislative chamber not a parade of attire. We come here to legislate and not to show off our regalia, whether traditional, western, Chinese or whatever. We should focus on substance and not form.

I want to make contribution to the Statement---

The Senate Leader of Majority (Sen. Murkomen): On a point of order, Mr. Speaker, Sir. One of the responsibilities of a Senator is to represent his county. Dressing

as a *bukusu* is a clear representation of what Bungoma County stands for, because the dominant Bukusu community resides from that county.

Is Sen. Wetangula in order to try and water down your ruling, because the most serious form of representation is appearance and being in the attire of your own people which is not a small issue?

Culture is a function of county governments that we represent. With their cultural function, the issue of dressing is not something to be simplified.

Is Sen. Wetangula in order to try and insinuate that the Speaker was out of order, having spent a lot of time to write a ruling on the dressing of Members in this House? Is that a small issue, to the extent that the Speaker can be insinuated to be lacking substance and only form?

The Speaker (Hon. Lusaka): Sen. Wetangula, respond.

Sen. Wetangula: Mr. Speaker, Sir, when you see the distinguished Senator for Elgeyo Marakwet engaging in long winding rigmarole, devoid of substance---

The Senate Leader of Majority (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Order, Sen. Wetangula! What is your point of order Sen. Murkomen?

The Senate Leader of Majority (Sen. Murkomen): Mr. Speaker, Sir, is Sen. Wetangula in order, even before you issue your ruling, to arrogate himself the powers of the Speaker and pretend to be a headmaster who can determine who speaks substance and who does not? Is that not your function that Sen. Wetangula is trying to abrogate himself?

Sen. Wetangula: Mr. Speaker, Sir, freedom of thought, expression and opinion which my distinguished learned junior has repeatedly pronounced on in this Chamber is available to everybody.

What is substance to me may not be substance to him and vice versa. That is what opinions are all about. We are not here to engage in presenting uniform views, because then, it ceases to be a debating Chamber. I have no difficulty with you liberalising the dressing of our women folk; our distinguished female Senators, but like Sen. Murkomen said, think seriously and twice before you disturb the dressing mode of the men folk in this Chamber.

Mr. Speaker, Sir allow me to proceed to the Statement of Sen. Khaniri.

The Speaker (Hon. Lusaka): There is a Senator who wanted to comment on the attire. I will allow Sen. Mwaura to make a comment, then invite you.

Sen. Mwaura: Thank you, Mr. Speaker, Sir. I want to make my contribution on this issue of attire. Attire is very important and if you go to the various parliaments and chambers you will see that various countries have moved from the traditional aspect of allowing Members to only wear suits as the only uniform – if you like - of parliament.

In the 11th Parliament when I appeared in the National Assembly, a Member rose to say that I was wearing a hat as if I am a cowboy. I love to wear African attire like the Nigerian *agbada* and the *vitenges*. It will be unfair to only allow the ladies to wear the African attire. This is actually gender discrimination because, we would also want to express ourselves.

Of course, we can agree the extent to which the body is covered may be determined; like short sleeves may not be allowed, but allow us to express our African attire.

I disagree with Sen. Wetangula that the only way you can provide content is only when in a suit. That is not true. What we need to do is have an opportunity to show that Kenyans are able to express their cultural background.

The Speaker (Hon. Lusaka): What is your point of order Sen. Wetangula?

(Loud Consultations)

Let us consult in low tones.

Sen. Wetangula: Mr. Speaker, Sir, is the distinguished Sen. Mwaura in order to misrepresent what I said; that the only way you can express yourself well is when you are in a suit? In my intervention – and the HANSARD will bear me out – at no time did I mention the word ‘suit’. In fact, I said that we should pay attention to substance and not form. I also said that continuing to belabour the issue of dressing is actually trivializing the heavy agenda that this House has, because we are not here for a fashion show or contest. No amount of dressing or change of dressing would add substance where there is none!

(Laughter)

The Speaker (Hon. Lusaka): Continue, Sen. Mwaura.

Sen. Mwaura: Thank you, Mr. Speaker, Sir. The content or the form in which we dress is a clear representation of our cultures. It is, therefore, important to allow that diversity. There is strength in diversity and hon. Members should be allowed to dress decently, but in a manner that would encourage Kenyans to be proud of their own cultures.

Mr. Speaker, Sir, we are all aware that we have a national dress that was approved. However, the only time we see people wearing it is by our athletes or when we are out of the country. I have, for example, never seen any distinguished Member, including Sen. Wetangula, coming to this august House wearing a national dress. Therefore, we need to give that opportunity to hon. Members so that Kenyans can see that, indeed, we value our cultures. Doing so will also help us to promote our young designers, who have very creative ideas.

When we travel and go out there, we buy designer suits and other things from other people and, by doing so, we promote other economies. Therefore, this will also encourage Kenyans to know that there is value in studying design and actually engaging in such kind of businesses. Therefore, I agree with the Majority Leader that the male Members of this august House should be allowed some leeway to also express and parade their cultures so that we show what Kenyans really value out there, because we are their true representatives.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Hon. Members, we now go back to Statements.

Proceed, Sen. Wetangula.

(Resumption of Debate on Statements)

STATEMENTS

ALLEGED MISMANAGEMENT OF FUNDS BY KENYA POWER

Sen. Wetangula: Mr. Speaker, Sir, Sen. Khaniri of Vihiga County made a very important Statement. I would have expected that Statement to come from the Chairperson of the Committee on Energy on behalf of the people of Kenya. Therefore, I congratulate him.

Mr. Speaker, Sir, President Uhuru Kenyatta's Big Four Agenda includes---

Sen. (Eng.) Maina: On a point of order, Mr. Speaker, Sir. The hon. Senator has said that he would have expected the sentiments of Sen. Khaniri to have come from the Chairperson of the Committee on Energy. The Senator is ignorant of what we have been doing, as a Committee, and what we are going to report to this House. This should not be a basis for him to come here and criticize our Committee through the Chairperson.

As you are aware, Mr. Speaker, Sir, I intend to make comments and tell this House about the Energy Bill and the concerns he has raised.

Sen. Wetangula: Mr. Speaker, Sir, I am totally at a loss as to what the distinguished Senator for Nyeri is protesting about. In fact, we would have gotten off better if he did not.

(Laughter)

Mr. Speaker, Sir, I was saying that---

The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Murkomen?

Sen. Wetangula: Why do you not let me prosecute my point?

The Senate Majority Leader (Sen. Murkomen): You will have your time.

Mr. Speaker, Sir, with all due respect to your serious office, which we all respect here, there is a practice that I have unfortunately observed. All of us come here to raise points of order and there is no ruling from you on whether a Member was out of order or not. This leaves us completely at a loss, because we cannot tell; even the HANSARD cannot record what direction the Chair was on; whether it was a point of order or not.

I request that you give direction in this area. You should either say that a Member was out of order or not, so that the record can bear you out rightfully. Similarly, Members can feel that their concerns are being considered rightfully or wrongfully for whatever reasons.

The Speaker (Hon. Lusaka): Okay; it is noted.

Proceed, Sen. Wetangula.

Sen. Wetangula: Mr. Speaker, Sir, President Uhuru Kenyatta's Big Four Agenda includes industrialization and boosting manufacturing. We cannot industrialize or boost manufacturing if the cost of energy – which is a critical component and input – is prohibitive. In this country, electricity is extremely expensive. Even where it is available, the supply stability is extremely erratic. In the Western part of Kenya, we have permanent power surges, blackouts and dips to the extent that, as I speak here, I declare my interest as a victim. Last weekend, there was a terrible power surge in Bungoma and people lost millions of shillings worth of electronics in their households. It cost me Kshs150,000 to fix electrical appliances and other things in my own house.

Mr. Speaker, Sir, Kenya Power (KP) had a distinction, up to the 1970s, of being the most efficient utility company in this country. In fact, all advertisements during those years used to weigh anything efficient as being as efficient as Kenya Power. They were everybody's admiration until cartels moved into the management of the KP and started lining up their pockets at the expense of the public.

Mr. Speaker, Sir, a month ago, the KP announced to the country that they were going to lower electricity tariffs, only for them to spring up three weeks later with an increment in the tariffs that consumers pay. Therefore, what Sen. Khaniri has said is very important. It is in the interest of this Government to achieve the legacy being sought by the President; of turning Kenya into a middle level economy with successful manufacturing and industrial take-off. To achieve this, we must then have affordable, stable and readily available electricity.

Mr. Speaker, Sir, when the Jubilee Government first came to power, they said that they will increase the supply of electricity by 5,000 megawatts. I am interested to hear from the Majority Leader about how many megawatts they have increased to date, because our consumption is still just around 2,000 megawatts. Therefore, if they were to increase by 5,000 megawatts in 2013, and at that time our consumption rate was 1,580 megawatts, we would be talking about more than 6,000 megawatts today. However, we are still at 2,000 megawatts. How are we going to industrialize?

We have just had phenomenal rains in the country. The dams are full and the spillways of the dams went and devastated the entire Tana River County. If the hydro supply is at its optimum, why are electricity charges going up? These are big questions.

Lastly, my brother from Nyeri County has stood here to proclaim his efficiency. I would want the Committee on Energy to take up this matter and save Kenyans from the chaotic situation in which Kenya Power Company is run and in the manner it is fleecing and overcharging people. People are unable to benefit even from the last mile connectivity. There is no point connecting a village or a house with power that is never there or it is there but nobody can afford it. These are critical issues and they need to be addressed.

The distinguished Senator for Nyeri County should climb down from his pedestal and address the issues that the Senator for Vihiga County has brought, which he claims he was about to bring. Obviously, he was about to bring them because it has been brought.

The Speaker (Hon. Lusaka): Chairman, Committee on Energy, Sen. (Eng.) Maina.

Sen. (Eng.) Maina: Thank you, Mr. Speaker, Sir. I will start with Sen. Khaniri's sentiments. I would say that he has brought a subject that we are already tackling. I will enumerate the things that the Committee on Energy is doing to address those issues.

As to my brother who has just finished speaking, I want to say that he is a lawyer and ignorance does not allow anybody to make unwarranted remarks and accusations. One is supposed to seek knowledge. Having said that, Kenyans are interested in knowing what will happen with regard to energy.

My Committee has been concerned about the high cost of power and has held a couple of meetings. The Ministry of Energy has promised us that power charges will come down. However, looking at this country, I would wish to inform this House why issues sometimes have to be what they are. This country has had to rely on the engines for thermal power on periods when our dams are at a lower level. In the past, our power was based on hydro-electricity. As we have noticed, with the global warming, the rains have not been as perennial and reliable as they were before.

Therefore, the country had to rely on actual diesel engines to try and close the gap, rather not having power. That has been an expensive venture and the Government has noted this. There is huge investment in geothermal energy and wind power. In addition, there is a programme on solar energy all over the country, where the Government gives power to people in the rural areas through a simple solar energy equipment.

Secondly, we have had an unfortunate situation with the line from Lake Turkana, which is supposed to feed 300 kilovolts into the grid. There has been about a year's delay, but we have been reliably informed that it should be commissioned by the end of this month. Therefore, there is need and the Government is aware that power costs must be brought down, and all measures are being taken. It has taken time, but let us not lose sight of the fact that a lot of energy and time was wasted in this country by some people demonstrating and wasting a lot of energy on the streets.

Some of the people who speak here could have done much better by letting this country address issues. I am glad to say that after the handshake, issues are now being addressed by all sides and we should work towards that. However, let us not forget the people who are responsible. I do not want to name them because they are obviously known. They should not stand here to complain, when they know that they let this country waste a lot of energy and resources. They distracted the management of this country through unnecessarily demonstrations. Fortunately, we are now in a new chapter and we will all move together.

My Committee will be meeting officials from the Ministry of Energy and Kenya Power in a week's time and I will report to this House. They have undertaken that power costs have to come down. I am more concerned than some of the Members who have spoken because my heart is with the common people. I look forward to a time when Kenya can give free energy to the low consumers. The country should even provide free water to some of our unfortunate citizens. It is happening in countries like Egypt. However, this will take time to be achieved.

Let us also fight corruption. Sen. Khaniri has brought up the issue of corruption and the usage of concrete electric poles. I support him on this. Kenya Power was known

to be one of the most efficient companies and Kenyans were proud of them. I told officials of Kenya Power to try to lift their flag high, because the company was once held in high esteem. Most people do not know about the Ministry of Energy in this country; they know Kenya Power Company.

The sentiments that have been raised are in order and the Committee on Energy is addressing them. We will be report back in a week's time. However, to those who are ignorant of the things happening around them and have forgotten the destruction they caused this country, let them seek the right place of knowledge.

Thank you, Mr. Speaker, Sir.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. Khaniri on this issue of---

The Speaker (Hon. Lusaka): Order, Senator. I would want to limit the time to three minutes for the remaining speakers, because we have a matter on energy after that.

Sen. Olekina: Mr. Speaker, Sir, the issue of electricity in this country is very worrisome. I sit in the Committee on Energy and it is shameful that when we invited the Ministry of Energy, the Acting Managing Director of Kenya Power Company, members of Rural Electrification Authority (REA) as well as the Energy Regulatory Commission (ERC) to appear yesterday, so that they could address this particular issue on the escalating cost of energy, they failed to appear.

We all know that Kenyans soon will start paying Value Added Tax (VAT) on petroleum products. There are serious challenges that surround the whole sector of electricity and we have not gotten solutions because of the high level of corruption. We are all alive to the fact that the previous management was sent away because of allegations of corruption.

With regard to the electricity issue, I will recommend it to our Committee. We will take over this mater so that it can form a basis of some of the questions we will be asking these people when they appear before us.

Mr. Speaker, Sir, what is happening to the entire sector of electricity? What is happening with the rural electrification programme? Kenya Power (KP) is not telling us what they are doing about it. We must also address the issue of environment.

In 2008, Sondu Miriu power plant was supposed to be commissioned. However, it was not because the issues of environment had not been addressed. We, as a Senate, must address the issue of monopoly by KP in terms of power distribution. We need to come up with legislation to ensure that we open up this sector for competition. That way, we can bring in more people who can distribute power.

Mr. Speaker, Sir, the KP is a public body where the Kenyan Government pumps in a lot of money to support it. However, we never ask how much of that money is ploughed back to the public.

We will discuss this Statement and invite KP to shed more light. I hope we will be able to convince Treasury not to introduce a 16 per cent Value Added Tax (VAT) which had been deferred on petroleum products because Kenyans are suffering.

Sen. Cherargei: Thank you, Mr. Speaker, Sir. I rise to support the Statement by Sen. Khaniri. One of the reasons why Jubilee Government was re-elected is because of

electricity access by our people. That is why this Government led by President Uhuru Kenyatta and Deputy President William Ruto is in power for the second term.

It is true we have not realised capacity of 5,000 megawatts. We are only doing 2,950 megawatts which translates to 73 per cent power access to households and schools. With access to electricity in schools, our children will get quality education.

Mr. Speaker, Sir, there are many challenges dogging the electricity sector in this country. One of them is the issue of replacement of transformers. In some places in Nandi County, they are taking more than six or three months to replace transformer.

I hope the Chairman of the Senate Committee on Energy, Sen. (Eng.) Maina and his Committee Members, will ensure that they look into the efficiency of KP so that Kenyans do not continue to suffer as far as electricity bills are concerned. Yesterday we were told our sugar has mercury and our maize is not fit for human consumption because of aflatoxin. We do not want to die from electric shock and power surges in our houses.

Mr. Speaker, Sir, I hope the Ministry will look into this matter and ensure affordable electricity is connected to most of our households. This will assist a lot to ensure this Government achieve its Big Four Agenda. Our people will start small manufacturing units in rural areas.

I support.

Sen. M. Kajwang': Mr. Speaker, Sir, I also wish to add my voice to the Statement brought by Sen. Khaniri. The reason why you do not see a lot of fish processing plants around Lake Victoria is because of erratic electricity supplies. If you do a business case for establishment of fish processing or fish cooling facilities around Lake Victoria, electricity and energy becomes one of the biggest cost elements. This is an indication that our energy sector is in shambles.

When the residents of Renda Island on Lake Victoria attempted to set up a solar power plant that was providing power to 10,000 residents on that island, the Electricity Regulatory Commission (ERC) went and shut it down. They accused them of not complying with licensing requirements. That is the kind of insanity that guides the energy sector in this country.

Mr. Speaker, Sir, a group of investors decided to tap wind power around Lake Turkana and put up a huge firm to capture wind power. You find that these private investors are not able to turn on their investments simply because the Ministry of Energy and the Kenya Electricity Transmission Company Limited (KETRACO) have failed to lay grid lines to the site of the wind firm. Again, that is the kind of lunacy that we have in the energy sector.

If you go to Lamu, a beautiful heritage site listed by the United Nations Educational, Scientific and Cultural Organisation (UNESCO)---. We want to import coal from South Africa and fire it up in Lamu, so that we can generate energy without consideration to the heritage and the environment in the Lamu zone. That is the lunacy that Sen. Khaniri has brought before us.

I conclude by saying that the cases of corruption that have been brought against the officers of KPLC should be expedited. We want to urge the Director of Public Prosecutions (DPP) not to be shaken. In this country, we have learnt that the greatest rumour mongers, blackmailers, and gossipers are the corrupt. Whenever you go after the

corrupt, you must be ready to be smeared and called names. We want the DPP and all the investigating agencies to stand firm so that Kenyans can know the truth behind some of these ridiculous and corrupt purchases.

Mr. Speaker, Sir, finally, we must stop the habit of appointing people who have failed in political careers to the boards of some of these parastatals. If you look at the history of some of the parastatals in the energy sector, they become grounds for political rewards. If we do not deal with this issue of cronyism, tribalism and nepotism, then we will only get what we sow from KPLC and other companies in the energy sector.

I support.

The Speaker (Hon. Lusaka): Proceed, Sen. Sakaja.

Sen. Sakaja: Mr. Speaker, Sir, allow me to thank Sen. Khaniri for this Statement. I urge the Committee that takes this up expands the area they are looking at. It is true as Sen. Cherargei has said that Kenyans were very happy with the last mile connectivity project of this Government. But we need to understand that access to electricity is not just having the metre. It is affording it.

Mr. Speaker, Sir, affordability is a huge part of access to electricity. It is something that needs to be subsidized for Kenyans. We cannot be the highest in the region at Kshs15 per kilowatt hour while our neighbour Uganda are at Kshs12 and the rest as Sen. Khaniri enumerated.

Two things come to mind. I would urge Sen. (Eng.) Maina's Committee to look at, first, urban connections. Almost 10 per cent of this country lives in Nairobi. Of that 10 per cent, more than 50 per cent are in informal settlements. Because those in informal settlements cannot afford electricity, they resort to illegal connections that have been the cause of untold disaster in this city. We have a fire every few weeks. Many of these fires are caused by illegal power connections.

(Sen. (Eng.) Maina consulted Sen. Mwaura)

Mr. Speaker, Sir, I wish the Chairman would listen. I am told other Members are listening while the Senator is engaging, Sen. Mwaura. If this Committee can come up with a package for those in informal settlements and the slums to get clean energy to get the power properly, they will pay. They want to pay, but they cannot afford how it comes.

Secondly, if there are people to be subsidized because the President said so---. We are glad that the President said it. That those in industrial area and big manufacturing companies will get 50 per cent subsidies off for manufacturing between 10 p.m. and 6 a.m. to employ more people. There is a huge segment we are leaving out. Those are small entrepreneurs.

Mr. Speaker, Sir, a lot of manufacturing that is happening in Nairobi is not in Industrial Area. If you look at those who recently lost their properties in Gikomba, they are some of the best furniture dealers operating heavy machinery. But they are not being subsidized. If you go to Kamukunji, Jua Kali and Nyamakima, there are some of these traders that also need to be subsidized in terms of the cost of power going to them.

Because of time, I will leave it at that. I urge the Chairman to invite us, as he is dealing with this. There are many other aspects that we would like to contribute.

Thank you very much, Sen. Khaniri for bringing this Statement.

The Speaker (Hon. Lusaka): Proceed, Sen. Orengo.

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, once again, I commend Sen. Khaniri for bringing out this very important Statement. However, there is something we are missing out in this Statement which should be looked into with some concern. It is not seeking, as it were, to address wholly the question of power or power generation or supply in the country.

I agree with Sen. Sakaja when he talks about affordability. To contextualise what Sen. Khaniri is saying in terms of what is going on in the country at the moment is that, those who are receiving these electricity supplies are being loaded with costs which cannot be explained.

In fact, what has been going on in the Kenya Power is a criminal enterprise and it should be called what it is. This criminal enterprise did not start yesterday. I want to persuade Members that we are dealing with a very big problem. In fact, there are five sectors in this country that one should look at if you want to watch what is going on in terms of how we are running our country.

One of them is what is topical and what we have been talking about, which is maize and what is happening in that sector. We then have sugar. Year in, year out, we are always talking about illegal importation of sugar or removal of taxes or waivers given to particular companies to bring in sugar. Fertiliser is another thing that we have had to deal with perpetually over the years; and then there is this issue of energy.

Land is another question that we are supposed to debate in another Motion, but I think that its time is going to come.

In the power sector, I want to remind Sen. (Eng.) Maina that the Government of yesterday and the years before tried to make sure that we regularise the power sector. This is because initially, power generation, distribution, retail and supply was being done by one organisation and it was thought that breaking it up would stop the criminal enterprise that was going on within the power sector.

We had all these parastatals which were formed to deal with the various sectors from generation, distribution, supply and retail and that has not helped. Therefore, at the end of the day, I think that we have to find out what is happening every time.

Sen. (Dr.) Ali has talked about the issue of change from wooden poles to concrete. It is part of this system that something in the power sector is always seized upon to make quick money. In order to contextualise this matter, we are going to relook at what the complaint is, in so far as the members of the public are concerned.

More importantly, in order to address this issue holistically, we need to have an over-supply so as to bring down the cost of power to the ordinary people and that is what other countries have done. Ethiopia is working towards that, Uganda has literally an over-supply and that is why we are buying power from them. If you go to France, they have an over-supply to the extent that power can be accessed cheaply by the ordinary people.

One of the problems that we are having in Kenya is that there is deficiency in power generation and, subsequently, we cannot have sufficient supply of power. In order to contextualise what is happening at the moment, I think that the criminal enterprise that is going on in the sector should be addressed quickly because the rest is like Vision 2030,

the Big Four Agenda; we are looking into the future, and hopefully, like going to heaven, looking into the future is always good, but can we do something about what is going on now which we can rectify? I believe that we can do it as we continue dreaming about the future.

Thank you.

Sen. Seneta: Thank you, Mr. Speaker, Sir, for giving me a chance to add my voice to this very important Statement by Sen. Khaniri.

The issue of the cost of power vs consumption in this country is something that we all need to look into. This will ensure that the *mama mboga* and the big investors produce economically and viably rather than having them invest in projects where they will be unable to get profit because of the energy cost.

I sit in the Committee on Energy and I know that we have already summoned the Cabinet Secretary to appear before the Committee because of the high cost of power and the poor connection to our schools. We may assume that all public schools are connected as we talk, but they are not. That is just a picture that the Ministry has painted because many schools in our counties have electricity poles that are not connected. Therefore, we shall invite Members who are interested in this matter to come and give their views and ideas. There is also the issue of illegal connections that have caused fires in our urban areas. That is also an issue that we need to look into as a Committee.

Thank you.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir, for giving me an opportunity to add my voice to this Statement.

I want to start by thanking Sen. Khaniri for this Statement. It is a Statement that is relevant and valid at this point in time, in Kenya. The issue of electricity bills is of great concern and we need to see how we can help Kenyans as a Senate.

Electricity bills are extremely high to the point that you will still find yourself paying a high bill even when you do not use electricity to pump water, bake or iron. One will still find exorbitant bills even when they decide not to be around their home and this happens even when one has been away for a month and has not used electricity much. There is need to investigate what is exactly happening at Kenya Power. Why are the bills so high?

Sen. (Eng.) Maina has talked about rural accessibility of power energy and I want to tell the Senator that energy has not devolved to all Kenyans in this country. It is unfortunate that you will find idle transformers in some counties. The transformers are there but people have not been connected. Where I come from; Lumakanda, we have two transformers that are idle. I have tried to ask the people at Kenya Power to connect the people of Lumakanda for them to get electricity but this has not been done. I am one of the people without electricity.

[The Speaker (Hon. Lusaka) left the Chair]

[The Temporary Speaker (Sen. (Prof.) Kamar) in the Chair]

There is no way that I can connect electricity for myself yet my people do not have power. There is need for the Government to ensure that people of this country get electricity, especially people in the far-flung counties; those in rural Kenya. The Last Mile Project did not benefit all Kenyans and there is need for the Government to ensure that people in the counties benefit from the Last Mile Project. If it has come to an end, there is need to revisit this issue for all Kenyans to get electricity.

Sen. Mwaura: Thank you, Madam Temporary Speaker. I rise to briefly support the Statement by saying that the cost of electricity in this country has gone very high. Indeed, the breakdown of the cost is not justifiable. I am sure that many hon. Members here have become victims of the monopoly of Kenya Power (KP). We are reeling under very high electricity costs; which means that you have no options. If you are given a bill, you just have to pay. Sometimes we even pay when we have not spent time in the facility that is being charged; that is what Kenyans are crying for.

Madam Temporary Speaker, I commend this Statement, but it also says a lot about the issue of renewable energy and whether we need to diversify our energy sources if we are to remain competitive as a country. Most of the investors coming to this country find it very difficult meeting the energy needs. When you even look at the way the national grid is distributed, you will find huge areas of this country have been left out. This is so to the extent that there are now private companies in Malindi and Kwale which are now using off-grid opportunities to generate solar energy and are charging households Kshs100 per day for use.

That is still very expensive compared to a country like Britain, where with about UK£15 a month, one is assured of electricity in a household, which is comparatively low. However, here in our country, bills continue to soar yet the capacity to produce and generate is very high.

Madam Temporary Speaker, the Energy Regulatory Commission (ERC) recently tried to do away with fixed costs, which is not going to help. This is because we can see that it is only affecting the lower end of the market, where the numbers are not very high because of the issues of penetration and coverage. However, the majority of Kenyans are still within the bandwidth that will obviously continue to be affected because of increased consumption.

In fact, the way the fixed cost reduction formula has been done seems to discourage consumption. When you discourage consumption, you are actually discouraging productivity. Electricity is supposed to help our country generate more productivity and income.

Therefore, Madam Temporary Speaker, I beg to support and urge this House to delve deeply into the matter around KP. We need to---

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, very much Senator.

The next statement is from the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries to report on a Statement requested by Sen. Olekina regarding the alleged listing of Narok barley and sorghum farmers by the Cooperative Bank of Kenya in the Credit Reference Bureau (CRB).

LISTING OF NAROK COUNTY FARMERS IN CRB

Hon. Senators, I do not see the Member who requested for the Statement and in our tradition, the person who has requested must be here when the Statement is being made. We, therefore, defer the Statement.

Thank you.

(Statement deferred)

*(Sen. Olekina walked into the Chamber
and spoke off record)*

Let us have a Statement from the Senate Majority Leader.

The Senate Majority leader (Sen. Murkomen): Madam Temporary Speaker, I have a Statement on the Business of the Senate for the week commencing---

Sen. Olekina: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): What is your point of order, Sen. Olekina?

The Senate Majority leader (Sen. Murkomen): I am not out of order in any way!

(Laughter)

Sen. Olekina: You do not have to be out of order yourself.

Madam Temporary Speaker, I have a request. I had a Statement that was due to be given by---

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Sen. Olekina! Please, resume your seat. I called out twice, which is our tradition. I am sorry; you were outside that door.

(Sen. Olekina spoke off record)

Yes, but normally our tradition and practice is that the Statement should be read when you are here, because you were the first person to give a supplementary question. I would, therefore, like to persuade you; so that we do not rewind our HANSARD reporting, because we have gone past that Order. We will, however, prioritize your Statement in the next sitting.

Thank you.

Proceed, Majority Leader.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 11TH SEPTEMBER, 2018

The Senate Majority leader (Sen. Murkomen): Hon. Senators, pursuant to Standing Order 46(2)(c), I hereby present to the Senate the Business of the House for the coming week.

Pursuant to the Senate Calendar adopted by the Senate on 20th February, 2018, the Senate will proceed on a 30-day recess on the rise of the House today, 9th August, 2018, until Monday, 10th September, 2018. In this regard, the senate will resume its sittings on Tuesday, 11th September, 2018, on the day the Senate Business Committee (SBC) will meet to schedule the Business of the House for the week.

Subject to further direction by the SBC, the Senate will, on Tuesday, 11th September, 2018, continue with consideration of Business that will not be concluded in today's Order Paper and any other Business scheduled by the SBC. On Wednesday, 12th September, 2018, and on Thursday, 13th September, 2018, the Senate will consider the Business that will not have been concluded on Tuesday and any other Business scheduled by the SBC.

Hon. Senators, the following Bills are at the Second Reading stage:-

- (1) The Local Content Bill (Senate Bills No.10 of 2018);
 - (2) The Physical Planning Bill (National Assembly Bills No.34 of 2017);
 - (3) The Irrigation Bill (National Assembly Bills No.46 of 2017); and,
 - (4) The Kenya Roads Bill (National Assembly BillsNo.47 of 2017).
- Additionally, there are Bills due for consideration at the Committee of the Whole, which the SBC will schedule accordingly. These are:-
- (5) The Food Security Bill (Senate Bills No.12 of 2017);
 - (6) The County Boundaries Bill (Senate Bills No.6 of 2017);
 - (7) The County Governments Retirement Scheme Bill (Senate Bills No.6 of 2018);
 - (8) The Office of the Country Printer Bill (Senate Bills No.7 of 2018);
 - (9) The Office of the County Attorney Bill (Senate Bills No.3 of 2018);
 - (10) The Public Participation Bill (Senate Bills No.4 of 2018);
 - (11) The Disaster Risk Management Bill (Senate Bills No.8 of 2018);
 - (12) The Retirement Benefits (Deputy President and Designated State Officers)(Amendment) Bill (Senate Bills No.2 of 2018)l
 - (13) The County Statistics Bill (Senate Bills No.9 of 18);
 - (14) The Salaries and Remuneration Commission (Amendment) Bill (Senate Bills No.12 of 2018); and,
 - (15) The County Governments (Amendment) Bill (Senate Bills No.13 of 2018).

I urge standing Committees which are yet to conclude deliberations on the Bills and Petitions before them to use the recess period to expedite their consideration and submit reports within the requisite time to enable the House to dispense with the Business.

Madam Temporary Speaker, let me also take this chance to remind hon. Senators that upon our return from the recess, the House shall hold its sittings in Uasin Gishu County. I request all Senators to reflect on this important event, which is not only unprecedented, but also provides an immeasurable opportunity to further strengthen the indispensable link between the Senate and county governments. This is a rallying call for us to seize the moment to, among others, end with finality the debate on whether or not we need the Senate.

Finally, Madam Temporary Speaker, I take this opportunity to wish colleagues fruitful engagements in the counties during the recess. I want to lay emphasis on two things: one, that Committee Chairs need to take leadership and provide reports, particularly concerning Bills, on time. We are all aware that many of the debates on very important Bills at the Second Reading stage have been postponed several times because of the work of the Committees.

I, therefore, urge Chairpersons of Committees to take their jobs seriously, particularly because they are from the Majority side. I will be speaking to all the Chairpersons again individually. I am sure that the Speaker has raised the same issue in the Liaison Committee. We need Committees to take their work seriously and to bring reports – not just generic ones – but those that solidly address the necessary comments and amendments related to Bills.

Secondly, Madam Temporary Speaker, we have a unique opportunity for the Senate to sit in Uasin Gishu County after the recess. The SBC is going to schedule very interesting Business for purposes of that debate. I urge the people of Uasin Gishu County and the North Rift that this will also be a good opportunity for them to attend the sessions.

I am confident that Madam Temporary Speaker will take the lead in mobilising stakeholders in that region and reminding them that they now have an opportunity; and that they do not need to come to the Senate because the Senate has gone to them. That has never happened since 1963; Parliament has not sat outside Nairobi and Sen. Orengo can correct me if I am wrong, because he has been here for over 30 years.

I do not think that Parliament has ever gone out of Nairobi; this is, therefore, historic. I believe that it will be very exciting to see Parliament debating in Eldoret; and then soon move to Kisumu and then to Mombasa. It is very exciting that before the end of our term, perhaps we will have gone to five or six counties and we will enjoy doing so.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Prof. Kamar): Hon. Senators, we are now moving to the Supplementary Order Paper, which has been circulated and is on your screens.

Next Order!

BILL*Second Reading*THE ENERGY BILL (NATIONAL ASSEMBLY
BILLS NO. 50 OF 2017)

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I beg to move that the Energy Bill (National Assembly Bills No. 50 of 2017) be now read a Second Time.

This is an important Bill. My colleagues who were in the last Parliament will remember that we debated, made amendments and passed this Bill. It was presented to the President for presidential assent and there were protracted negotiations when it was returned back to Parliament by the President. The Bill lapsed with the last Parliament and it had to be introduced afresh.

What will interest many Senators is that, unlike many other Bills, this Bill has been published with the amendments that the Senate and the National Assembly made in the last Parliament, including the issues that were raised by Members in the last Parliament. Wisdom has it that we grow from one stage of knowledge to another. Perhaps, because time has changed, new ideas could have come up. So, Parliament is in order, in its wisdom, to consider the Bill afresh and incorporate the concerns that have come from members of the public.

As I go to the details of this Bill, although I cannot exhaust them and most of the Members will raise various issues, I want to mention a few things that this Bill is talking about. If you read the Fourth Schedule of the Constitution, Part 1 talks of energy as a function of the national Government. Part 2 of the Fourth Schedule provides that electricity and gas reticulation and energy regulation is a function of the county governments. I have seen some counties struggling to explain why they should have their own rural electrification or an agency that deals with regulation of energy. Some even complain that they have not been given the power to regulate.

One of the issues that almost led to the impeachment of the Governor for Kericho County was the solar energy. There was a public/private partnership agreement that was considered to be fraudulent. In the first term of county governments, many counties were fighting to have the opportunity to generate energy for themselves. People felt that they were being let down by companies that deal with energy regulation like the Kenya Power Company and the Rural Electrification Authority and so on.

Sen. Shiyonga: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Prof. Kamar): What is your point of order, Sen. Shiyonga?

Sen. Shiyonga: On a point of order, Madam Temporary Speaker. We were expecting to discuss the Ruaraka Land Report, but I do not see it on the Order Paper.

The Temporary Speaker (Prof. Kamar): Hon. Senator, I thought that the Senate Majority Leader was out of order when you stood up. Members, the Supplementary Order Paper is before us. If anything is not on the Order Paper, it means that the Senate

Business Committee (SBC) did not list it. It is important the SBC concurs and lists it before it comes to the House. So, it should not worry us when it will be listed, because it must be listed by the SBC.

Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, Sen. Naomi Shiyonga is a distinguished Senator in this House. With utmost respect, I thought that I was out of order. I want to take this opportunity to apologise to Sen. Shiyonga because, yesterday, when we were amending the Motion related to the membership of the *Ad Hoc* Committee which you co-sponsored, I hurriedly consulted with Sen. M. Kajwang' and amended the Order Paper. Maybe, we should have gone further and consulted with Senator Shiyonga.

Sen. Naomi Shiyonga is not in that Committee because she is not qualified; she is extremely competent. In fact, she is a maize farmer of distinguished standards. It is only that we were doing regional balancing. So, when she stood on a point of order, I was a little bit worried that she might raise that issue. I want to apologise to her, just in case she will stand again on any other issue. Whereas she has raised an important issue of Ruaraka land, you have dealt with it accordingly. We are all waiting anxiously for the day we shall have an opportunity to dissect that important Report.

The Constitution gives energy issues to both the national Government and county governments. Energy is in the domain of what we call concurrent functions; it is not exclusive to the national Government. The provisions of this law open doors and make it possible for county governments to engage on energy reticulation and energy generation.

I thank God that energy generation is no longer in the purview of only Government agencies; it is also possible for private entities to do so. Secondly, generation of energy is not an expensive venture to those who are able to deal with hydropower energy. As I will be mentioning in this Bill, people will realize that energy can come from wind, solar and biomass, which you can generate from your animal farm.

We should remember that the Constitution says that all laws that existed before 2010 must be brought into conformity with the Constitution. Therefore, the main objective of this Bill is to ensure the management of energy in the country is within the confines of the Constitution.

Part II of this Bill talks about the energy policy and integrated energy plan. As a county, it is important that when we engage in any business that is related to the management of the country, there must be a guiding policy. Of late, we have been discussing about the Big Four Agenda. Some people call it "the Big Four" and if they do not add the word "Agenda," you would think that it is the big five animals minus one. My friend was joking the other day that it could be the big five animals minus the rhinos. This was in relation to the debate on the management of rhinos in this county. We will come to that at the opportune time.

The Chair of the Committee, Sen. Kibiru, should be investigating that matter by now in order to come up with a serious report of the Senate that can be compared to the Solai Dam tragedy Report, the Ruaraka Land Report and many other landmark reports, including Sen. Murkomen's Report on constitutional amendments in this House. These

are things that we must invest a lot of effort in, including your Committee's Report on maize. It must be a report that gives solutions to the problems.

My point is that in the past we used to make laws without policies or decisions without policy positions. When a national Government official makes any pronouncement on any issue, us Kenyans must know; whether it is the President, the Deputy President or a Cabinet Secretary, every day, they say something to the public. There must be a policy position that is known to the people of Kenya. In fact, the Constitution says that when the President or Government official makes pronouncements, particularly, the spokesperson of the Government that must be documented in Government policy.

This is because it must be something that binds the people in leadership. The only way you can bind the people in leadership is to have policy positions on all issues. That is why there is something called manifesto. Manifestos are used for campaigns. They are pledges which are translated into national policies that can be implemented.

Madam Temporary Speaker, this is an area that this country is not doing well in yet; the part of following through its policies and the path of conversing on the issues that have been agreed on by the people of Kenya. We have Vision 2030. Even as we have a conversation about the five-year Medium Term Plans (MTP) or Short Term Plans, we must not lose track of the position of the Vision 2030. All Government departments should be reminded that, as they speak about the short-term policies, say, the Big Four Agenda and other agendas, they must not lose track of our Vision 2030.

In the same way, if you are discussing matters of energy, we must look at it and say; "this Cabinet Secretary is acting under whose directions and what is he or she implementing? He or she is implementing the Government policy." It must be something that each one of us can read and say; "this is the Government policy on energy." Therefore, this Bill says that the Cabinet Secretary shall – not may – in consultation with the relevant stakeholders, develop and publish the National Energy Policy which shall be reviewed every five years. The reason why five years is important is because it can coincide with another Government coming into office.

It is important for us to have a policy on every issue that is related to energy. That policy is accompanied by a county energy plan. It is expected, under this law, that every county will have its own county energy plan. That plan should be collated and consolidated with the office of the Cabinet Secretary at the national level so that it forms an integrated energy plan at the national level. These energy plans will, in the first place, take into account the Energy Policy. So, you have a plan and the main policy itself.

I participated in coming up with the Devolution Policy. The Devolution Policy was such an important document that we developed when I served in the taskforce on devolved government. Madam Temporary Speaker, you were a Member of Parliament (MP) in the Tenth Parliament when we were passing devolution related laws. Those six laws that we passed; the Intergovernmental Relations Act, the County Government Act, the Urban Areas and Cities Act, *et cetera*, have become so important in implementation of devolution in this country.

How did we pluck those laws? We first developed a policy position on all those issues and up to now, the document we developed, that is, the report of the taskforce on

devolved government and its draft policy that was provided, is still guiding this country on implementation of matters of devolution. Even where we have made amendments, the guiding principle in that document is still very important.

Therefore, even as we have these other plans; the County Energy Plan and the Integrated Energy Plan, it is important that it takes into consideration the policy. This will bring to an end the roadside declarations or situations where a Cabinet Secretary comes into office and disregards positions that have already been put in place. It will also enable us to track the performance of a Cabinet Secretary and a Ministry, particularly, in a very important area such as energy.

The complaints that people of Kenya have – I did not want to make that contribution earlier on, when Sen. Khaniri talked about it because I knew I was going to have this opportunity to talk on this issue under this Bill – about the tariffs, billing, energy generation, the cost of energy in this country and cartels capture on the energy sector are emanating from the absence of clear policy positions that can be tracked by the people of Kenya. They are also due to the absence of guiding principles and institutions that can be properly held accountable in so far as regulation of energy is concerned.

Madam Temporary Speaker, this Bill creates an obligation on the part of the Government to facilitate provision of affordable energy service to all persons in Kenya under Section 7 of the Act. Therefore, it is the duty of the national or county governments to ensure that supply of energy is received everywhere and that the principle of fairness applies. This is enforceable because it is a legal duty on the part of Government to ensure that energy is all over the country.

We should not have situations where if the President is elected by the majority of the votes from a given area, the Cabinet Secretary or the Chairman of the Committee comes from a given area or the railway passes through Makueni County and does not pass through Elgeyo Marakwet County, that those particular areas or counties will benefit because of those facts, but not the others.

The reason why we are having urban areas in the country now and what we call high potential areas, as was enunciated by the late Hon. Tom Mboya in the Sessional Paper No.10, was because high potential areas were just areas around the railway line. There is no magic why there is greater development around the railway in terms of infrastructure and many other things. However, now, everywhere in Kenya is a high potential area.

The other day I was in California. Let me just digress a little bit. I was surprised on how, for example, Los Angeles is an extremely developed city, but it is a desert. If they are lucky to have rain, it can only happen twice or thrice in a year. Look how developed Beverly Hills, Hollywood and all those other areas we watch in our movies since 1800s are. Every day we look at movie stars and want to see where they live and where their houses are. They live in a desert.

Those areas would have been called, in this country, low potential areas. There is no difference between Wajir and other parts of the country. In fact, it rains several times in Wajir County. There is even no part of this country that it does not rain. That part is just like some desert in Sudan or Egypt, but extremely developed because there is nothing like low potential. It is about applying knowledge, purpose and energy.

The debate, now, in the United States of America (USA) around the fire in California--- I saw the President of the USA tweeting about it and complaining about the water use and absence of water sources and so forth. The point I am just raising here is to say that it is important for us to ensure that everywhere in the country is developed fairly.

If you look at legislations in this country, we have extremely detailed laws. If you look at the Bomas Draft, particularly the report of the Constitution of Kenya Review Commission (CKRC), it was bulky. I had the opportunity to serve in that CKRC as an Assistant Programmes Officer. Kenyans wanted to legislate on everything. We completely mistrust the Government in this country.

That is why we must put in place a detailed legislation like this; that everywhere in the country must be developed fairly because we do not trust each other. It should have been common sense. However, in this country, for the time being, we have realised that common sense is not common. Therefore, it is important to put a legislative position that will ensure that fair development of energy in every sector is achieved.

The third issue is about investment. I was expecting the Chairperson of the Standing Committee on Energy to even raise this issue. Investment in this country has become extremely expensive.

Madam Temporary Speaker, in the Standard Gauge Railway (SGR) project, a lot of money was wasted on useless acquisition of land that was choreographed because speculators rushed to buy it. In fact, an equivalent of insider trading should be established on matters of investments. This is because you find that somebody in Government realizes that the manifesto of the Government of the day is to develop a railway line. He then has an opportunity to work with the Ministry of Roads or Infrastructure to know that the railway line will pass through a particular area. In fact, he has the opportunity to know the drawings from the contractor.

The moment they know that a road or railway will be built or electricity will be generated from that area, speculators working with people who have inside information about Government projects rush to buy property along that line. They then wait for the day that that project will begin. The moment there is a ground breaking ceremony, they go and prepare themselves to go for holiday because a property that they bought at Kshs20,000 from a poor farmer in Kibwezi or Kshs50,000 from a poor famer in Taita Taveta County, will now sell to the Government of Kenya for Kshs1 to Kshs2 billion.

There was an investigation that was going on and I thought Sen. Mutula Kilonzo Jnr. had petitioned this House about investigation of SGR and how much was spent on land. I wish that information could be put in the public domain. I suppose more than Kshs50 billion was used on land compensation alone.

The reason why the energy cost is now so high and why we have not achieved what was promised by this Government in so far as increase of energy to 5,000 megawatts, is because the Government is already paying millions of money to the investor every month for the line from Loiyangalani to Nairobi County. At the same time, we are not consuming the energy because some people on the way started putting land at very high cost. In some places, people were demanding Kshs1 million for every *manyatta* or just more for a house which was built at Kshs20,000.

Madam Temporary Speaker, this law says that there must be formulation of guidelines in collaboration with relevant county agencies on the development of energy projects and to disseminate the guidelines among potential investors. One of the reasons why investors are running away from this Republic is because of the cost of land which has become a big problem. When we come to the next Bill on physical planning which I will move in the next Session, it says that the cost of land across the country must be determined beforehand, so that we curtail this problem. This is important in so far as investment of energy is concerned.

Clause 3 of this Bill makes a very important provision as it establishes the Energy Petroleum Regulatory Authority (EPRA), which is called “the Authority”. This Authority which is a corporate body has been established to regulate the energy sector and perform about 33 functions. I will mention a few of them. One of them is to regulate matters of generation, importation, exportation, transmission, distribution, supply and use of electricity, with the exception of licensing of nuclear facilities. This is because the nuclear issue is a bit special so, it is left to the nuclear agency.

Madam Temporary Speaker, the Authority will also look into issues of importation, refining, exportation, transportation, storage and sale of petroleum and petroleum products with the exception of crude oil because that is also a specialized area. Production, conversion, distribution, supply, marketing and use of renewable energy are also provided for.

Another function is to regulate, monitor and supervise upstream petroleum operations in Kenya in accordance with the law. The Authority is also tasked to provide information and statistics in relation to upstream petroleum operations in Kenya to the Cabinet Secretary (CS) responsible for matters relating to petroleum as may be required from time to time. The Authority will also receive, review and grant an application for non-exclusive exploration. It will also inspect and test machinery or equipment that has been used, is used or shall be used in the upstream petroleum operations.

There are so many functions including verifying the recoverable cost of oil and gas due to the parties to a petroleum agreement, and auditing of contractors for cost of recovery. Some contractors make money by hiding the cost of recovery when they have invested in the energy sector and then use that opportunity to fleece money from the public.

The enforcement on matters of environmental, health, safety and quality standards of upstream petroleum is extremely important. It also includes matters to do with transport of petroleum products and so forth. Let me dwell there a little bit. People must know that whereas it is important to invest in energy, the debate must not just be obsessed about getting affordable energy. Affordability of energy must also consider the fact of sustainable development which is the ability to meet the interests and needs of the people of the present generation but having the future generation in mind.

We must not destroy our environment in the name of wanting to have coal petroleum and other kinds of energy. We must have in mind the very important fact that development is not just about having electricity in our houses; it is also having good air to breath and having a healthy population. That is why even the global debate now on energy is about renewable and clean energy that can protect the health of the people and

also the interests of future generations, making the earth a better place to live. That is why the use of hydro power is being reduced and more clean energy like solar and wind energy is being encouraged, including geothermal energy which contributes less to global warming.

We cannot fight science. It makes it clear and shows that if you give the earth positive things, you will get positive results. If you plant trees, you will get a good environment and it will also hit us badly if we destroy it because the environment and the earth have nothing to lose. It is the inhabitants who have something to lose. We cannot be that selfish to destroy the earth even when we know that our children and future generations depend on a good environment for survival.

Madam Temporary Speaker, I erroneously said that there are 33 functions but they are 43 that have been listed for this important agency. I do not want to read all of them.

The Authority has also been given powers to deal with matters to do with issuance of licenses, review of contracts and tariffs and charges. If this Authority was there, Kenyans do not need to worry because it is different from the generating companies. So, Kenya Power will be the one providing energy, reticulation and provision of energy to houses and billing us. All complaints related to how Kenyans are being fleeced of their money by poor meters and billing by the energy companies will now be dealt with because we will have an independent agency that Kenyans can complain to.

In the absence of that authority, no one will check the functions of those institutions. In fact, the law says that this authority must work closely with other agencies such as the Kenya Accreditation Service (KENAS) to ensure that laboratories are accredited.

There has been the sugar debate in the other House to determine whether it was tested by the Kenya Bureau of Standards (KEBS). Such an issue will be dealt with when it comes to energy because we will have a regulatory authority that will consult the KEBS and KENAS before getting back to Kenyans.

We are at a level where Kenyans can present petitions and where the institution of Parliament can work with them to find out what is happening. What I like about the Authority is that there will be a clear separation of powers between those who generate energy, those who regulate energy and those who do the billing. This is important because it will ensure that there is accountability through separation of powers.

We have so many other powers that the authority will have including inspection; issuing of orders and directions; formulating and reviewing environmental and health standards; dealing with matters of purchasing of contracts and reviewing purchasing of contracts. We have a problem at the moment because Kenya Power and KenGen are the ones that award contracts. We will have an agency whose responsibility will be to review those contracts so that Kenyans do not lose money through conflict of interest of institutions that have the power to give the contracts and at the same time are expected to regulate themselves.

There are other normal provisions just like others where we will have a board, the director-general, the secretariat. These are issues that are already known to Members and I do not want to overemphasize that.

This Bill also establishes the Energy and Petroleum Tribunal. This is the body whose responsibility will be to determine disputes and appeals in accordance with the Act and this is important. The first point of reference for an aggrieved member of the public on matters of energy will be to go to the regulatory authority and complain; for example if they are billed a lot of money, if there is a lot of wastage of public resources, if there are fake contracts or if contracts have been inflated for purposes of enriching certain individuals. If you have a complaint about, for example, how you have been billed and you feel that the regulatory authority did not address the issue, the next stage will be to go to the tribunal.

I guess this will be one of the busiest tribunals because of the issues that are so dear to Kenyans on matters of energy. That shows how important energy is in this country and that is why the chairperson of the tribunal must be a person who is qualified to be a judge of the High Court. That means that it must be a person who has been an advocate of the Republic of Kenya for more than 10 years. The tribunal will also have other members. As I said, the work of the tribunal will be to deal with complaints and appeals that went to the agency.

Madam Temporary Speaker, I would also like to talk about the issue of renewable energy. This Bill also provides for Rural Electrification and Renewable Energy Corporation. That is a combination of both the Rural Electrification Authority (REA) that we have at the moment under the Energy Act and the renewable energy sector. Again, this is an entity that is established under the law.

Its function will be, among others, to manage matters of rural electrification programme with a Fund that has been established under this Bill; develop and update rural electrification master plans in consultation with county governments; support the establishment of energy centres in counties; establish framework for collaboration with county governments in the discharge of its mandate; undertake on-farm and on-station demonstration of wood-fuel species, seedling production and management; and undertake feasibility studies and maintain data with a view to availing the same to developers of renewable energy resources.

We are opening up the energy sector to private investment. Therefore, it is important that there are certain standards that can be applied by those who want to invest. We should give them data and information on the possible areas of investment. For example, a research can be done in Kerio Valley or Elgeyo-Marakwet County to determine the amount of solar energy that can be tapped. With that information, an investor will tell if they will have a return on their investment if they invest there.

The Bill also provides for standards of dealing with bi-ethanol, charcoal, fuel, biogas, municipal waste and solar. When people see that there is too much waste in Nairobi, an investor sees energy because you can turn waste into energy. I am glad that Nairobi City County Government is working on a programme with investors on a Private-Public Partnership (PPP) to invest in energy and at the same time recycle and deal with waste that has become a big problem in Nairobi.

The REA also has the responsibility of coordinating research on development and dissemination of appropriate renewable energy technologies and providing an enabling environment for efficient and sustainable production and conversion of energy.

If there is an area which I really think that we can employ so many Kenyans, it is the energy sector. I read somewhere that people who want to be rich should not start by saying that they want to do something to become rich. The best way is to know the human problems in the world that we live in. One of the biggest problems that we have in this country is energy. If the problem is energy, you need to find out how you can provide cheap and efficient energy as a solution to the problem that affects the people of Kenya. You can decide to invest in solar power. In the process of solving that problem, you will make money and employ many people. As we talk about employment for our youth, this is one area that the potential in the Kenyan youth can be applied.

I think tonight the Cable News Network (CNN) will be running a story about biogas in Kenya. I saw one young person, whom I do not think is even 30 years old, being interviewed on the same. He has a company somewhere in Murang'a where they use animal waste to generate energy for lighting and cooking in homesteads. If we get the opportunity, it is important to watch that documentary that will be aired by CNN under a programme which I have forgotten the name. We should encourage so many youths in this country to turn to biogas to generate energy for homesteads. As we do so to solve problems, we may create employment and billionaires in this country.

It is possible to become rich in this country in the right way and there is nothing wrong with that. Kenyans are reacting to the issue of corruption to the extent that they demonize being rich, owning wealth and creation of wealth. There is nothing wrong with being rich. In fact, being rich is biblical. The Bible says blessed are those who give more than those who receive. You cannot give if you do not have anything.

Luke 6:38 in the Bible says:-

“Give, and it will be given to you. A good measure, pressed down, shaken together, and running over will be poured into your lap. For with the measure you use, it will be measured back to you.”

Therefore, there is nothing wrong with being rich. The thing that Kenyans are condemning is to be rich at the expense of others by riding on others or stealing from others. If we want to create wealth for our people and improve their lifestyles, then this investment in the energy sector is extremely important.

We should encourage as many young people as possible to invest in this sector and ensure that they have the opportunities to sell that power. We now have a regulation agency and a tribunal where you can complain. We now have an opportunity to generate energy and sell it to the Kenya power (KP). We do not have to wait for the Kenya Electricity Generating Company Limited (Kengen) to generate energy for the country because we can now have small private investors having their own power generating entities.

Madam Temporary Speaker, this is the liberalization that should be put in place. If you go to developed countries you will find somebody having a small solar panel at some corner and another one has wind power using one turbine in his land. It looks beautiful. If you go to Holland, you will find that in most of those fields, people are generating energy, using it in their own farms to pump water, for agriculture and then selling energy to other people who do not have power; they even sell to the national grid.

Therefore, you can now even sell energy to KP as a Kenyan because you have an opportunity to invest in the good regulatory environment supported by the law. I hope that the people who will man these institutions will ensure that Kenyans will enjoy this right to the business environment that they have as a country and give them a return on their investment.

Madam Temporary Speaker, we also have the establishment of the Nuclear Power Energy Agency (NPEA). At the moment, we have an agency in place, but it has not been established by an Act of Parliament. This law now puts in place the NPEA, which is an institution that deals with matters nuclear power, including implementing, organising and promoting the development of nuclear electricity generation in Kenya. It is also mandated with carrying out research, development and dissemination activities in the energy and nuclear power sector.

This is the institution that will deal with policy framework on issues to do with nuclear power policies and legislation because this is a very specialised and also controversial area globally. It is controversial because you can use it to generate power, but other people can also use it to create weapons that can destroy the world.

Madam Temporary Speaker, I was watching a documentary the other day about Hiroshima, and it was such a disastrous issue. I do not know how President Truman felt after giving such an order that had such devastating effects. Of course, it was the Japanese who started the war, but after Hiroshima, the world felt that we needed to regulate the nuclear sector. That is why it is important to have every agency in the country. It is important that we have a regulation agency dealing with research and linkage between industries if you want to use nuclear power for purpose of electricity and medical related issues.

Madam Temporary Speaker, one of the things that we have not developed well as a country and which we need to deal with is the link between our universities and industry. This Bill states that the agency will find a way of collaborating between the academia and investors in nuclear power. The first place where developed countries go to look for solutions for issues affecting the Nation is the university. In fact, many legislators in developed countries walk around with research papers from various universities, often quoting them on the Floor of their parliaments because they take universities seriously. If you go to the United States of America (USA), for example, somebody is always carrying a paper from Harvard University, Stanford University, New York University or any of those universities.

Therefore, Madam Temporary Speaker, there is a missing link. It is not that we have no people in our universities who have the capacity to generate knowledge. The problem is that we have delinked ourselves completely; we look at the universities as a separate entity from the market, the legislature and policy makers. Sometimes the professors in universities do a lot of work, but this remains in the shelves of the universities. You know that, Madam Temporary Speaker; you were both a Professor and also a manager in the university.

If we want to change this country, it is important for us to start showing publicly the link between our universities and the industries. This Bill says that, that link is going to be sought through this agency. Even as an overall policy position, if there is something

that needs to be amplified is the link between our universities, institutions of higher learning and the market.

Doing that will enable us to give an opportunity so that by the time someone is a second year civil engineering student, he will not have to study for five years without having a link with any industry or having participated in dealing with new technology, innovations or new ways of doing things. It is important that we create that link. If you see successful countries, be it China, USA, Russia or in Europe, it is about the good link between universities, the private sector and the industries.

Madam Temporary Speaker, that is about the nuclear energy. I will also point out something about Part IV of the Bill which deals with renewable energy. This Bill states that:-

“All unexploited renewal energy resources under or in any land vests in the National Government.”

That is the law and that is the Constitution. These natural resources can be turned into energy, which includes the various forms of energy like biomass, biodiesel, bioethanol, charcoal, fuel wood, solar, wind power, tidal waves, hydropower, biogas and municipal waste as we discussed. All these can be used to generate renewable energy. This is the sector that needs to be promoted because, as I said earlier, it is friendly to the environment.

Madam Temporary Speaker, the Bill proposes the establishment of a Renewable Energy Resource Advisory Committee, composed of the Principal Secretary in the Ministry of Energy or his or her representative, who shall be the Chairperson; the Chief Executive officer of the corporation or his or her representative, who shall be the Secretary; the Managing Director of the Geothermal Development Company (GDC) Limited or his or her representative; the Managing Director of the Kenya Electricity Generation Company (KENGEN) or his or her representative; the Attorney-General or his or her representative; the Principal Secretary of the National Treasury or his or her representative and the Principal Secretary responsible for matters relating to natural resources or his or her representative. The Committee will perform advisory work in matters related to renewable energy.

Madam Temporary Speaker, in so far as geothermal resource is concerned, the GDC has been retained as an existing agency. There is a provision related to authorisation, licensing of the renewable energy, the role of the Cabinet Secretary and the Authority in ensuring that those licenses have been oversights. I do not wish to say more because we must have an opportunity for as many hon. Members as possible to contribute to this very important Bill.

Madam Temporary Speaker, I want to briefly comment on the requirements for electrical energy licensing, which has become extremely controversial. As I said earlier, it is the work of the authority to ensure that licences that are provided are oversights, the licensing procedure is transparent and the licensing conditions are strictly adhered to. The breach of the licensing provisions and obligations attract penalties, including cancellation of the licence that had been given to the energy investor.

Madam Temporary Speaker, all these issues, including metering of electricity, the cost, the transparent nature of doing the same, public participation and the role of the

oversight authorities that deal with them are extremely important. I can speak continuously on the matters of energy because it is an important sector in this country. However, to enable us to progress and move to the next stage, I would like to conclude by saying that this Bill is a wonderful improvement from what we used to have before. It is a reflection of our constitutional progress.

Therefore, I request hon. Senators to support it, so that we can have a legal framework to manage our energy sector. We will soon come back to the Petroleum Bill, which provides for, in a detailed manner, the management of petroleum extraction and the sharing of revenue, local content issues and other matters of investment in the petroleum sector.

Madam Temporary Speaker, with those many remarks, I would like to move and request the Chair of the Committee to second.

Sen. (Eng.) Maina: Thank you, Madam Temporary Speaker. I rise to second this Bill which seeks to streamline and lay grounds for provision of power in the future. The matter has been interrogated very well by our able Senate Majority Leader. Being a lawyer, he has gone further to add more to the Bill.

I would like to enlighten this House on some of the issues that are being addressed in this Bill. The Bills seeks to streamline energy to be in conformity with the Government's Big Four Agenda. For this country to be industrialized, we must have energy that is affordable and in the right places, including social programmes. If we want to have quality education, we must have energy everywhere.

There are many forms of energy which are covered in the Bill. We have the hydropower that we have always relied on, which has its own challenges. This Bill enumerates ways that will develop other energy sectors, for example, geothermal, wind power, gas and nuclear power. All these forms of energy are covered in the Bill and the administration of the same is done. There is a commission that is envisaged to run the issues of energy in the country, so that everything is synchronized.

Madam Temporary Speaker, this afternoon, a major issue about the cost of energy, which is dear to all of us, came up. Therefore, this Bill gives a bit of flexibility to the rigid system, which mandated Kenya Power to be the only provider of power. It relaxes the system so that Kenyans can venture into and invest in this field.

Madam Temporary Speaker, I appeal to this House that whatever this Bill envisages can only be achieved in the right local political climate. In this regard, Kenya will accrue benefits in a cheaper way if the politics is right. That way, we will reduce the cost of projects by foreign investors who bring money to our country. For example, it has taken two years to connect power from Suswa to the Coast, just because of some local politics in Isinya. I wish my brother, Sen. Olekina, was here. These are the kind of things that contribute to more costs.

Madam Temporary Speaker, there is no doubt that Kenyans are looking forward to having affordable power. However, this will only happen if we have the right political climate and we have local investors who are not looking for big investments. I hope that when this Bill is passed and becomes an Act, there will be modalities to unlock local resources. For example, there is no reason pension funds cannot be invested in energy, rather than us borrowing money, which is expensive.

Madam Temporary Speaker, I second this Bill, which will set the road to industrialization and help to achieve better living for the people of this country. There are many sources of energy that are covered in the Bill which are not yet exploited. Many parts of this country have sunshine. If we are to achieve rural electrification, it will be easier to set up small solar energy projects in respective areas. This will cut down the cost of electrical wiring that covers miles.

For example, if today we were to connect electricity to some village in Marsabit, we would have to connect electric lines that will cover about 300 kilometers. It is easier to go there, fix a solar panel and connect them to power. This is the kind of liberalization provided for in this Bill that will allow various investors to get into this business and generate power in a cheaper way.

Madam Temporary Speaker, this country has a lot of biogas from animal waste. Even the garbage in our towns can be turned into generators of power. That will only be possible if this Bill relaxes the regulations that exist today. It is extremely difficult and laborious to venture into that today.

We also have issues of nuclear power in the Bill. The Senate Majority Leader referred to the tragedies in Hiroshima and Nagasaki. I would advise that we should get into nuclear power cautiously. Nuclear power is not a child's play. During the Second World War, after the bombs were dropped in Hiroshima and Nagasaki, people saw the effect of it.

There are four scientists who designed the nuclear bomb. J. R. Oppen Heimei went to President Truman and told him the world should stop the research on this kind of weapons. After that J. R. Oppen Heimei had to suffer and his citizenship of the United States of America (USA) was revoked and he ended up quite miserable, but his word still remains true.

As we go cautiously and carefully into nuclear power, let us ensure that we take into account all the safety measures. The nuclear power should be coming as a back-up finally when we have exhausted all the other simpler methods of power. All these things are envisaged in the Bill.

The other issue is of unemployment in this country. As you travel in this country and you stop anywhere, there is something that is striking. There is nowhere you can stop in a bus stage and you miss some hundred learned young men who are doing nothing. When energy is provided everywhere and cheaply, these young men will do their own things and contribute greatly to this nation.

At this stage, I am glad that you are somebody who is familiar with education. As Kenyans, we need to relook into our education system. We used to have colleges of technology in this country like the Kenya Polytechnic College and the Mombasa Polytechnic College. Even today in the USA, the Massachusetts Institute of Technology (MIT) which is in Boston is actually called an Institute in Technology. Therefore, the academic line that we are following without emphasizing on technology will not get us to where we want to go.

As we talk of energy, we need electricians. They should not necessarily be degree holders. This country today must come back to where we were. If someone can be trained to make some tools and simple furniture, this is the way this country would

develop. Also, we need to cut down on imports. We have provisional power everywhere and, therefore, with liberalization in the education sector, we should end up creating employment with young people becoming self-employed.

Madam Temporary Speaker, I ask this House to support this Bill because it supports one of the pillars of the Big Four Agenda; which is manufacturing. We will not be industrialized until we have sufficient and affordable energy. Also, we shall not provide education until we have power in this country because most of the learning today is done digitally which requires a lot of power. In addition, I request that we must look more internally to see what potential we can unlock starting with financial.

There is a lot of pension money, I will mention once again, which is used for the development of some buildings and such projects which should be going to industrialization. For example, the USA built the Panama Canal from its own resources. Kenya could learn from this. We have resources which would be cheaper than importing.

With agriculture, this country will develop and get to the level of industrialization that our Government has committed itself to. We must look into how technology can help us to improve agriculture by doing more research. This will require energy. Therefore, the Bill is envisaging unlocking the potential of this country. The Bill is envisaging some kind of control on the diversionary that occurs at times on energy projects. Energy requires a lot of money and this is what this Bill and the Commission that will be in charge of it should get the investors in this country whom may wish to come and feel comfortable. The Mui Basin has been mentioned on this Bill. We all remember about the coal that has been lying in the Mui Basin.

Madam Temporary Speaker, as you all remember during the campaigns, the Nigerian President came with Mr. Aliko Dangote and he was willing to develop the Mui Basin. So, let us create an enabling climate. Today, when you are building anything in Masailand and *manyattas* spring up, then you go to another place and people put up sheds, this will make our projects unnecessarily expensive. Therefore, in this House, I call upon the politicians to create the right climate for what this Bill envisages.

With those words, I second the Bill.

(Question proposed)

Sen. Mwaura: Thank you, Madam Temporary Speaker. I rise to make my comments and support The Energy Bill (National Assembly Bills.No.50 of 2017). This Bill is timely. It has come at a time when many Kenyans are asking questions around their personal consumption of energy in terms of electricity in their homesteads. We have had situations where there are inflated Bills. I believe this House is fairly seized of this matter. We hope with the enactment of this Bill, we will see a more robust energy sector that will open space for more actors so that there is competition and Kenyans will have options with regards to the tariff charges.

Madam Temporary Speaker, it is true that the Constitution has provided for distinctive roles between the national Government and the county governments with regards to energy reticulation and production. If you look at our counties, there are so many small produces, but they find challenges in terms of reduction of cost of

production, especially around rivers. We have tea and coffee factories that sometimes produce more than it is needed. However, there are no proper mechanisms of how they can sell extra energy to the national grid. Of course, there are issues of costing and pricing in that regard.

Madam Temporary Speaker, this Bill provides a very good opportunity to ensure that this is regulated and that such more producers can work with county governments so that they can supply, especially, areas that are off the national grid. It also gives another opportunity for the counties to tax and get some revenue so that they can increase on their on-source revenue projections so that they can develop the various areas of the economies of those counties. In particular, infrastructural development. It will also help in terms of ensuring that we address the economic viabilities of these counties.

This Bill, with regard to ensuring that counties have a role, is to provide Kenyans with an opportunity of increased manufacturing which is part of the Big Four Agenda. Energy is a critical aspect of ensuring that we manufacture our goods and also process our services to increase employment opportunities for, especially, our young people.

Madam Temporary Speaker, in that same regard, there is the opportunity to leverage on renewable energy in particular, biogas. Just yesterday, I was being shown by a gentleman who has used biogas to fuel *tuk tuk*s and, they can function. Biogas can shred animal feeds and pump water from the river to a homestead. I am sure there are many other technologies around that. This is what we need to ensure that Kenyans benefit from, including liquefying that gas to negative eight degrees, so that you can use that in a portable manner to various homesteads.

That then would also mean that we reach areas that were seen to be marginalised before, where there is huge animal rearing and production. We would get a lot of biogas that would fuel the homesteads and the local economies of such areas. This Bill is great if it were to be implemented in totality.

Madam Temporary Speaker, I reckon that this Bill is quite bulky. It requires the concerted effort of the various regimentation of actors so that we can achieve the maximum benefit from the provisions of the law.

Kenya is experiencing a very interesting scenario. Now we have qualified to be oil producers. It means that we need to have an energy law that speaks to this new area of engagement. Recently, we have seen that there have been tensions in the oil fields between the local communities and the producers, Tullow Oil Company. Of course, the early oil project seems to be in limbo as we speak.

Madam Temporary Speaker, this Bill provides us an opportunity to ensure that over and above the petroleum laws, we have clear ways of engagement mechanisms with local communities, so that then, the energy infrastructure, in this case the pipeline and the vehicles that will be used to transport the oil to Mombasa, are well protected. At the core of it is the issue around communities benefiting from their own natural resources.

This is not just a question of Turkana County. We may discover other forms of energy reserves in other counties. For example, at the Mui Basin in Kitui and some oil fields in Migori County as has been reported and the gas reserves in Lamu County around Mkokoni area.

Madam Temporary Speaker, this is why we need to ensure that this law works. At the same time, we have to remember that we are not just a country on its own. We are part of a global community and there is high competition for resources. At the same time, we should ensure that we sustain our development. Kenya participated in the development of the Sustainable Development Goals (SDGs). In fact, I think we were the co-president of the Political Bill under the United Nations (UN). It was led by the then Amb. Macharia Kamau who happens to be the Principal Secretary (PS) at the Ministry of Foreign Affairs.

It is incumbent upon us to ensure that we sustain our development by moving towards green energy. This does not also necessarily mean that because it is becoming a global phenomenon, we slow down on our development. If you look at the development quotient, then Kenya is still a fairly developed country.

Madam Temporary Speaker, the leveraging of this would be in terms of innovations around value addition of the national resources that we have that will produce energy. We have not explored to our benefit the issue of solar energy. That is something that we really need to look at. We have a lot of solar energy.

I was surprised that when you go to London, you can see households with solar panels on top and you wonder how these people get the sunlight which only comes some few months in a year. For example, in Germany, 2 per cent of its energy is from solar. You can imagine how cold it can be in Germany. We have a lot of opportunities to ensure that we tap into renewable energy in terms of solar and wind, so that we can spur the Vision 2030.

Madam Temporary Speaker, the Vision 2030 has got 27 good projects. I believe that they require this Bill to ensure we meet these demands for energy. However, it must also be remembered that there is a serious competition even for our land. As we speak, going forward, Africa has got 60 per cent of arable land. It would also mean that if we were to do our work properly and provide the right kind of energy, then we are the next food basket for the world.

I believe that this Bill will provide a mechanism to ensure that we can do huge plantation agriculture that is commercially viable. Rather than having small parcels of land that do not help our people, but keep them in a poverty trap. We can provide evidence that there is urgency with regard to value addition of our agricultural products.

Madam Temporary Speaker, however, without repeating, we still require that you have enough energy to value add, so that we are not just providing jobs for other economies. Indeed, within the International Labour Organisation (ILO), there is what you call international division of labour. The work of Kenyans and Africans is not to be the people who do the sludge work or the people who go to the trenches to produce raw materials for the other economies.

Madam Temporary Speaker, this Bill is good; let us see it for what it is. We hope that we will not only generate enough energy for our own local consumption, but that it will also serve our neighbors within the East African Community. Just like we have been buying a lot of power from the Uganda Electricity Generation Company Limited, I hope that we can also supply energy to our neighbors in Somalia and other places.

Madam Temporary Speaker, this is not the first time that African governments or we, as a country, have had good policies. Evidence has shown that good policies are not enough, and a good example is the Akosombo Dam in Ghana. This dam has the capacity to produce electricity for the whole of Africa, yet it lies in limbo, and it has not even been able to produce enough electricity for Ghana itself. Therefore, good intentions must be followed through with consistent and sustainable plans. It calls for selflessness among the various actors that are engaged within the parameters of the legislation so that we can provide the best skills for the country.

(Sen. Murkomen) gestured at Sen. Mwaura)

Madam Temporary Speaker, the Majority Leader is asking me to *maliza maliza*, yet he took all the time – I think he took a whole hour – to prosecute this Bill. I am, therefore, kindly asking that he also allows me to finish making my contribution, even though the orange timer light has lit up.

Madam Temporary Speaker, it is passion to ensure that we serve this country that has brought us to this august House. However, corruption is part of the reason why there have been few deliverables in the energy sector. Therefore, even as we look at how we can leverage on our resources, we have to deal with corruption so that Kenyans can have value for their money. When that is done, Kenyans can then enjoy the various goods and services that are supposed to be generated within the energy sector at a cheap cost. If we cannot do so, we are actually reducing our competitiveness.

As I conclude, Madam Temporary Speaker, this is a good Bill which requires us to delve into it. I hope that it will not be subjected to mediation and that we will agree, within the spirit of bicameralism, so that it can be expedited as per the provisions of the Constitution. That way, we will then save Kenyans from the various challenges that we are facing with the Kenya Power Company and other energy actors who have not lived up to the expectations of our national values and principals.

Madam Temporary Speaker, I beg to support.

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker. From the outset, I stand to support this very important Energy Bill, which is very concise and large.

Madam Temporary Speaker, for a long time, most of the provisions that have been discussed in this Bill have probably been in separate Bills. However, this particular Bill seeks to consolidate all the various parts so that everything comes together. It consolidates the laws relating to energy so as to provide for national and county government functions; and to provide for the establishment of powers and functions of all those in the energy sector.

Madam Temporary Speaker, what is impressive about this Bill is that it lays out structures, both at the national and at the county levels, so as to ensure that the whole energy sector is well mainstreamed. Looking through the provisions, it starts with a policy and plan that is clearly stipulated. In fact, the Bill stipulates that as sectorial plans are given, they must be hinged within a particular policy framework. It also looks at the issue of integrated national energy plan so that there is an energy plan at the national

level, which can then be cascaded to the lower levels. It also touches on the monitoring implementation of a National Energy Plan.

Madam Temporary Speaker, for this to be effectively done, various regulatory mechanisms have to be put in place, and this has been adequately done. I will not go through each of the provisions because the format is more or less the same, addressing the key things across the various sectors. For example, if you look at the Energy and Petroleum Regulatory Authority, it is the overall authority that will deal with issues to do with matters energy. It will have a board, the various relevant powers and a Director-General, who is required to have a managerial experience of seven years.

The Director-General is also required to have two years' experience in terms of energy matters; although I think two years is a short time. When we get to the point of making amendments where we are correcting or adding input into this Bill, I would suggest that we have somebody who has more experience for them to understand what goes on in that particular sector.

Madam Temporary Speaker, the Bill also proposes establishment of the Energy and Petroleum Tribunal, the Rural Electrification and Renewable Energy Corporation and the Nuclear Power Energy Agency. Once again in this Bill, stipulation has been made about the headquarters, the board of directors---

(Sen. (Dr.) Zani's microphone went off)

Thank you, Madam Temporary Speaker. The Bill also details how business will be conducted in that particular agency; the delegation of the board, the staff and the remuneration.

Madam Temporary Speaker, the key part, which is critical in this Bill, is the section on renewable energy. We know that it is difficult for any country to develop without renewable energy. Many provisions on how to make renewable energy work for the people have been given over time, but I think that the section has adequately addressed all those issues. For example, it is talking about how to promote renewable energy, the establishment of the Renewable Energy Resource and Advisory Committee, which will be in charge of giving the various proposals that need to be put in place about the resources necessary for renewable energy. Geothermal resources also need to be exploited adequately.

Madam Temporary Speaker, the Bill also touches on downstream coal, which is an area that has been neglected. I remember that as we were discussing natural resources in the 11th Parliament, we noted that this is another important source of energy which has to be put into place. What is key about this Bill is that very clear licensing specifications have been given at all the various stages, including very clear procedures for permits and ways of obtaining them. It is important that these provisions are kept.

Madam Temporary Speaker, Part VI highlights electrical energy in terms of the licensing, electricity generation, distribution of electrical power and rural electrification. When we talk about industrialization and the bastion of a country in terms of actually making a breakthrough, and the so-called "restoration" take-off, it is important that we have rural electrification at that point. This is what is going to free rural areas to enable

them to come up with industries that can use electricity and build up the place. It also makes it possible for people to begin to think about an electrical input-driven agricultural sector, which will make it possible for us to move away from mechanized agriculture to more modern forms of agriculture.

Therefore, Madam Temporary Speaker, without a properly constructed energy sector and without proper legislation in that sector, then we cannot talk about development and take-off. As we know, we have a lot of energy in this country, but most of it has not been fully exploited or sourced. We have not looked for and tapped fully into these resources; and even where they have been tapped, it is done in an *ad hoc* manner. This Bill, therefore, brings a lot of synergy and synchronization into the whole process to ensure that all these issues are put together.

Madam Temporary Speaker, I want to touch a little bit on the miscellaneous provisions. There is a very important component that has been put there, which is the requirement for local content. As we know, this is very critical so that at any one time, any jobs that are available will be done by the qualified Kenyans. This Bill is very clear that any plan that does not have component of local content will not be processed. This will catapult employment within this Country and enable the young people to be part and parcel of this sector. They will join in and meaningfully contribute to the country in a synchronised manner.

Referring quickly to the policy and plan, it is very important to note that the Cabinet Secretary has to consult with the various stakeholders, so that they can publish this National Energy Policy, which will be reviewed every five years. That is good so that we do not have a situation where new ways of doing things and discoveries have been made, but they are not tied up with the policy.

It is also very important that each county government shall develop and submit a county energy plan to the Cabinet Secretary. This will give a lot of work to the counties to go back to their resources, streamline this very clearly and put them out, so that they can be part and parcel of the strategy.

Clause 7(3) says:-

“Without limiting the generality of sub-section (2), the Cabinet Secretary shall develop and implement a fair, transparent and equitable strategy to ensure that all households are connected to a supply of electricity by 2030.”

This is a noble goal that needs to be achieved without shifting any goal posts. The year 2030 is around the corner. With clear strategy and plans, it should be possible for us to attain that particular goal of ensuring that all households by 2030 have a supply of electricity right across the board.

I am just going through some of the clauses about the Authority, which is critical. In this Bill, the appropriation of the work of the Authority has been given. It will come from monies that will be disbursed from the National Assembly in the usual budgetary format. However, one important thing is that the Authority has to implement the powers it has properly and do everything it is expected to do, for example, when it comes to revocation of licenses, review and approval of contracts and setting up of tariffs. It will also get to the point where they have to set, review and adjust electric power tariffs and

tariff structures. All these create a lot of work. In fact, as the Mover of this Motion was moving, he just touched on this. I am just touching on a few because they are very many.

The other one which is important is to formulate, set, enforce and review environmental health safety and quality standards for the energy sector in coordination with other statutory authorities. This is very important. I cannot move away from the issue of ensuring that there is no environmental degradation as a result of energy exploitation. There has to be a methodology in place to plough back from any resource that is available within the counties.

Apart from extracting the energy, it will be very important to ensure that the environment is conserved for the future generations. As we know, when we talk about the environment, we do not talk only about the current one, but also the one for the future generations.

Madam Temporary Speaker, even though you have not yet recognised the visitors in the Gallery - and I think you will shortly - I can see young people there. We want to tell them that any time we deal with the environment, we are thinking about the future generation. Therefore, it is very important to ensure everything has been put into place and is utilised in such a way that it can be kept for the future generations.

I had mentioned the various provisions, but I just want to go to Part IV, which is on the renewable energy. A very specific mandate is being given to the Cabinet Secretary, who shall within 12 months of coming into force, commence a countrywide survey and a resource assessment of all renewable energy sources. This is very commendable because it will be like a mapping of all the areas and looking at the resource assessment, where energy resources can be obtained from. That mapping will give an idea of what energy resources exist in the various places and that can be followed through appropriately.

The Cabinet Secretary will also be responsible for formulating national strategy for coordinating research in renewable energy, providing an enabling framework for efficient and sustainable production, distribution and marketing of the various energy sources such as solar, wind, charcoal, geothermal, municipal waste *et cetera*.

Madam Temporary Speaker, there are countries that have managed to utilise their industrial waste for energy production and they have done very well. I know that at the local level, some people have used biogas and wind and turned them into energy appropriately. We have not had much innovation in this sector as we would probably have at this point. It is possible that with this Bill and the impetus will be put into place there will be more interest about how people can begin to use the various resources.

Madam Temporary Speaker, one of the Members who contributed talked about solar panels. Nowadays in Kenya, many buildings have solar panels installed. Some people set up wind mills, so that they can tap on the wind. Once this is consolidated and well mainstreamed, it will be very important.

At Clause 76, there is to be established an inter-ministerial committee known as the Renewable Energy Resource Advisory Committee. This is important because most times, when initiatives have been put into place, there is a clash. The left hand does not know what the right arm is doing. In my mind, this is an important aspect for coordination. As an inter-ministerial committee, they can cross-check what various

sectors are doing, analyse and move together in the same speed. They will analyse exactly what is happening at various times.

Madam Temporary Speaker, this Bill also gives provisions for penalties for those sections where a person, for example, gives a false statement. Clause 210 says:-

“a person who makes a false Statement or a statement which he has reason to believe is untrue, to the Cabinet Secretary, or to the Authority, committee, agent or an officer acting on behalf of the Authority, as required under this Act, commits an offence and shall, on conviction, be liable to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or both”

That is important because when we have a law that does not have that clear provision for the penalty, people tend sometimes not to adhere to some of the specifications.

Madam Temporary Speaker, again, looking at the miscellaneous provisions, I am impressed with the amount of work that has been put to ensure that the components of the local content are well streamlined in this Bill. Clause 206 clearly gives the local content plan that will be submitted to the Authority. It will ensure that qualified and skilled Kenyans are given first consideration and adequate provision is made for training Kenyans. It also says that without limiting the generality of subsection (3), the local content plan shall include the sub-plans on very important bits, such as employment and training.

With a burst in terms of exploitation of resources in every county, unemployment will be an issue of the past. The local content component, which has been well incubated in this Bill, will ensure that people will come on board and be given training, insurance services, hospitality and security. All these will be very important areas for training.

Last but not least, not only will these provisions be put in place, but the Commission shall enforce monitoring and enforcement of local content in all energy undertakings. It shall oversee, coordinate, manage the development of local content, prepare guidelines, make appropriate recommendations, set minimum requirements, monitoring, audit and enforcement.

Madam Temporary Speaker, this has been a grey area in most of the Bills that I have seen where local content is just given by passing, but no clear elaboration and emphasis is made to ensure that that aspect of local content is put in to place. If this Bill is passed to be an Act of Parliament and its provisions are adhered to, we will have an energy sector that is more coordinated, streamlined, refurbished and keen to ensure that the problems in the energy sector are addressed with the Cabinet Secretary (CS) who will be seized of matter. Therefore, with proper implementation of this Bill when it becomes an Act of Parliament, the problems in the energy sector will be a thing of the past.

I beg to support.

(Interruption of Debate on the Bill)

COMMUNICATION FROM THE CHAIRVISITING DELEGATION FROM MARYLAND ACADEMY
SCHOOL, NANDI COUNTY

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, I have a communication to make before we proceed.

Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon of visiting students and teachers from Maryland Academy School, Nandi County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

Thank you.

(Applause)

(Resumption of debate on the Bill)

Sen. Cheruiyot: Thank you, Madam Temporary Speaker, for giving me this chance. I rise to support this Bill that is before this House for consideration.

I am a Member of the Energy Committee. Having listened earlier to the comments by the Senate Leader Majority that committees need to up their game, a little bit, I agree with him. We, as a Committee, would have done more justice to this House given the voluminous nature of this Bill. We considered it in the traditional way and presented it to this House with a report. Be that as it may, I will make my submissions. We appreciate that things need to be done in a better way.

This afternoon, many Senators had a challenge going through such a huge document in a short period. Given the challenge that we face nowadays of urgency, especially with the Government Bills, I appeal to the Senate Majority Leader to prioritise them so that we debate and send them to the National Assembly.

Be that as it may, this is a good Bill. Many of our laws in this sector are now archaic and not in consonance with the provisions of the 2010 Constitution of Kenya. Therefore, the provisions of this Bill are commendable. I appreciate it because it adds value. However, as an enthusiast and a reader of matters energy, it falls a little bit short of what is expected in terms of its posterity standing and in view of the future where the world is moving in terms of the energy space.

I feel that there is extremely a lot that will be expected of us, as a legislative body of this country. I will be sharing many of my thoughts later when we retreat to our Committee to consider the requests that would have been made by Members in terms of amendments to the clauses.

I feel we need to include some provisions in this Bill to give it a more global standing. The beauty about it is that, it brings us up to the year 2018 where the world is on how to do our laws in terms of local content and who is to manage the energy

resources. This is a good thing. However, many times, us, as legislators, do not have a holistic view of issues where the world is moving towards when we are considering laws that are brought before us.

Madam Temporary Speaker, I will speak to a few issues that, I hope, we can consider. First, I commend the fact that renewable energy has been given more prominence in this Bill because this is where the world is moving to. For example, countries like Ireland, Costa Rica, Nicaragua and the United Kingdom are challenging each other to make sure that by the year 2040, they become 100 per cent renewable energy. I do not think that there is anything that stops us, as a country, to do so. The fact that we are an African nation should not be used as an excuse for us not to join this race. Therefore, when I see the kind of protection that is given to, for example, the geothermal space given the knowledge resources that we have in that space, I am impressed.

In the past, in the law that has been used, the Cabinet Secretary had freedom to issue licenses to people that have expertise in geothermal energy space. In this town, for example, you will meet people claiming that they are in the energy business yet all they are doing is hawking licenses that they have been given of five to ten years. They have not scratched the surface. They do not understand how the industry operates. They do not have the resources to explore so that we can feed cheap and affordable power to our national grid.

Madam Temporary Speaker, clauses 73 to 90 of this Bill give the penalties that will be meted out on people, it gives the procedures to follow when you are denied the licence and the avenues you are supposed to take before a tribunal. If you are not satisfied you can go to the High Court. This is commendable.

It is my sincere hope that we will put our act together on how we manage geothermal energy in this country. It is a fact that when the Geothermal Development Company (GDC) that is existent in the current regime was introduced, if you read through many of our budget cycles, it was one of the well-funded Government parastatals. However, in the last two or three years, after the scandals that we read about, they are only given funds for recurrent expenditure and nothing for development. This is because of how the resources that they were given prior to that period were used – or should I say – misused.

Some of the questions that bothered me even when I kept on reading this Bill are why we cannot take the route, for example, that we used with Kenya Electricity Generating Company Limited (KenGen) which is one of the best performing *quasi* parastatals. In KenGen, the Government is being properly represented and also some Kenyans, in their own private capacity, own shares in that particular company. That gives you the kind of vigilance that is not received in the other parastatals. It is not the work of the Government to do business. It is the work of Government to provide a good atmosphere for people to do business.

Therefore, for KenGen, for example, to have succeeded, it is because private eyes are introduced besides the Government having a position at the Board. Therefore, for every particular transaction that the company enters into, they know that they have shareholders to protect. The leaders that are put in office to take care of the company do that on a daily basis. When they report to work, they know very well that if they do not

generate a profit at the end of the year, then they will be out of job. It will be my proposal later on because I have seen many authorities such as the Energy and Petroleum Authority that are being proposed within.

Time has come where we must become radical in our thinking and wonder about this obsession that the Government has with running and maintaining certain sectors when, clearly, you can see that they do not have the expertise. Let us open up and let Kenyans own their country. There is absolutely nothing wrong with it. KenGen is holding on Kenyans who have bought shares in that company.

So, I do not understand why when you are forming these authorities, we want to consider and say that Government--- When you see the representation that is being given there, I would have even expected they say that, for example, in the Energy and Petroleum Authority, the representatives that should include the Principal Secretary, a representative from Geothermal Development Company (GDC), *et cetera*. Where are the representatives, for example, of consumers? Where are the Kenya Private Sector Alliance (KEPSA) and the Kenya Association of Manufacturers (KAM)?

These are large consumers of energy and they are the people who can sit in that board and tell the representatives from the Government whether they are doing a good or poor job. However, when you sit only as Government officials, there is very little that you can do. You cannot critic yourself.

Therefore, it calls upon us, sometimes when such legislations are brought before us, to look through the rear-view mirror and see the journey that our country has travelled. We should then again focus forward and say; “do we want to stick to this particular path where the Government regulatory authorities do not have representatives from the private sector, especially in an organisation or a facet of the economy as useful as energy?”

Madam Temporary Speaker, we are speaking about the Big Four Agenda and we said that we want to move our manufacturing. You cannot move manufacturing unless you address the issue of the cost of power in this country. This is something that I have not heard over this Bill. I assume it is addressed, but not as sufficient as I would have expected. Where are the answers that Kenyans have been demanding, for example, in the last few days and said; “what shall we do?” Where is the stress that the Government is giving itself and saying; “in the next 10 to 20 years, for example, we want to transit from these fossil fuels as ways of producing electricity to renewable source that are cheaper and also where the world is moving to.”

If we keep on insisting that we still want to stick to diesel generators that are supplying our energy, then imagining that we shall grow our manufacturing sector will remain to be pipe dreams.

In Clause 95 about the Energy and Petroleum Tribunal, it is my sincere hope that Kenyans who will get the chance to serve in this particular tribunal shall be patriotic enough and not serve like those that have had the chance to serve in the previous tribunals. They would just sit down and have a view of the country based on what is in it for them. They should be patriotic to know the kind of impact that the people that they give the licenses to operate and those that appear before them have in the country.

It is really unfortunate that the whole world looks at us many times amongst the many African countries that Kenya is an easy place to do business. It is not easy in the sense that we have made our systems work, but easy in the sense that so long as you have set something aside for the officials, then you can get whatever you want. It is unfortunate and is a tragedy. I hope that Kenyans who will be given the chance to serve in this tribunal will be patriotic to the country.

If somebody does not have the capacity and the technical skills to run and operate these licenses that they are seeking, please, deny them and keep the standards high. We do not want these speculators that come, get a license then go back to Landon and all those metropolises of the world flashing around and hawking licences and saying; “I have a license from some poor African country called Kenya. If you feel like you want to go and do business there, please, talk to me.” It will be unfortunate. That is why I expected – perhaps this is one of the things that I will propose when we retreat to our Committee – to have representation from the private sector in some of these tribunals.

In terms of Clause 175 under the rights of way, wayleaves and use of land for energy resources and infrastructure, this is something that we can discuss the whole day. It is, perhaps, the most quoted experience just like Loiyangalani line which has not been done up to today. We, leaders, sometimes, it is good when we are elected, that we also live up to the title that the Constitution give us of being honourable men and women.

You will find leaders from some of these communities where very important national Government programmes are going to be executed looking at them from a very narrow perspective by saying; “can I use this particular project to push my political career?” They do this without having a national view of the programmes that are about to be done. The many quoted experiences have been shared of how leaders have incited the members of the public to stay and perhaps, even build *manyattas* along the line where the Government wants to do this project and then demand exorbitant amounts of money as compensation. They try to frustrate the same Government that belongs to all of us. The Government does not belong to a President or a Cabinet Secretary; it is owned by us Kenyans.

Therefore, it was necessary to include Clause 175 which says that:

“If any difficulty or question arises as to the amount, entitlement to compensation or person entitled to compensation payable under this Act, the determination shall be made in accordance with the provisions of the relevant written law.”

The provisions of the relevant written law include even the Land Value Index Laws (Amendment) Bill that is now before the National Assembly. Why would the national Government want to do a project? We will experience scandals like what happened with the Standard Gauge Railway (SGR) where the Government paid brokers who took advantage of Government’s decision. They bought land from unsuspecting Kenyans and sold it back to the Government at 10 or even 10 times the price they bought the land from the poor locals.

Such things shall be unheard of after the passage of this Bill. I hope the committee which is considering this Bill in the National Assembly – I am not sure if it has reached the Senate – can put this into consideration. This will ensure that we do our national

projects without any political interference, which will be contrary to the way we are facing challenges with the pilot scheme of the oil project.

In fact, the other day, I watched some leaders inciting members of the public. They told them: “If the Government will not give us this amount of money, we should not allow this oil to be piloted.” I urge the Government that if it is becoming too expensive, let us abandon the project altogether! Nobody is in a hurry; after all, oil does not go bad if it stays underground for the next 20, 30 or 50 years, like it has stayed.

If people do not want to be reasonable and realise that even if they come from a marginalised part of the country, they must remember that there are primary school teachers and police officers who teach their children and protect them. These Government officers are paid by the Government using taxes paid by other Kenyans. Therefore, it cannot be that when the sun finally smiles at you and you now have the opportunity to give something meaningful back to your country, you only think about yourselves.

Madam Temporary Speaker, when the President announced that they had reached an agreement of 5 per cent revenue sharing between the County Government of Turkana and the national Government, I said it was a wrong decision. I criticized it from the outset. That was unfortunate and it should not be implemented. After that, many of us who have gone for public participation for different Bills have faced a challenge, where Kenyans say that they do not have leaders; and that leaders are like the ones that the people of Turkana County have.

That is the simplistic way that Kenyans view issues. Therefore, it is upon us, as leaders, to rise up to the occasion; and know that despite the fact that you represent the people, but you also owe them an explanation of issues at the national level. Let the poor citizens also understand that there are other taxpayers who have been feeding them for the last 50 or 60 years.

In conclusion, Madam Temporary Speaker, the Renewable Energy Resource Advisory Committee, as established in Clause 76 of this Bill has a duty; it has been tasked to advise the Government in terms of its initiatives. I introduced the Energy Act (Amendment) Bill No.6 of 2018, before this House but I had to withdraw it so that I could compare it with the provisions that have been provided for in this Bill. One of the things I was seeking and the questions that I was asking is; why should county governments continue to incur huge bills to Kenya Power? This is money that would have been used to provide medication or other basic needs to our counties.

County governments should ensure that streetlights in our counties, for example, are powered from renewable energy sources like wind energy, whose technology is available right now. If a county government fixes these renewable energy sources and overproduce energy, you can sell the same to the national grid, Kenya Power. County governments need to know that the initial cost of installation may be higher, but you will not pay anything in future.

Madam Temporary Speaker, when you imagine the number of huge dams that we are building, for example, Thwake Dam, can we use the same dammed water for drinking and agriculture before piping it? Can we ensure that we generate electricity with the

same? Such ideas will only come from Renewable Energy Resource Advisory Committee---

(Sen. Cheruiyot's microphone went off)

The Temporary Speaker (Sen. (Prof.) Kamar): You have one more minute, Sen. Cheruiyot.

Sen. Cheruiyot: Thank you, Madam Temporary Speaker. Clauses 206 and 207 are very important. Those are the clauses that have been included in the Local Content Bill. I thank Sen. (Dr.) Zani, because I know the work she has done in that space. For us to now see the Government making such laws while considering the rights of local citizens, and including them as part of the Bill is quite commendable of the Senator and the House as a whole. Therefore, it is important that when we shall be making provisions either for licenses or the people who want to explore or do energy projects within counties, they should take due consideration to the provisions of the Local Content Bill, as has been expressed in this Bill.

With those many remarks, Madam Temporary Speaker, I beg to support.

The Senate Majority Leader (Sen. Murkomen): On a point of order, Madam Temporary Speaker. Am I in order to move a Motion which I have consulted you on at this point in time?

The Temporary Speaker (Sen. (Prof.) Kamar): Go ahead.

(Interruption of Debate on Bill)

PROCEDURAL MOTION

EXTENSION OF SITTING TIME

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I beg to move the following procedural Motion:-

THAT, pursuant to Standing Order No.31(3)(a) and (4), the Senate resolves to extend its sitting time today, Thursday, 9th August, 2018, until the conclusion of business appearing on Order Nos. 9 and 26.

I ask Sen. Cheruiyot to second.

Sen. Cheruiyot seconded.

(Question proposed)

The Temporary Speaker (Sen. (Prof.) Kamar): Since there is no contribution, I will go ahead to put the question.

(Question put and agreed to)

(Resumption of Debate on the Bill)

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, I rise to support this important Bill.

I think the Senate Majority Leader was very kind to the Committee that was dealing with this Bill. The purpose of committees is to have us interrogate some of the questions and Clauses. It is not enough to give them a warning. They should have given us a report. We are now debating a huge Bill without the input of the public and the Committee yet they had this Bill for 30 days. I do not think it is acceptable. The Senate Majority Leader must be a little rough on them on this one.

Madam Temporary Speaker, may I begin by saying that Clause 7 of this Bill is very curious. Although the Senate Majority Leader read it, it is extremely curious. It states as follows-

“(1) The Government shall facilitate the provision of affordable energy to all persons in Kenya”.

However, Clause 7(2) appears to negate (1). It states:-

“Where the National or County Government determines that a supply of energy in any area is necessary and upon assessment it is established to be commercially inexpedient to provide for the necessary reticulation by any licensee, the Cabinet Secretary or County Executive Committee member as the case may be, may undertake the provision of any such works or provide the funds necessary for the development of such works.”

Clause 7(3) states as follows:-

“Without limiting the generality of subsection (2), the Cabinet Secretary shall develop and implement a fair, transparent and equitable strategy to ensure that all households are connected to a supply of electricity by 2030.”

I think the clause is mere political rhetoric because by 2030, the population will have increased. This clause is made on the assumption of the population in 2018 because in 2030, the population would have increased. The clause should have been worded better than this so that in 2030, you do not appear to have lost your goal.

I am also of the view that we should make the clause on affordable energy a little better. We can polish this. That is why I said the Committee should have given us a better way of dealing with this.

Madam Temporary Speaker, Kenyans are suffering because of expensive electricity bills, education and health. The Government says it will make it affordable yet at the moment, it is expensive. First of all, we should have had a criterion. How are we going to make it affordable to the common *mwananchi* who include *mama mbogas* because it is already expensive? Single-phase and three-phase are both expensive. Even when you pay, you have to wait for too long to be connected.

When it goes to the Committee of the Whole, I will propose that we put quality control measures on provision of electricity. Even when Kenyans have paid for electricity, now speaking about Makueni County, they have waited for four to five years before being connected. Can we not make it mandatory that within a certain period of time upon payment, you shall be connected to the grid?

In the offences section, we should make it an offence for Kenya Power or the Rural Electrification Authority to have faulty transformers, like the ones currently in contention. In Kaiti Constituency alone, there are 100 faulty transformers. Why should Kenyans suffer because of defective transformers? Sen. Cheruiyot mentioned this in passing. The consumer protection around provision of these services should make it an offence for the Kenya Power or the Rural Electrification Authority to do substandard work.

We should punish them because they are using taxpayers' money. When it comes to the penalty clauses at the end of the Bill, the offences are only against consumers who connect illegal electricity, like what they do in Kibera. We call it 'spaghetti' connection. However, they do not make it an offence for substandard work. I will be moving those amendments at the Committee Stage.

Madam Temporary, there is the question of Environment Impact Assessment (EIA). The Senate Majority Leader might not be aware that Kenya Electricity Transmission Company (KETRACO) power lines come with a caveat that you cannot have a household within 60 metres of the power lines because of the radiation. However, this information is never given to the public because we have not made it mandatory that before some of these high-level power projects are done, the environmental issue that Sen. (Dr.) Zani mentioned is made mandatory. In the case of entering, there is a clause that they can enter upon complying with certain laws. The clause should be specific.

Under compulsory acquisition law, you cannot erect a pylon, like the ones that KETRACO are doing, before you compensate. In Makueni, the Sultan Hamud-Mwingi power line is stuck because they put pylons in people's land and promised to pay them, but they have not. The public has turned against them and said that KETRACO will not string power unless they pay the people whose land they have acquired. I will be moving an amendment to make it mandatory for some of these clauses to be very explicit, like they are in the Compulsory Acquisition Act.

Sen. Murkomen, Sen. Cheruiyot and Sen. (Eng.) Maina have mentioned about compensation. The people in Isinya have made it impossible to string KETRACO lines because they have increased tremendously the cost and valuation of land. The fundamental question that has not been addressed is: Who is in charge of valuation? What happened to the Valuation Act that would tell you, for example, when you are in Isinya, the value of land is X and the value of land along the highway in Makueni is Y?

The reason land speculators and land mafia have taken over the National Land Commission, with the collaboration of the National Land Commission officials, is because they have taken this component and inflated it. You cannot tell Kenyans that they have inflated the cost of land.

If it is not them, it is the National Land Commission (NLC) officials who inflated land price and made it impossible for the Government to have these contracts. So, how do we regulate it? We must make it mandatory for Government to have this law on land valuation.

That makes it easier for it to acquire land because when that happens, people will not inflate the price. As I have said before, these land speculators are doing this in connivance, cahoots and in collaboration with officials of the Ministry of Land and the

NLC. This is the case of Ruaraka Land saga. They easily inflate land because nobody is checking. There is no standard and so it becomes difficult.

Madam Temporary Speaker, one of the things that county governments are losing land on is on property taxes because we do not have a standard. The advantage of doing this is that once it is imposed, it will be easy for county governments to collect tax.

Why is the environment issue important? About a month ago, we travelled to Germany with Sen. Mwaura who talked about wind energy. In fact, in Germany, wind energy has given them more power than they need on the grid.

There was a documentary last week on *Citizen Television* on the wind power project in Turkana. I am not sure why this wind power project stalled because it would have provided energy to the grid. Before they erect one of those wind power pylons, they put caveats where birds are to be affected. So, the questions of environment impact assessment, noise and radiation must be important. That is why I will move that amendment to make it mandatory.

Similarly, they have stated in this Bill that there is a wayleaves section. Kenyans have become very adventurous about land. So, they have invaded land so that when power lines have to be done, they make it so difficult that they have to be paid for either trees or other things yet they have encroached on public land.

Madam Temporary Speaker, Sen. Orenge did something called the Land Policy 2009 which we do not appreciate him for. However, if no one appreciates him for it, I will. It gives mandate to the NLC to do land use planning. This law talks about physical planning in the parts of the functions of county governments. It is against the policy signed by the Senate Minority Leader, Sen. James Orenge. The only way to ensure that we can do some of these big projects is to have land use planning so that the minute we want to erect pylons that I have talked about, land is available. We are doing it the other way round. It would have been nice to have the Physical Planning Bill which we should amend when it comes on the Floor of the Senate so that these sections are clear.

Madam Temporary Speaker, we must have an obligation on the quality control rates that I have talked about. That is why lawyer Apollo Mboya is important amongst the public for challenging tariffs by Kenya power Company. We must make it mandatory for the regulation of this sector. I have not seen it in this Bill. If it is there, that is fine. That way, we will not have the problem that he was trying to address.

The clause on the county governments on the last page is important. I laud the drafters of this Bill for including it. The only problem is the fund contemplated under this Bill which does not fund that function. So, we must make it mandatory that the fund that is created by the Cabinet Secretary funds what is referred to in part (b) of functions of county governments; that is, facilitation of energy demand by planning for industrial parks; preparation and implementation of disaster management plans; county energy regulation; county energy planning, physical planning relating to energy sources; regulations of licensing; electricity and gas reticulation. How will counties do this from sharable revenue? We cannot burden county governments on sharable revenue on this function which is a national Government function.

Madam Temporary Speaker, Senators have talked about solar energy. There is no section here on solar. It talks about renewable energy. They did not talk about solar. We

were pleasantly surprised and pleased when we travelled in January with Sen. Mwaura - sponsored by CAS Foundation – of the amount of solar energy. If Makueni County was under proper solar energy, we would not be having the problems we are having with the national grid because Kenyans are not connected.

The solar energy that was installed in Makueni County has failed. We informed the Deputy President as much when he was in Makueni County last week that, that component has not worked because there is no training on how that solar energy is supposed to be done. I am not sure whether it is the quality of the solar panels, or the batteries, but all in all, the idea of putting power using solar has not worked very well. That section must be deliberately done so that either there is training or a better way of doing solar energy. I think we can do better with solar energy.

Madam Temporary Speaker, other than the quality control, the National Environment Management Authority (NEMA), way leaves, handling of rates, handling of compensation, affordable energy, making this clause and a little tidier so that – just the way they are informed about petroleum and the Energy Regulatory Commission (ERC) - they are informed on a regular basis on the cost of energy. We must move into Vision 2030 by making sure that energy is affordable.

The Bombo Municipal Council is planning to have slum upgrading. You cannot have slum upgrading and yet the cost of electricity is still as high as it is in Kenya. We are still paying more than most of the industrialized world for reasons only known to ourselves. Electricity is still not available to the majority of Kenyans, again for reasons that cannot be explained. However, it is the cost that is tied to this.

Madam Temporary Speaker, the entities that are contemplated under this law; Energy Petroleum, the Energy Petroleum Tribunal, Rural Electrification, Nuclear Power, Kenya Power Electricity Generating Company, Geothermal Development, Kenya Electricity Transmission Company (KETRACO), National Oil Corporation (NOC), Kenya Pipeline Company (KPC) and Kenya Petroleum Refineries are the entities that are faced with the worst corruption scandals.

We must find a method of these entities reporting to Parliament. The Senate Majority Leader, I have not seen a report mechanism by these entities. The report mechanism will include the amount of revenue they are collecting from Kenyans. That would help us to determine whether there is value for money and whether they are giving us enough because I believe they are collecting more money *vis-à-vis* the services they are offering.

Lastly, just like we have a reporting mechanism by Safaricom Limited and mobile service providers on what we call – I cannot recall the correct technological name – call drop reports, Safaricom Limited and Airtel pay a charge for calldrops. We must make power blackouts either criminal or alternatively reported. Why do we have blackouts that are unexplained? I will be proposing amendments where Kenya Power and Company (KPC) is put to task as to the amount of power they are offering either per month, per day and a better explanation for blackouts.

I am told that some of these blackouts are done deliberately by officials of KPLC so that they can make money out of per diems, *et cetera*. It is also possible that they are the ones who are stealing transformers because if you steal a transformer today, where

will you sell it? They are not available in the market, either in *Gikomba* or any other market in town. So, this possibly is vandalism that is being done by them.

Madam Temporary Speaker, the Committee would have done a better job to tell us what the public have said on this Bill. However, I have given notice that I will be proposing those amendments so that the ordinary *mwananchi* of Kenya can benefit. This Bill must speak to the public, because as it is, it does not speak to the public. It is still speaking about having very nice authorities running this function, but it does not speak to the majority of Kenyans, who cannot afford electricity and who are still using kerosene, firewood and those small contractions, whose names I cannot remember now. This is because electricity is still an exclusive provision only for the rich and not for the poor majority of Kenyans, who cannot afford a meal on the table; and they would rather have *ugali* and not electricity.

Thank you, Madam Temporary Speaker.

The Senate Minority Leader (Sen. Orengo): Thank you, Madam Temporary Speaker. Although I stand to support this Bill, I would have hoped that it would have been discussed after all hon. Members had been given sufficient time to go through it. Although it is the second time it is coming here, but that is only good enough for those who were in the Eleventh Parliament.

Although it has been with hon. Members, the most important thing I am trying to point out is that there is a Supplementary Order Paper, and this Bill is before the House courtesy of that Supplementary Order Paper. It is coming on a Thursday, and even if it was there yesterday, it was not there today.

Madam Temporary Speaker, I do not want to carry out this conversation with the Senate Majority Leader, but when we have a Bill of this magnitude, it should either be on the Order Paper for the day or it is not. However, when it is being brought through a Supplementary Order Paper, then that is a little bit unkind to prosperity. I am saying this because, normally, in the interpretation of statutes, people want to read what the Senate thought, because we are the lawmakers.

Madam Temporary Speaker, I know that technical people drafted this law and there must be a lot of material behind the generation of this statute or Bill. However, at the end of the day, the Bill speaks for itself. What we are presumed to have required of the law is that, first and foremost, it is expressed in terms of the words of this Bill. Secondly, legislative history is becoming a very important tool for interpretation of statutes. At the end of the day, somebody will want to hear what the Senator for Kericho County said. I am grateful that I was listening to him while I was somewhere, and I heard him saying very inspirational things.

It was important and appropriate for every Member of the Senate to have a reasonable opportunity, which would require reasonable notice so that they are aware that this Bill was coming today. That way, they would have discussed it with the kind of scrutiny that this kind of Bill requires. That is important in terms of the fact that there was integration and conflation of several statutes collapsing existing agencies into one. We need to speak to all that in detail.

Madam Temporary Speaker, I have listened to the Minority Whip, and he has raised quite a number of issues. It would have been better off if that opportunity was

there under more convenient circumstances. I listened to the distinguished Senator, Sen. (Dr.) Zani, and also the Mover, the Majority Leader. It was quite a lengthy presentation which was justified. Just listening to his presentation and the passion with which he presented this Bill, I said to myself that he must have prepared himself well, but he is normally quite articulate. Therefore, it is both in terms of his personal ability but, secondly, I think he did quite a bit of presentation.

Madam Temporary Speaker, this is a very important Bill which talks to a very important sector especially in an area that matters. The economy of the country and anywhere in the world revolves around the energy sector now. There is a lot of debate on issues related to energy. There is even more of it in the First World, where with the awareness about climate change, the debate as to whether or not we need clean energy or the economic interest of a nation override the consideration of the environment.

Those are things that should have had some bearing and reflection in this Bill. The current debate about energy is important, and I do not see a reflection of that in this Bill. Hopefully, during the Committee stage, we may be able to add or subtract what is already in the Bill.

One of the important criticisms I have of this Bill is the power given to the Cabinet Secretary. When we do these things, we forget about powers of Cabinet Secretaries. The accountability of the Cabinet Secretaries to the general public is not the same as when Ministers were Members of Parliament. They are accountable largely to the President and do their work in accordance with the provisions of the Constitution. Parliament oversees the Cabinet Secretaries, but overall, looking at this Bill and knowing what is happening in other regimes of the law where power is completely vested in one entity, it becomes a very dangerous kind of situation.

I have been lost in the presentation of this Bill. If you look at Part II of the Bill on energy policy and integrated energy plan, Clause 4 states that the Cabinet Secretary shall, in consultation with the relevant stakeholders--- Who are these relevant stakeholders? They are not defined in the Bill in terms of the energy policy and integrated energy plan. Even in some constitutional bodies, when it comes to stakeholders, they are mobilized to fit an occasion for a fee or reach some kind of legal requirement, without giving the members of the public and stakeholders some clout and degree of authority in the formulation of the energy policy and plan. This is something that we need to be derived from these stakeholders; not just in consultation with the Cabinet Secretary, but working with the Cabinet Secretary.

This energy policy and plan should be subject to approval by Parliament because this is an area where resources will be spent and investments made. Therefore, when it is made every five years and the Cabinet Secretary is the one to regulate--- It does not say that he is responsible to the Cabinet in carrying out these duties or to the President; the power is with the Cabinet Secretary. I would suggest that, at the appropriate time, there should be an amendment to this section so that the powers to the Cabinet Secretary are tempered to some extent. This will enable the Cabinet Secretary, through a mechanism that can be defined in the Bill or in the regulations, to come and justify what has become the policy and plan, and then approved by Parliament.

Normally, when policies are made, for example, Vision 2030, it is just referred to for convenience. The Big Four Agenda sounds very nice if you go to the village and say them. What legal basis drives them? It is very nice talking about them in a *baraza* or some multitude. When we want to carry out some kind of agenda that is undefined, then we say, "Yes, we have the Big Four Agenda." It is not tested or based on any kind of law. This is, therefore, a very important matter. The stakeholders should be defined and Parliament's approval sought.

Just to emphasise the point that I am making, Clause 5(2) together with sub-clause 3, requires that each county government shall develop and submit a county energy plan to the CS in respect of its energy requirement. All that the county government is required to do is to submit their requirements. What the CS does with it is a matter that is entirely left to the CS. That is why I was saying that the stakeholders should be defined.

I was listening to the Senate Leader Majority carefully and heard him emphasise that issues of energy are within the concurrent mandate of both levels of government which is why counties are important. Following that argument, it is important that it is put in the Bill that the county governments have to meet in this presentation. They should then sit together with the CS to determine that policy plan that should eventually come to Parliament for purposes of approval. That is not something burdensome to demand because it comes once in every five years. Nobody should, therefore, be saying that we are micro-managing county governments or the national Government.

Madam Temporary Speaker, in sub-clause 4, it is then upon the CS to consolidate the plans contemplated in sub-Sections 2 and 3 into an integrated national energy plan which shall be reviewed after three years. Again, it is the CS who does that. The way I heard the Senate Majority Leader speak here, I think, probably, the views of the CS would be very important at the time of that integration. For those views to become important, the CS should come to this House to justify the need for that plan or policy. This is because it has also got a resource and financial bearing so that when Parliament which was transparent and accountable to elected leaders in the republic---

Again, the CS shall prescribe regulations on the content and timelines for preparation of the energy plans. There is the CS with too much power which, if left untampered, we would end up with an energy sector which is completely driven by the CS.

There is an obligation on the part of the Government in sub-clause 7 where it says that the Government shall facilitate the provision of affordable energy services to all persons in Kenya. That is a general statement. What happens if the Government does not? We are creating a right on the public that they have the right to affordable energy service. What about if the Government does not provide that service? What is the punishment and sanctions? That may be an empty provision and right given by the law. However, in reality, that does not benefit the public in any significant way.

Madam Temporary Speaker, the Cabinet Secretary shall develop a conducive environment for the promotion of investments in energy infrastructure development. I am saying so because when I was dealing with the case of the construction of power lines that were going through Kajiado and Narok, the people were not involved. It was a decision by the Government. In fact, I do not think the President was involved in the

making of that decision and neither did the Government at the highest level. It was an entity within the public sector that made that decision that had an impact on the people of Kajiado and Narok. There was a standoff and things came to a standstill.

Madam Temporary Speaker, if you read the World Bank requirements on reticulation or distribution of electricity or construction of power lines, they are onerous on the part of developers and governments. They are required to observe safety of the people and give sufficient compensation for the people who will be affected by the construction of the power lines. That was possible because in the implementation of that project, there was no legal foundation to give the people protection. A lot of them had to go back to the World Bank documents that spelt out that. Luckily, it was a project that was funded by World Bank. It took them to slow down the process so that the Maasai people in Narok and Kajiado counties could be talked to.

It was said that when this Bill was being moved in the construction of Standard Gauge Railway (SGR), the issues of compensation were messed up. The public has to pay a lot of money. I am happy because this came from the Leader of Majority. These are some of the things that we will need to look at.

I stand here without fear and able to repeat whatever I have said. I also stand here without fear of what I have done in the past. Right now, as we speak, the National Land Commission (NLC) has become one of the greatest disasters in the affairs of this nation. The constitutional linking process over the years on the issue of land was so critical. People have been trying to determine a way in which land can be administered in a way that the people and the county will benefit from that important resource and also, in realisation that protection of title is important in a democratic country like Kenya. However, you must have a land regime where private ownership of land does not go against the general public good.

So, we had a good constitutional foundation and power was taken away from the national Government on matters to do with land. We had powers taken away from the Chief Land Registrar and the abolition of that office in the hope that these changes will bring better days to this country. One of the reasons why SGR has become costly to this country is that, it is planned.

If you go to Tanzania, they are building their SGR which is parallel to the central land in Tanzania. The former East African Railways and Harbours Corporation was the biggest land owner, second only to governments of the three countries: Tanzania – former Tanganyika, Kenya and Uganda. Even now, the Kenya Railways owns a lot of public land. They were given those parcels of land way before the advent of Government, as we understand it today. It was during those days of the Imperial British Empire that a lot of this land was acquired.

This is something which also happened in the roads sector. We have a nation that has been built after the discovery of motor vehicles. The automobile was built a while before the founding of this nation, yet if you look at our town planning, it looks as if our towns were built when people used to move in horse-drawn coaches on the streets.

When we had the opportunity to build one of the biggest highways in the Republic along Mombasa Road, we found that it had been eaten up by land grabbers and those who never tire from taking and acquiring public land. There is one law of the land

that is now there in all the statutes governing all public bodies; that when they acquire public land, they cannot sell it. If they do not need it, they should give it back to the Government, which is the Republic of Kenya, but they cannot sell it or allocate it to anybody else.

In that regard, even in the energy sector, we have ended up using a lot of resources to construct electricity power lines. As you can see in the olden days, the telegraph and telephone lines were erected along the railway lines. It was supposed to be a corridor through which all communication infrastructure could be constructed, managed and used. We have, however, lost all that.

Therefore, looking into the future – because all is not lost – the authority placed on the Cabinet Secretary (CS), for the reasons I have stated, need to be relooked at. If you look at the creation of the National Energy Entities in Part III of the Bill, the same argument once again applies; the general references to stakeholders and the like.

On the issues of licensing – I know that I do not have the time to look through all the provisions – here is where a lot of danger lies. I heard the Senator for Kericho County – and thank God he mentioned it – say that even those people who do not know how to operate a kerosene lamp, acquire these licences to supply, generate or construct electricity power lines. They then go ahead and trade on it.

The licensing processes in this country – whether it is in the area of commodities, like you have seen with sugar and maize; or in terms of bringing fertilizers and all that – is where the evil rears its ugly head in the operation and management of public affairs.

Therefore, I hope that the provisions that have been made here are more rigorous to ensure that those licenses are not given “anyhowly”. There was a time when it was so difficult to get a license for the airwaves in this country to operate a radio station or a television network. Subsequently, when it was liberated, these licenses were given to many people, who did not even intend to use them. However, because they were valuable, they were invited and subsequently, those who needed them could not get them except by purchase of those licenses. I know of instances where even the mainstream media had to spend a lot of money to get licenses to some of these airwaves because of the way licenses had been given and managed on a basis that was unfair.

Madam Temporary Speaker, I will need more time to look at the area of renewable and nuclear energy, but I am glad that there are provisions now governing those sectors of energy. That is where the future lies. We should not be afraid about our continued quest and desire to have nuclear energy for peace proof purposes because to be left behind is to be relegated to the Third World. Many countries are now using nuclear energy for safe purposes and peaceful means in the energy sector.

France is a nuclear power and nearly 90 per cent of its energy supply or generation comes from nuclear. They are able to do it cheaper than many countries in Europe. Some countries like Germany and others depend on oil and gas from Russia. When Ukrainians wanted to be a little bit independent, they realised that even getting that oil from the oil fields in Russia, to go through the rest of Europe and Ukraine was not easy. The politics of energy is high voltage. So, self-sufficiency is something that we should be looking and planning for now rather than tomorrow. That way, the future

generations will not have to go through what we have gone through in terms of the deficit in power generation and hiccups in supply and retail of power.

I wish to commend one counsel that I worked with, Mr. Apollo Mboya. I think he has been mentioned, but it is important to mention his name because single-handedly, even when he was being dismissed, he kept his eye on the ball until the criminal enterprise that was taking place within Kenya Power Company came out. Everybody then saw the truth of what it was; that not only were the small people involved, but large organisations that depend on energy industries were paying bills that they should never have paid in the first place.

Madam Temporary Speaker, I have read about a writer who has dealt with issues of grand corruption. He says that sometimes corruption issues do not depend on whether you have institutional loss. Just having one person committed to elimination of corruption sometimes---It could be a Chief Justice, Head of State or somebody in some position of responsibility. In Nigeria, we have had governments, which were not elected and yet, once in a while, you find a name like Murtala Mohammed. For the brief period that he was there, he dealt with corruption in a very effective way. I am not taking Nigeria as an example; I think Kenya will be a better example comparatively. The point I am trying to make is that single-handedly, sometimes we can find a force that can change history in the world of politics, social movement and religion.

In Kenya, we have tried good laws, institutions and a good Constitution, but that still does not work. Kenya, which should have been doing free and fair elections, is giving a bad example to countries like Zimbabwe; that an election which looks to be free and fair at the time of casting the ballot can turn out to be a monster. At the end of the day, let us all commit ourselves, as Kenyans, not because laws are there, but because it is good to do so for the sake of humanity.

I was keenly observing some of our colleagues whom we were with on a visit outside Kenya. You could see people wearing seatbelts when they get into cars and when traffic lights show that you should not cross, they stop until the lights turn green. Out there, the law is obeyed the way it should but as soon as they come back, they are the biggest lawbreakers. That is why I said that it starts with us and not the Government. We need to ask ourselves how we want Kenya to be. We should decide whether we want it to be a better society or a society where all goes so long as you are the winner at the end.

This is a good piece of work. I am not saying this because I am praying or begging for it. This is the way it should be. It is tragic to have the sibling rivalry because the people who drafted the Constitution wanted issues of law-making and oversight to take place in circumstances where every citizen, if possible, should be involved. In fact, in Kenya today, I think one of the biggest achievements we have made is involving the people in legislation. It should be a requirement that no legislation should go through Parliament without the participation of the people. Sometimes, I wonder why the National Assembly would want to ignore the Senate or the Senate to ignore the National Assembly.

As a matter of our constitutional principle and the letter and spirit of our Constitution, all Bills should go to both Houses. The President of the Republic of Kenya should ensure that it is a good starting point and legacy. That is how democracies have

emerged. When kings reigned in Europe, it was not through laws as written but conventions and practices which obliged the king or monarch to do things in a certain way; not necessarily because it was written in black and white but because there was a new spirit of participation and democracy.

I am happy that what we have been discussing is a product from the National Assembly. The records would bear what Senators said on this Bill that made not only the debate healthier but we ended up with a better product. After 50 years from now, people will be reading what the Senator for Kericho said on this Bill. That is an important function of debates in Parliament because some people think it is all about just passing Bills. Sometimes you take a lot of time going back and finding out what was the context in which the law was made. That is why legislative history has become a tool of interpretation of the law that is as important as any other except the literal interpretation of the law and the Constitution.

With those remarks, Madam Temporary Speaker, I beg to support.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you Senator. There being no other request, I now ask the Mover to reply.

The Senate Majority Leader (Sen. Murkomen): Madam Temporary Speaker, I have listened to all the quality presentations from the Senate Minority Leader, the Members of the Committee on Energy and Sen. Cheruiyot who is a Member of the Committee. This is one of those Bills where there are quality contributions because we hold dearly matters of energy.

The reason why energy is not part of the big four agenda is because it is a cross cutting issue and an enabler. We cannot create industrial growth when the cost of power is high. We need energy to ensure we have food security and grow food. It is a very important sector.

Secondly, I would like to persuade my colleagues, including the Senate Minority Leader who made a very eloquent presentation to spend time to study about the authority. The authority is the first stage of enforcement of all matters of energy. What everyone should appreciate is that we are not debating about Kenya Power Company, KenGen and Kenya Electricity Transmission Company Limited (KETRACO) because they are the ones that carry the energy, distributing and reticulating.

What this Bill has done is to ensure that you create an authority that will oversight the other agencies that are going to implement it. Also, it will give room for county governments to create their own equivalent of KPC and KETRACO in future when they have that capacity to do so. Subsequently, the questions raised by the Senate Minority Leader about enforcement and power reaching everybody are contained in the 46 functions listed for the Authority.

The Authority is the first stage of enforcement. If it is unable to deliver matters related to faulty bills, wayleaves or questions to do with petroleum issues, the next stage of enforcement is the tribunal. If you cannot succeed in the tribunal, then you can go to the courts. The beautiful thing about this is that you have an institution/State agencies whose responsibility is purely to hold into account the agencies delivering power like KPC, KenGen and those who will generate any other power like renewal energy related agencies.

The questions that were raised by the public about KPC, the first place of complaint, should not have been KPC. Since, complaint being made now is that KPC is not doing certain things and then Kenyans are going to KPC to complain which has transparency issues. However, with the regulatory agency, it will have all the information about KPC to hold them to account, *suo moto* or by instigation or any member of the public. Then where there is a dispute about all these issues, you go to the tribunal. That one answers most of the concerns that most Members raised when making their contributions.

Thirdly, Sen. Mutula Kilonzo Jnr. raised the question of funding counties to do energy reticulation and regulation, which is their function. If every time we are discussing energy, we ask for money, tomorrow, we will discuss and decide to allocate money for the Environmental Bill for the counties. Once money allocated under the division of revenue is sent to counties, they budget their money on the functions they are supposed to implement. The national Government budgets on policy, for example, agriculture. On the other hand, the county governments budget on the delivery of agriculture.

The unique thing about energy is energy reticulation which is a function of both levels of governments. The national Government has an extra function of dealing with the question of energy policy and regulation. However, the county government has the power to generate and reticulate energy if they have the capacity the same way the national government is doing. The private sector can do so, that is why in my presentation I talked about individuals. It will be unconstitutional to start saying that for every function of county government we debate here, we create a different fund to go to that county.

This is why last time when I was discussing The Kenya Roads Bill 2015, I insisted that we have to look at the roads levy. I said that roads levy money should be presented as it is. Is it conditional or unconditional grant for a particular responsibility? Otherwise, it might be misused by counties because they already have a basket for that under the Divisional of Revenue Bill.

If we want to fund counties to do well in the energy sector, our responsibility will be to increase the money in the Division of Revenue Bill so that they can invest in energy. The easiest way to invest in energy would be to first invest in the private sector and then the public sector can regulate.

Madam Temporary Speaker, unfortunately, the Committee took a long time. However, it is not just this Committee. The Committee on Lands, Environment and Natural Resources also delayed the Physical Planning Bill. This is a practice that is becoming a great concern to me. Therefore, the Senate Minority Leader and I will consult on this. We will be happy to meet with the secretariat plus the Chairs and vice Chairs of the committees. We have raised these issues of performance of our committees in the Senate Business Committee (SBC).

We must be honest to ourselves. I cannot chastise them and say much because of the responsibility of leadership and because most chairpersons and vice chairpersons are on this side. So, I must be careful because I survive by the support of the people who sit on this side. However, we must be honest to ourselves. We have not performed to the standards required of us as Committees, in terms of interrogating these Bills, bringing

reports on time and ensuring that they guide debates. These reports not only guide Members, they also guide me, the Mover of the Bill, to incorporate good ideas despite the fact that it is a Government Bill.

I was pleased to see that the National Assembly's Order Paper has begun to incorporate our Bills. Although it is at a slow pace, the Senate will continue to insist. Sen. (Dr.) Philomena Zani will tell you that if we were not serious in the last term, the rest of you for whom this is your first term in the Senate would have nothing to do in this House. We must be serious.

You should see the pain that Senators go through to come up with Private Members Bills. For example, Sen. Cheruiyot went through due process to come up with a Bill but it collapsed in the National Assembly. The same case applies to former Sen. Sang and Sen. (Prof.) Lonyangapuo who became governors but their Bills are still hanging in the National Assembly and they are unable to enjoy the fruits of their labour not because their Bills are incompetent or weak. So, I am happy that they have the Bills on their Order Paper today.

Madam Temporary Speaker, I know many Members have said that we should not proceed with this Bill until the National Assembly agrees. For that reason, we are negotiating with the Members of the National Assembly. However, going forward, we must respect Bills from both Houses. The quality of debate and energy that enriches these Bills cannot be ignored. I believe that of all the Government Bills that have come to the House, this is the fairest of them all. I have listened to Members' debate and it has reasonable acceptability. Part of the reason is because it came to this House last term, we debated it and it was enriched by the Committee. I hope that when the Committee comes with the report, it will enrich the Bill too.

Madam Temporary Speaker, lastly, I want to promise the House that we will use this recess period to organize various sessions to go through all the issues that were raised on all the Government Bills so that by the time we come back from recess in September, we vote on the Bills, make the necessary amendments and ensure that we have quality legislation that comes from this House.

I profusely thank Members for their wonderful and quality contributions especially, Sen. Cheruiyot, for the good contributions that he made today. I also listened to the contributions made by the Chairperson of the Committee, Sen. (Dr.) Philomena Zani and Sen. Orengo, who has generous things to say about me. I encourage him to continue with those generous contributions and comments outside the Chamber. We travelled with him for a retreat overseas, and I encourage the Speaker to plan for more retreats overseas between the Senate Majority and Minority Leaders.

Madam Temporary Speaker, I do not want to say much, just to say that I beg to move; and pursuant to Standing Order No.55(3), request you to put the Question the next time when this Bill be scheduled in the Order Paper.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Majority Leader. It is so ordered; the question will be put next time.

(Putting of the Question on the Bill deferred)

Next Order!

MOTION

APPROVAL OF PRC REPORT ON REVIEW OF THE SENATE STANDING ORDERS

Sen. (Dr.) Zani: Madam Temporary Speaker. I beg to move the Motion:-

THAT, Pursuant to Standing Order No.246, the Report of the Procedure and Rules Committee on Amendments to the Senate Standing Orders, laid on the Table of the Senate on Tuesday, 7th August, 2018, be approved.

Madam Temporary Speaker, this is the second report of the Procedures and Rules Committee which was based on the review of the Senate Standing Orders. This was done after specific interests, procedures and things happened within the Senate to do with Statements. Many issues were raised at that time, for example, the growing number of Statements within the Senate. This is a good thing because it gave Members a chance to articulate various issues in their counties. However, there were very many statements and, at times, it would take a long time to go through all of them.

Madam Temporary Speaker, many Senators shared their feelings and felt that Statements should be contained within one hour so that there is time to go through Motions and Bills. This would also enable us to discuss and improve on the turnover of the Bills from the Senate.

It was also observed that after the Statement Hour, many Senators tended to move away, rather than engage in the Bills and Motions. Therefore, this is a focused attempt to put more interest in Motions and Bills. There were also complaints from various Senators, who sometimes felt that their Statements had not been placed in the Order Paper. There was also the need to balance legislative output versus the representative mandate of the Senate.

Additionally, Madam Temporary Speaker, there was lack of clarity on the Members of Committees while processing responses to Statements. For example, Members or Chairpersons of various committees would not be present to give the Statements. Alternatively, even when they are there and ready to give the Statement, the Member who sought the Statement might not be there. There was also lot of riding over the Statements, so that if a Member asked a question or sought a Statement, many Members would subsequently request for more clarifications, and some of these were being given at the point of response. Further, other Members felt that for a long time, some of these Statements were not owned by the Chairpersons of the Committees because they got them from the Ministries. It was, consequently, felt that the responses to the Statements were not adequately interpreted.

Because of all this, Madam Temporary, Speaker, a review of the Standing Orders became critical and necessary. The current Senate Standing Orders were adopted on 14th June, 2017, and amended on 14th December, 2017. However, at a Senate Leadership

Retreat held between 5th and 6th April, 2018, in Nakuru, it was felt that it was important to review the manner in which Statements are processed within the Senate.

Therefore, this Committee quickly began this task and made various observations. I will quickly go through some of them. For example, that the Order on Statements had become popular with the Senators; that the current manner of processing Statements had presented challenges, and that on 15th May, 2018, the Speaker had to defer the Statements. Since then, Senators have been using other provisions on Statements. In particular, the provision of Standing Order 46 (2) that allows Senators to make a specific statement regarding a particular matter had not been exploited.

Madam Temporary Speaker, when this Committee met over various committee meetings, specific amendments that this Committee aimed to do, was to try to widen the scope of the Statements. This was meant to ensure that we develop a practice of drafting requests of the statements to ensure that they are put in an orderly manner, they are short, precise, very articulate and touching on national matters clearly. For example, one statement would not seek various views or questions for various uses. It was also meant to ensure that there is enough time for processing and approving of a statement, it is adequately listed within the Order Paper and there is order in the way statements would be handled.

Madam Temporary Speaker, this Committee met almost four times and went on to look at the various amendments. But most of these amendments are around the statements to ensure that they become more orderly. Most of the statements are done under Standing Order 46. In some cases, that Standing Order has been expounded.

Apart from Standing Order 46 as it stands, there is Standing Order 46 (a), (b), (c) and (d) with various provisions. I will just highlight a few of these. There is the usual the Statement Hour, which is now Standing Order 46, where a Member during the Statements Hour, can request for a Statement. But the Statements Hour will be contained between 3.00 p.m. and 4.00 p.m. During this time, a Senator can make a particular statement that has been cleared. A Senator making a statement under this part shall not speak for more than 10 minutes.

Standing Order 46 (a) states that Senators can make general Statements and that these Statements must be a countrywide, inter-county, national or regional matter. This came because some of the answers to the statements sought could be easily analysed or researched across. For example, some sort of research venture would enable the Senator to answer the specific questions.

Madam Temporary Speaker, the Senators' General Statements Hour will now be more precise with the nature of the Statement being vetted, so that it is a countrywide statement, one that has international concern and is also regional.

Standing Orders 46 (a) (2) and (3) also give the provision for when that statement should be given. For example, the Speaker would also give the permission for that statement, but the statement should be handed to the Clerk. That notification must be signed by the Senator and done within reasonable period.

Madam Temporary Speaker, Standing Order 46 (b) addresses itself to the Senators' requests for Statements. Again, a Senator may request for a statement from a Committee relating to any matter. This is where a Statement from a Senator can be

sought within the House. Again, that one has to be broader; it should be countrywide, have a national outreach and be regional. Again, under that Standing Order, the Speaker may allow comments in relation, but for not more than 15 minutes.

This provision, especially for the time, is to ensure the timing of that one hour for Statements. Even if it exceeds, it should be just a little bit, so that there is more control about how those statements will be given. The time allocation is part of the reduction of the time for the statements that are meant to be made.

Madam Temporary Speaker, Standing Order 46(c) addresses itself to the procedure for requesting the statements, the importance of the Clerk being given this statement within good time and for the Speaker to also give approval for that particular statement.

Standing Order 46(d) is a very important provision and change to the Standing Order that concerns the nature and the contents of the statement. For example, the facts on which a request for a statement is based may not be set briefly but this should not be just from excerpts from newspapers or the media. The facts that are being sought from the statement should be very clear.

With regard to a request for a Statement, the response to which is readily available in ordinary works of reference or official publication, shall not be made.

*(The Senate Majority Leader (Sen. Murkomen)
consulted Sen. Mutula Kilonzo Jnr.)*

Madam Temporary Speaker, I request to be protected from the Senate Majority Leader. Everybody gave him time and was patient when he was speaking. Therefore, he needs to also give us the time and be patient as we speak.

The Temporary Speaker (Sen. (Prof.) Kamar): Order! You are protected.

Sen. (Dr.) Zani: Thank you very much, Madam Temporary Speaker. That provision once again gives the specificities about the format of that paper. It proposes that the Statements should not be excessively long and should not convey a particular view. All those details are there.

We then have 46(e) which is Statements by the Chairperson of the Committee. Here, the Chairperson of a Committee is expected to give a Statement on the Floor of the House about the work of that Committee at least once every three months. He will inform the House of the number of Motions and Bills that have been processed in that committee. This is important because the whole House will now connect with the work for the various committees. This is now going to be 46(e) which is critical.

For each of the Statements, the provisions in terms of the timelines and procedures have been put and this creates order on how the Statements will be brought. Standing Order No. 46(f)---

(Loud consultations)

I think that the Senate Majority Leader and the Senate Minority Leader want to pay---

The Temporary Speaker (Sen. (Prof.) Kamar): Order! Please, consult in low tones.

Sen. (Dr.) Zani: The Senate Majority Leader and the Senate Minority Leader may want to pay attention to this one for it is stated that they may have their time to make various Statements and various presentations to the Floor of the House.

Lastly, Standing Order No. 47 handles the Personal Statements that are already part and parcel of this.

The Committee makes two specific recommendations. It recommends:-

“THAT, the Senate approves the proposed amendments to the Standing Orders of the Senate.

THAT, pursuant to the provisions of the Standing Order No.251, the Senate resolves that the proposed amendments to the Standing Orders take effect upon approval of the Senate.”

I beg to move and request Sen. Mutula Kilonzo Jnr. to second.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. Could we hear from Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: Thank you very much, Madam Temporary Speaker. I rise to second the Motion to adopt the Report of the Procedure and Rules Committee on the Review of the Standing Orders.

The Statements under Standing Orders 46(a)-(f) and 47 and the portion of the Committee recommendations are very straight forward. It answers the questions that we have all had about the question of Statements. The sort of lack of interest by Chairpersons in the Plenary has been caused by the fact that they do not know how to answer questions. Once you put this in place, Committee Chairpersons will be under obligation to answer those questions requested.

There is another step that they can call the Cabinet Secretary and matters can be addressed amicably.

We do not say this loudly, but the Chairpersons of Committees have let us down in many respects. Therefore, Standing Orders No. 46(e) will take care of the work of the committees where they will give regular reports on the work of the committees. With that, we can live up to the expectations of this country that this is truly the ‘upper’ House of the Parliament of Kenya.

I second.

(Question proposed)

Sen. Cheruiyot: Madam Temporary Speaker, Sir, I will be very brief.

I support the Report of the Procedure and Rules Committee in this Motion. This has been a point of concern to many of us.

Madam Temporary Speaker, for those of us who were here in the last Senate, one of the most interesting times of debate where we would have so much interest from Members was during the Statement Hour. Unfortunately, in my opinion - I could be right or wrong - due to weak management of how this is executed, we ran into trouble and we could not conduct any other business. I caution that even for these new rules that are

being proposed by this Committee, if the management is weak, we shall find ourselves at the same place we were before we suspended Statements.

Madam Temporary Speaker, it is, therefore, extremely important that: one, at the point of accepting that this is a Statement worth being brought before this august House, there be stringent rules that it must meet a certain threshold and must be a matter that is of extreme national importance. Even if it is a county matter, at least, it should pass to be one that also affects other counties and not that county alone.

I propose that the team that is charged with enforcement of these rules that is--- Anyway, I do not want to go there because it is a risky path to speak to the Speaker. The Clerk's desk may be a softer target. However, they should also ensure they assist the Speaker in observing these rules.

Madam Temporary Speaker, with those few remarks, I support.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senator. There being no other request for contribution, I would now like to put the question. Since this is not a county matter, we are going to vote by acclamation.

(Question put and agreed to)

(Applause)

Hon. Senators, I would like to defer the following Orders:-

MOTIONS

ENFORCEMENT OF NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF MOTORCYCLE) REGULATIONS 2015

AWARE that the National Transport and Safety Authority (NTSA) is mandated to plan, manage and regulate the road transport system, while ensuring the provision of safe, reliable and efficient road transport services;

FURTHER AWARE that motorcycle transport services have been rapidly embraced throughout the country leading to several challenges including: rise in road accidents involving motorcycle riders, unlawfulness, insecurity and road congestion;

COGNIZANT that the National Transport and Safety Authority (Operation of Motorcycles) Regulations that came into force on January 1, 2016 have not adequately addressed the challenges associated with the high numbers of motorcycles as a mode of transport;

NOW THEREFORE, the Senate resolves that the Ministry of Transport, Infrastructure, Housing, and Urban Development: - identify strategies to enforce the National Transport and Safety Authority (Operation of Motorcycles) Regulations; in collaboration

with County Governments, develop programs to sensitize and educate members of *boda boda* associations and the public on the laws regulating motorcycle operations; submits a Report to the Senate within ninety(90) days outlining the short and long term strategies, and preventative measures that are being put in place to halt the rising cases of road carnage involving motorcycle riders.

(Motion deferred)

ADOPTION OF REPORT ON THE FIRST EXTRAORDINARY
SESSION OF THE FP-ICGLR IN KINSHASA, DRC

THAT, this House adopts the Report of the proceedings of the First Extraordinary Session of the Plenary Assembly of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR) held in Kinshasa, Democratic Republic of Congo from 19th – 20th March, 2018, laid on the Table of the Senate on Tuesday, 15th May, 2018.

(Motion deferred)

DEVELOPMENT AND IMPLEMENTATION OF NATIONAL
DISASTER RISK FINANCING

THAT, WHEREAS Kenya's disaster profile is dominated by droughts, fire, floods, terrorism, diseases and epidemics that disrupt livelihoods, destroy infrastructure, divert planned use of resources, interrupt economic activities and retard development;

FURTHER WHEREAS the Government, through its various agencies, is ultimately responsible for disaster reduction, preparedness and management;

COGNIZANT of the fact that Government agencies involved in disaster management are usually overwhelmed when called upon to provide response services during disasters and emergencies;

AWARE that the Kenya Red Cross Society Act, Cap 256 of the Laws of Kenya establishes the Kenya Red Cross Society, a sole national Red Cross Society in Kenya, as a voluntary aid society;

RECOGNIZING, the efforts of the Kenya Red Cross Society to provide first-line disaster response services in incidences of disasters and other emergencies across the country;

OBSERVING, the huge financial resources required to finance disaster reduction, preparedness and other emergency services;

NOTING that one of the sources of the Kenya Red Cross Society in financing its operations is through accepting unrestricted contributions and

assistance, in any form, from individuals, public authorities and private bodies;

APPRECIATING, the efforts made by the prudent management of funds by the Kenya Red Cross Society;

FURTHER AWARE that emergency fund is a substantial proportionate Vote Head in both the national and county government budgets;

CONCERNED, that the Kenya Red Cross Society has not been allocated a budget from the national and county governments despite the huge contribution in disaster and emergency response across the country;

NOW THEREFORE, the Senate urges the national and county governments to explore collaborative mechanisms for the Kenya Red Cross Society to support and implement a paradigm shift from post disaster response to risk reduction by developing and implementing a national disaster risk financing strategy across all sectors and incorporate it into the national and county development planning and financing processes.

(Motion deferred)

NOTING OF REPORT ON THE COMMONWEALTH
PARLIAMENTARIANS' FORUM

THAT, this House notes the Report of the Senate Delegation to the Inaugural Commonwealth Parliamentarians' Forum held at the Westminster Palace, London, United Kingdom from 26th February to 1st March, 2018 laid on the Table of the House on Thursday, 10th May, 2018.

(Motion deferred)

FRAMEWORK TO PERMANENTLY ADDRESS
EFFECTS OF FLOODS

THAT, aware that several days of heavy rains recently have caused severe flooding in many parts of the country, resulting in multiple deaths and devastating damage to property and infrastructure;

NOTING with concern that, whenever Kenya experiences periods of severe drought, torrential rains usually follow;

CONCERNED that year in year out, the challenge of floods continues to recur, leading to loss of human and animal life, displacement of people and wanton destruction of property;

COGNIZANT that the number of Kenyans needing emergency food aid as a result of displacement caused by the current floods continues to rise

by the day, and that the floods have also washed away many bridges and destroyed roads in many parts of Kenya;

ALSO CONCERNED that no effective measures, such as improved storm water harvesting, proper drainage infrastructure and preventing the destruction of riparian reserves and natural water courses, to mitigate and/or provide a lasting solution to the menace of flooding, have been taken;

NOW THEREFORE, the Senate calls upon the National Government to develop a lasting framework to permanently address the challenge of effects of floods by, among other things-

- 1) developing and enforcing regulations for preventing the obstruction of riparian reserves and natural water courses; and
- 2) preventing and regulating the construction of informal settlements and ensuring prevention of construction on low lying areas and flood plains.

AND FURTHER that the relevant government agency to execute this task submits a report to the Senate within three months of the adoption of this Motion.

(Motion Deferred)

REMEDIES FOR CLOSURE OF SCHOOLS DUE TO FLOODS
AND INSTANCES OF INSECURITY

THAT, AWARE that Article 43(1)(f) of the Constitution of Kenya provides that every person has a right to education and Article 53(1)(b) of the Constitution states that every child has the right to free and compulsory basic education;

COGNIZANT that on 5th January, 2018 during the flagging off of national delivery of core course books for schools at Cemastea Karen, His Excellency the President Uhuru Kenyatta stated that his administration has focused on initiatives that ensure every Kenyan has access to quality education, so they can acquire appropriate skills and knowledge that make our country globally competitive;

FURTHER AWARE that recently the country has suffered floods in many parts of the country leading to deaths and people being displaced and rendered homeless;

DEEPLY CONCERNED that some schools have also remained closed even after other schools reopened while others have been closed as a result of floods and instances of insecurity;

FURTHER NOTING that closure of schools due to the said floods as well as insecurity places students and pupils in those schools at a disadvantage as they are unable to access education which is their right, while some of the students in those schools are expected to sit for their

national exams at the end of the year and their performance risks being negatively affected by the lost time out of school;

NOW THEREFORE, the Senate resolves that the Senate Committee on Education investigates this matter with a view to: -

(1) identifying strategies to ensure that the affected students are able to access education as soon as possible;

(2) outlining preventative measures to ensure that more students are not affected by the floods and insecurity; and,

(3) Submitting a Report to the Senate within sixty (60) days outlining the short and long-term strategies, that are being put in place to ensure that schools in flood and insecurity prone areas are not affected in the future.

IMPROVEMENT OF KENYA'S RANKING IN WORLD TRAVEL AND TOURISM COMPETITIVENESS INDEX

THAT, AWARE that the Ministry of Tourism have developed and published the Kenya National Tourism Blueprint 2030 in May 2017;

FURTHER AWARE that Kenya Tourism Agenda 2018 – 2022, launched in April 2018, establishes the foundation for the National Tourism Blueprint 2030 and is the tool for initiating the components of the Blue Print;

ALSO, AWARE that the contribution of travel and tourism to Kenyan GDP stood at 9.7 per cent in 2017, up from the 9.3 per cent previous year;

COGNIZANT that in the next 10 years every industry will be changed by technology;

ALSO, AWARE that Kenya Tourism Board has partnered with Google, Safaricom, Kenya Wildlife Service and Tourism Finance Corporation to create new digital content for local tourism;

CONCERNED that Kenya tourism industry's potential is underutilized;

AWARE that Kenya's position in World Economic Forum's Travel & Tourism Competitiveness Index Ranking is 80 out of 136 in 2017, having improved by 2 points from 2015, while having currently the lowest score in cultural resources and business travel with 1.6 points out of 7;

FURTHER CONCERNED that majority of the solutions proposed by the tourism agenda are brick and mortar type and not addressing the trends; noting that in less than two years, the share of online booking globally has grown from 9 per cent to almost 33 per cent and the lucrative and fast-growing segment of business tourism;

ALSO CONCERNED that Kenya will continue to attract only beach and park type tourists ignoring the large number of conference and business travellers, who largely never leave Nairobi and are offered minimal exposure to Kenya;

NOW THEREFORE, the Senate calls upon the Ministry of Tourism to approach tourism sector with modern innovation and implement tangible, measurable and impactful solutions, resulting in improvement of Kenya's ranking in the World Economic Forum Travel & Tourism Competitiveness Index 2019 by 6 positions and improve the lowest score of cultural resources and business travel by 1 point.

(Motion Deferred)

PAYMENT OF HONORARIUM AND PENSION TO
FORMER COUNCILORS

THAT AWARE that National Forum of Former Councillors petitioned the Senate regarding the need for legislative interventions to address the plight and welfare of former Councillors;

FURTHER AWARE that the Senate Standing Committee on Labour and Social Welfare considered the Petition and tabled its report on Tuesday, 16th February, 2016;

ACKNOWLEDGING that the Committee's report on the Petition made five recommendations among them that-

(1) one-off honorarium of Kshs1.5 Million be paid to former councillors who served a minimum of one term since independence; and

(2) monthly pension of at least Kshs30,000 be paid to former councilors.

APPRECIATING that the recommendations were based on the fact that former Councillors did not receive fixed emoluments and experienced disparities with regard to access to pension services and terms and conditions of pension schemes over the years, which made it difficult to fairly and equitably determine each councilor's rightful benefits retrospectively;

CONCERNED that the State Department for Social Services and Security, State Department for Devolution and the National Treasury have to date not implemented the Committee's recommendations on the Petition;

NOW THEREFORE, the Senate calls upon the Principal Secretaries to the said State Departments and the National Treasury to take necessary steps to implement the recommendations contained in the Report.

(Motion deferred)

NOTING OF REPORT OF THE 138TH ASSEMBLY OF IPU
AND RELATED MEETINGS

THAT, this House notes the Report of the 138th Assembly of the Inter – Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland from 22nd – 28th March, 2018 laid on the Table of the Senate on Thursday, 21st June, 2018.

(Motion deferred)

NOTING OF REPORT OF THE APNAC CONFERENCE, 2018

THAT, this House notes the Report of the Senate Delegation to the African Parliamentarians’ Network against Corruption (APNAC) Conference held in Ghana from 17th – 18th March, 2018, laid on the Table of the House on Tuesday, 19th June, 2018.

(Motion deferred)

NOTING OF REPORT ON THE 20TH CONFERENCE OF COMMONWEALTH
EDUCATION MINISTERS (20CCEM)

THAT, this House notes the Report of the Standing Committee on Education on the 20th Conference of Commonwealth Education Ministers (20CCEM) held in Nadi, Fiji from 19-23 February, 2018, laid on the Table of the House on Thursday, 12th July, 2018.

(Motion deferred)

NOTING OF REPORT OF THE PROCEEDINGS OF THE GLOBAL
PARLIAMENTARY CONFERENCE (GPC)

THAT, this House notes the Report of the proceedings of the Global Parliamentary Conference (GPC), held at the World Bank Headquarters, in Washington DC, United States of America from 16th to 17th April, 2018, laid on the Table of the House on Thursday, 12th July, 2018.

(Motion deferred)

NOTING OF REPORT OF 49TH SESSION OF THE ACPPA AND
INTER-SESSIONAL MEETING OF THE ACP-EU JOINT ASSEMBLY

THAT, this House notes the Report of the 49th Session of the ACP Parliamentary Assembly and Inter- Sessional meeting of the ACP-EU

Joint Parliamentary Assembly held on 20th to 22nd March, 2018 in Brussels, Belgium, laid on the Table of the House on Tuesday, 31st July, 2018.

(Motion deferred)

NOTING OF REPORT ON THE 2018 COMMONWEALTH GAMES

THAT, this House notes the Report of the Standing Committee on Labour and Social Welfare on the 2018 Commonwealth Games held in Gold-Coast, Australia from 4th to 15th April, 2018.

(Motion deferred)

NOTING OF REPORT OF THE TVET CONFERENCE HELD IN VICTORIA, CANADA

THAT, this House notes the Report of the Standing Committee on Education on the TVET Conference held in Victoria, Canada from 27th April 2nd May, 2018.

(Motion deferred)

MEASURES TO ADDRESS THE PLIGHT OF STREET FAMILIES

AWARE THAT the Street Families Rehabilitation Trust Fund (SFRTF) was established on 11th March, 2003 by the then Ministry of Local Government to address the concerns of all homeless, destitute and vulnerable persons in urban areas, and was registered as a body Corporate in August, 2010 under the Trustees (perpetual succession) Cap 164, Laws of Kenya;

FURTHER AWARE THAT the mandate of SFRTF includes coordinating rehabilitation activities for street families; conducting public education on street families issues; mobilizing resources and fundraising as well as receiving donations and funding street families rehabilitation programmes; managing donations for the rehabilitation of street families through a trust fund; monitoring expenditure and disbursement of donations; and advising the government and other relevant agencies on matters relating to rehabilitation of street families;

NOTING THAT Article 43 (1) of the Constitution of Kenya provides for the right to every person to the highest attainable standard of health, accessible and adequate housing, adequate food of acceptable quality, clean and safe water in adequate quantities, education, and social security;

CONCERNED THAT the street family phenomenon has persisted despite the existence of the SFRTF and street families do not enjoy the rights enshrined in the Constitution due to lack of a national policy on the rehabilitation of street families, with women and children being the primary victims;

COGNIZANT THAT the Ministry of Devolution and ASAL Areas through the SFRTF supports children and youth through charitable and community-based organizations which are vetted and approved for funding under the rescue, rehabilitation and reintegration of street families programme;

NOTING THAT both the National and County Governments have a role to play in addressing the plight of street families across the Country;

NOW THEREFORE the Senate resolves that Ministry of Devolution and ASAL Areas in collaboration with the Council of Governors-

(1) conducts a census of street families in all urban centres in the country to determine their numbers and demographics;

(2) develops a clear policy on street families rehabilitation and reintegration at county level; and

(3) tables an audit report of how funds allocated to the SFRTF have been utilized since the Fund was established, indicating the impact of the rehabilitation exercise.

(Motion deferred)

26. **The Temporary Speaker** (Sen. (Prof.) Kamar): We will now move to Order No.

MOTION FOR ADJOURNMENT

ADJOURNMENT OF THE SENATE PURSUANT TO THE
APPROVED CALENDAR FOR 2018 SESSION

The Senate Majority leader (Sen. Murkomen): Thank you, Madam Temporary Speaker, I beg to move:-

THAT, pursuant to Standing Orders 28 and 29, the Senate do adjourn until Tuesday, 11th September, 2018.

Madam Temporary Speaker, this is a very straightforward Motion that is based on our calendar. It gives us again an opportunity to prepare to do Committee work. I hope that based on all the responses from the Senators the Committee Chairperson, vice chairperson and Members will take their work seriously over this period of time to ensure that when we come back, we will have everything in order to ensure that we move smoothly in so far bills are concerned.

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We are also going to prepare ourselves to go to Eldoret the week after we come back. We will be having a historic sitting outside Nairobi. I believe that we will do a very good job. It is also time for us to go back to our constituents. I believe that we will collect information, data and petitions that we can bring back to represent the people well in this House and also to ensure that quality of debates remains high.

I want to congratulate various committees for doing their job well during the period we had. They represented the Senate well, devoid of scandals and drama; and with great respect for the people of Kenya and the institution of Parliament.

As a closing remark, Madam Temporary Speaker, there is one thing that I like about the Senate; that fact that we do not get praised all the time. In fact, in most cases, we discuss very serious issues and, somehow, even when we are initiating a committee report, nobody – including the media – wants to report or discuss us. However, when we finally bite, the whole nation stops and listens, because our work is thorough, purposive, has longevity and leaves a legacy.

Madam Temporary Speaker, the word ‘legacy’ is being used in town as if it is only President Uhuru Kenyatta who leaves a legacy; and everybody is talking about the President’s legacy. However, I need to remind every leader that it is not the President alone who is supposed to leave a legacy in this country. Every day, we live and breathe; every opportunity we get to perform anything on behalf of the people of Kenya is about building blocks and bricks of our legacy. Therefore, when we go out there on recess, let us continue to do the good work we are doing and represent our people.

Madam Temporary Speaker, I appreciate what Senators do in representation, when they participate in debating national issues. The other House sometimes likes debating this House. However, when Kenyans want to listen to what Kenya is saying about different issues, they look for Senators first; and that is a fact. If you see a Member of the other House being invited for a national debate out there, a Senator must have declined that invitation. That is an obvious fact. Therefore, this House has people of good quality and we must continue with what we have been doing to ensure that we enrich the quality of debate in the House and governance in our nation.

I beg to move and request Senators to approve this important Motion that gives us an opportunity to undertake the other responsibilities as provided for under Articles 94 and 96 of the Constitution.

Thank you, Madam Temporary Speaker.

Madam Temporary Speaker, although ordinarily this is not a motion that needs seconding, I request the Minority Leader to second it.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Orenge, you had already put in a request to speak. Proceed and take the Floor.

The Senate Minority Leader (Sen. Orenge): Thank you, Madam Temporary Speaker. I did not want it to be taken for granted, and I think that is the way it should be. Nonetheless, I thank the Majority Leader for putting in a word for me.

However, Madam Temporary Speaker, there is not much to be said in the sense that the calendar of the Senate is already predetermined, and that all of us are looking forward to this period of recess. This is not a recess to rest, but to do other work. Oversight will continue, whether we meet in committees or in plenary. So long as you are

a Senator – whether jointly, severally or alone – your work of oversight continues in the counties and wherever you are.

Madam Temporary Speaker, the Senate is a very important tool in our constitutional arrangement. As we continue to mature as a democracy under this new constitutional dispensation, the more that realisation is coming to the fore. We hope that we will continue to do our work and meet the expectations of the people of this country.

Lastly, Madam Temporary Speaker, we are looking forward to going to Eldoret; and that will just be the beginning. Of course, the focus is now on Madam Temporary Speaker, because you are going to be the host. We hope that, that beginning will be a pacesetter for other deliberations to be held in other counties.

Without any further ado, I beg to Second the Motion that we go on recess.

(Question Proposed)

Sen. (Dr.) Zani: Thank you, Madam Temporary Speaker. I stand to support the Motion. We have done well before we go on recess.

This Senate has seen very many Bills coming back, some of which were from the Eleventh Parliament. They were not progressed to a point of becoming Acts. So, we are pursuing them, as the Senate, because they are very important to the counties, even as we forge better relationships with them. As provided for under Article 110(3) of the Constitution, we will also ensure that the Bills that are before Parliament are quickly placed in the relevant House either in the National Assembly or the Senate.

As we go on the recess, it will give us time, as Senators, to link up with the county assemblies. I hope that every Senator will link with the Members of the County Assembly (MCAs) and engage a bit more with them, in order to find out where the gaps are, especially, at the committee level. Many Committees will be able to link up with the committees within the county assemblies and strengthen their role of oversight. By linking up with the committees within the county assemblies, we will be able to share our experiences and enhance the oversight role within the counties.

We also look forward to the rotating sittings of the Senate in the counties, which is now becoming a reality. This was an idea mooted in the Eleventh Parliament, but it did not happen. Members will be very excited about this. As we move into the various counties and articulate issues, the Senate will get more entrenched in the country as a House that addresses the interests of counties. These issues include the allocation of revenue to the counties, the Integrated Financial Management Information System (IFMIS) and how it works, the bills that come from the counties, implementation, corruption that is taking place within the counties, *et cetera*.

In the Eleventh Parliament, we debated a lot on the issue of corruption and that it should not be devolved. Those are the issues that this Senate continues to address. More Kenyans are beginning to understand what the Senate is really about. The Senate of the Twelfth Parliament is very vibrant and on spot in handling the issues. The Senate is articulate, eloquent, hard and visible. We pray for that to continue. Even as we go on recess, we hope to come back more rejuvenated to serve our country as Senators.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Zani. Proceed, Sen. Cheruiyot.

Sen. Cheruiyot: Thank you, Madam Temporary Speaker. I rise to support this Motion for Adjournment. This is scheduled, but it does not mean that we should not share our thoughts as to whether or not we agree to it, as is the procedure on any matter that is laid before this House.

This is still an extremely busy time for us. The fact that we shall not be showing up in the Chamber does not mean that the work of the Senate has been put to halt. I know for a fact that many of the Senators will be committed in their Committee work. Personally, as Sen. (Dr.) Zani has advised, I intend to spend a good amount of time with my county assembly. I will try to drill into them the desire and need to do our work as legislators and ensure that devolution succeeds. The reason I say that is because, on many occasions – and these are some things that keep me and many other Senators awake at night – we are added to the village *WhatsApp* groups, which is the easiest tool of communication nowadays, from different parts of your county. Residents would complain about issues such as a road that is inaccessible, a dispensary that does not have sufficient medication, *et cetera*.

One of the tools that we can use, as a House, despite the fact that we do not do executive work, is to pile pressure and let our county assemblies--- I personally feel that our county assemblies have not fully exercised the powers that are within their discretion. When you break down the County Government Act and follow up to the establishment of county assemblies, it gives our County Assemblies similar though not equal powers to what Parliament can do. Therefore, this new spirit of investigation where Parliament appears to be taking a very strong and vocal role on matters of accountability needs to be passed on to our county assemblies.

Many of our county assemblies in this country are under County Executive capture. The county governments are using projects like it used to happen in our country in the KANU era. When you were supportive of the regime, then you could be assured development in your constituency. However, if you were in opposition, then you were easily side-lined. Unfortunately, many of the governors have taken that path. The saddest bit of it, is that they do it with a support of a divided county assembly. I would urge the county assemblies to properly execute their mandate together so that they can succeed together.

This dangling mentality that is being taken up by many of county governments is used to divide county assemblies. There is no assurance of continued camaraderie between county assemblies and county governor as a sure way to achieve development. Our legislative work is to debate and pass Bills. Many Kenyans are now fond of the Senate. They are appreciating the good work we are doing. It may appear as if it is self-serving to praise ourselves as Senators, but when a good thing is said about us, we need to be proud of it.

Earlier on, I was following the contributions from my colleague online. I saw a leading journalist running a poll on which House Kenyans prefer between the Senate and the National Assembly. This journalist works for *NTV*. By the time, I was logging off, 50 replies were in favour of the Senate. Not a single mention of the “Lower” House. This is

our moment. One of the things we should do is to stand up for the people we represent in this House. I challenge all Committees to up their game and do their work with more zeal. For sure, that is a wakeup call to us.

Finally, yesterday we passed a Motion here to establish an hoc Committee with sponsorship of yours truly---

Sen. (Dr.) Zani: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. (Prof.) Kamar): There is a point of order from Sen. (Dr.) Zani.

Sen. (Dr.) Zani: Madam Temporary Speaker, did you hear how you were referred to by hon. Senator? There are rules about reference of Members in this House.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Sen. (Dr.) Zani. Fortunately, I did not hear.

Sen. Cheruiyot: Thank you, Madam Temporary Speaker. If I made any mistake I do apologise.

There are two *ad hoc* Committees handling matters that are extremely important to farmers in this country; that is, the one handling challenges in the tea sector chaired by yours truly and the other one handling the challenges in the maize sector.

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Kipkirui Aaron Cheruiyot, I have heard you say words that were commented on earlier about “yours truly.” Who is “yours truly?”

Sen. Cheruiyot: Madam Temporary Speaker, “Yours truly” is myself. I do not think there is anything out of order with that.

The Temporary Speaker (Sen. (Prof.) Kamar): Sen. Cheruiyot, go ahead.

Sen. Cheruiyot: Madam Temporary Speaker, it will be important if these Committees can let people know the issues they are handling. We will help Kenyans realise that this is a great House that can respond and rise up to the occasion when called to do so. If we liberate our tea, maize, coffee and sugar farmers, then it will be worth it having a Senate in this Republic.

I do not wish to say more than that. I support this Motion and wish my colleague Senators all the best as they embark on work outside the precincts of this Parliament. I thank you.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, I was not planning to say anything but I thought the record must reflect some of the things that we have done. During this period, we managed to get a Fund that will enable Senators do their work in terms of oversight. I that will be put to effect quickly so that the money we distribute to counties every year is put to good use. That will ensure that Senators are felt at the county level.

I am happy about the sitting that we will have in Uasin Gishu County. I hope we will seize the moment to interrogate things that affect that region in terms of devolved functions, so that the Senate can be felt not only in Uasin Gishu County but all the neighbouring counties for the week that we will be there.

I am a little disappointed that at the end of this period today, we have failed to take up something we should have. The Report on Ruaraka Land should have been debated today. I see no reason whatsoever why we did not suspend everything we were

doing for purposes of interrogating the Ruaraka Land Report. Whoever caused the Ruaraka Land Report not to be discussed has done a disservice to the Senate. After 30 days from today, when we resume, the thrust and speed that the Senate appear to gain will be lost and Kenyans will be wondering why the Senate did not debate the Ruaraka Land Report after it was tabled by Sen. M. Kajwang'.

There are many things that have happened today. One of them is that the Sugar Report has been rejected by the National Assembly. We should have shown what Parliament should do to people who steal or hide the truth instead of postponing the inevitable.

I must express my disappointment because that was one of the worst decisions that Senate has ever made. If anybody thought that we will protect the people who were in that report, when it finally comes for debate, the issues that are there will still be there. So what was the point of postponing after we spent a lot of time to debate the report?

The reason I am saying this and the reason I voted for this Bill is because I sat in the Committee that was investigating the Solai Dam issue and I know the sort of time that is put in *ad hoc* committees because you work within timelines. The sort of threats and intimidations that the Committee faced yet the report has seven signatures as opposed to five for the one on Solai Dam just shows the sort of commitment Senators made. Sen. (Prof.) Ongeru had to come from the hospital. In fact, he did not take his medicine only to come here and be disappointed.

I must say we have failed ourselves on this last day. We have done something we should not have done.

If I have offended anybody, I will apologise later. I thank you.

ADJOURNMENT

The Temporary Speaker (Sen. (Prof.) Kamar): Hon. Senators, that brings us to the end of today's business. Therefore, the House stands adjourned until Tuesday, 11th September, 2018, at 2.30 p.m.

The Senate rose at 7.40 p.m.