

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 11th April 2018

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

Hon. Speaker: You can ring the Quorum Bell so that we can get the requisite quorum.

(Quorum Bell was rung)

Hon. Members, we now quorate.

COMMUNICATION FROM THE CHAIR

VOLUNTEERS IN PSC VOLUNTARY SERVICE SCHEME

Hon. Speaker: Hon. Members, since the commencement of the last Parliament, it has become a norm for the National Assembly to engage and mentor young students and pupils in the affairs of national governance. Indeed, this is also part of the Corporate Social Responsibility (CSR) and outreach programme of the Parliamentary Service Commission (PSC).

In this regard, may I, therefore, take this opportunity to introduce four students from Starehe Boys Centre and School who are seated in the Speaker's Gallery and who are to commence a two weeks voluntary service scheme in the National Assembly. They are:

1. Master Stanley Muendo - Form Three student.
2. Master Emanuel Tukei - Form Three student.
3. Master Tom Otieno - Form Three student.
4. Master Chrisantus Chitayi- Form Two student.

On my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful participation in the voluntary service scheme.

I thank you.

PETITION

IRREGULAR ACQUISITION OF ATHI KAPITI LR NO. 7374

Hon. Speaker: The Member for Mavoko seems to have a new name, King'ola. I knew him as Hon. Patrick Makau. He has since added or acquired another one, King'ola.

Hon. King'ola: Thank you, Hon. Speaker. The name King'ola is my late father's and I am Patrick Makau.

I stand here to present a public Petition by the residents of Mavoko Constituency regarding alleged irregular compulsory acquisition of land in Mavoko Constituency known as Athi Kapiti LR No. 7374.

I, the undersigned, on behalf of the residents of Mavoko Constituency, draw the attention of the House to the following:

THAT, the parcel of land, Athi Kapiti LR No. 7374 is located in Mavoko Constituency in Machakos County;

THAT, Konza South Society and Maa Konza Society are the original and communal owners of land referred to as Athi Kapiti LR No.7374;

THAT, in 1973, the Agriculture Development Corporation compulsorily acquired the said parcel of land from the Petitioners for use as holding ground for cattle awaiting fattening and cross breeding;

THAT, it is alleged that the land has never been used for the stated purposes and there is no evidence that the said land will ever be used for the said holding of cattle;

THAT, the said land is allegedly currently being used for other purposes, contrary to the original plans;

THAT, efforts to resolve this matter with the relevant Government agencies have been futile; and,

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

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee of Lands:

(i) Institute immediate investigations into the alleged irregular compulsory acquisition of parcel of land Athi Kapiti LR No.7374 to determine the validity of the acquisition and ensure corrective action is taken;

(ii) Ensures that the Petitioners' plight is addressed and land reverts to them immediately;

(iii) Makes any other order or direction that it deems fit in the circumstances of the case.

And your Petitioners will ever pray.

Hon. Speaker, I have the names of the Petitioners who have appended their signatures in support of this Petition. I hope this House will do its job diligently. This House has received many petitions before, but action on them is still pending. Nobody has cared to address them. I hope we are not going to bring petitions to this House in vain. I hope the Committee responsible is going to undertake this matter because land issues in this country are many. I come from a constituency that has many land problems. Of late, land belonging to Kenya Meat Commission (KMC) and East African Portland Cement has been encroached by aggrieved residents. They have issues to do with occupancy through compulsory acquisition of land. I hope this House is going to address the matter accordingly.

Thank you, Hon. Speaker.

Hon. Speaker: Member for North Imenti.

Hon. Dawood: Thank you, Hon. Speaker. I join my colleague, Hon. Makau, regarding this matter on compulsory acquisition of land. There are many institutions which compulsorily acquire land and, after a few years, you hear that people are being allocated the land. The Committee, which will be responsible for investigating this Petition, should get to the bottom of

the matter. If the land which has been compulsorily acquired is not used for the intended purpose, it should revert to the rightful owners so that they can make use of it.

I support.

Hon. Speaker: Member for Alego Usonga.

Hon. Atandi: Thank you, Hon. Speaker. I would like to join and support the Petition by my colleague, Hon. Makau, and to say that the practice of compulsory acquisition of land in Kenya is very common. Most public institutions acquiring land are rarely ready to utilise those pieces of land. I know of a case where the Kenya Police has compulsorily acquired land which was initially owned by the Siaya Farmers Training Institute. Our efforts to get them out of that land have been futile. So, this Committee needs to go deep into this issue and help the Government to come up with procedures and mechanisms of compulsorily acquiring land. That way, we will be sure that the acquired land is, indeed, made good use of.

The other issue is that when land is acquired and it is not properly utilised, cartels get an opportunity to acquire it irregularly. This is a very important Petition and the Committee in charge of land needs to get deep into the issues that have been cited and come up with a good report.

Hon. Speaker: The Petition stands committed to the Departmental Committee on Lands to deal with it in the appropriate manner.

Next Order!

PAPERS LAID

Hon. A.B. Duale: Hon. Speaker, I beg to lay the following Papers on the Table:

The Financial Year 2017/2018 Supplementary Estimates No.II for the year ending 30th June, 2018 on:

- (a) Recurrent Expenditure - Volumes I and II; and,
- (b) Development Expenditure - Volumes I, II and III.

I would just like to make an observation that the preparation and approval of the Supplementary Budget is provided for in Article 223 of the Constitution, Sections 43 (2) and 44 of the Public Finance Management (PFM) Act, 2012 and Section 40 of the PFM Regulations. I ask that the National Treasury comply with the regulations both in law and in the Act so that they provide all the necessary documents that the House needs in future.

The Reports of the Auditor General on the Financial Statements in respect of the following institutions for the year that ended 30th June, 2017, and the certificates therein:

1. The Kenya Roads Board (Operations);
2. The National Employment Authority;
3. The Kenya Cultural Centre; and,
4. The Council of Governors Secretariat.

The Report of the Auditor-General on the Financial Statements of the National Government Constituencies Development Fund in respect of the following constituencies for the year ended 30th June, 2016, and the certificates therein:

1. Teso North Constituency;
2. Nyando Constituency;
3. West Mugirango Constituency;
4. Ikolomani Constituency;
5. South Mugirango Constituency;

6. Kisumu West Constituency;
7. Kuria West Constituency;
8. Homa Bay Constituency;
9. Mumias West Constituency;
10. Borabu Constituency;
11. Matayos Constituency; and,
12. North Mugirango Constituency.

The Report of the Auditor-General on the Financial Statements of the Public Service Commission for the year ended 30th June, 2015 and the certificate therein.

Hon. Speaker: The Budget and Appropriations Committee is to consider the Supplementary Estimates No.II for the year ending 30th June, 2018. That Committee should ensure or demand that the National Treasury has acted in full and strict compliance with both the provisions of the PFM Act, 2012 and the Regulations made thereunder. All information must be provided to the Committee and, therefore, the House.

Let us have the Chairperson of the Departmental Committee on Finance and National Planning.

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

The Report of the Departmental Committee on Finance and National Planning on its consideration of the Public Private Partnerships (Amendment) Bill, 2017.

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

POINT OF ORDER

WITHDRAWAL OF MOTION

Hon. King'ara: Thank you, Hon. Speaker. Pursuant to the provisions of Standing Order No.58, I wish to seek leave of the House to withdraw the Motion on the Designation and Gazettement of Areas and Streets for Demonstration and Picketing, whose debate was stayed on Thursday, 29th March 2018, and which, Hon. Speaker, you undertook to give guidance on its constitutionality. I am doing this after reconsideration and extensive consultations.

As you are aware, the Motion concerned the need to guarantee that the enjoyment of rights and fundamental freedoms by any individual should not prejudice the rights and fundamental freedoms of others. It also concerned the undesirable effects of violent demonstrations and illustrated instances where the enjoyment and exercise of the rights under Article 37 has resulted in prejudice or infringement of the rights and fundamental freedoms of other citizens.

The Motion draws concern to vices such as destruction of property, loss of lives, public disorder, theft and other negative consequences that innocent citizens suffer as a result of violent and unregulated demonstrations. The Motion is also clear that I had taken into consideration the constitutional rights protected under Article 37 of our Constitution:

“Every person has the right, peaceably unarmed, to assemble, to demonstrate to picket and to present petitions to public authorities”.

The Motion also draws attention to the fact that the above right is not one of the rights that may not be outlined in Article 25 of the Constitution. With regard to the appropriate mechanism for limiting this particular fundamental right and freedom, it is now clear that under Article 24 of the Constitution, this can only be achieved by way of law. The Parliamentary

Powers and Privileges Act of 2017 is a good example of such law as Section 8(1) of the Act provides that the Speaker may designate areas in proximity to the precincts of Parliament where members of the public may, pursuant to Article 37 of the Constitution, assemble, demonstrate, picket or present memoranda to Parliament.

I have already proposed a legislative proposal on the matter through the Office of the Clerk and the proposal is currently awaiting approval by the Budget and Appropriations Committee. I, therefore, wish, through you, to urge the Committee to fast-track its consideration so that once published, I can introduce the Bill for consideration by the House. If the Bill is enacted, it will have the full force of the law to achieve my objective.

I, therefore, seek leave of this House to withdraw the Motion.

Hon. Speaker: Hon. Members, as you are aware, the Member stood pursuant to Standing Order No.58 which provides that once a Motion has been moved and proposed, it becomes the property of the House. It is in the possession of the House and may not be withdrawn without leave of the House. Therefore, it means that the Member is seeking the leave of the House. It is not the leave of the Speaker.

I can see some few requests. I do not know whether they are to grant or deny leave or whether they are requests from Members who were the early birds.

Let us have the Member for Mathare.

Hon. Oluoch: Thank you, Hon. Speaker. I rise to comment on the withdrawal of the Motion by Hon. King'ara. I raised this question when the Motion was---

Hon. Speaker: I have not given you an opportunity to comment.

Hon. Oluoch: I support the withdrawal of the Motion because I raised the question of its constitutionality.

Hon. Speaker: Member for Kisii County.

Hon. (Ms.) Ongera: Thank you, Hon. Speaker, for giving me this opportunity to contribute. I rise to oppose the withdrawal of the Motion.

Once a Motion has become a property of the House, Members should be given an opportunity to debate and articulate the issues surrounding it, including the issue of its unconstitutionality, so that we can be aware of those issues. We can then decide, as a House, whether to throw it out or accept it.

Hon. Speaker, I oppose the withdrawal of the Motion.

Hon. Speaker: Member for Samburu North.

Hon. Lentoimaga: Hon. Speaker, thank you so much. I rise to oppose the withdrawal of the Motion because it has become a trend of the 12th Parliament for Motions to be scuttled even before they get to the Floor of this House. So, debate on this issue should be encouraged. We can debate the withdrawal issue and come up with a way forward. We will decide whether to allow it to continue or to have it withdrawn.

Hon. Speaker: Member for Tharaka.

Hon. Murugara: Thank you, Hon. Speaker. I rise to support the withdrawal of the Motion on the basis that there exist irregularities regarding that Motion. One of those pointed out are in contravention of the Constitution. This House should not engage in an exercise in futility by debating a matter that is not likely to see the light of the day. Doing so would be spending precious time of the House unwisely. If it is established that the Motion on the Floor is not likely to see the light of the day, then it should quickly die, so that Members can move on to deal with more important matters.

I support the withdrawal of the Motion.

Hon. Speaker: Member for Mwea.

Hon. Josphat Wachira: Thank you, Hon. Speaker. I also rise to support the withdrawal of the Motion. It was brought before the House but the Mover did some research that drove him to withdraw it.

I support him.

Hon. Speaker: Member for Samburu West.

Hon. (Ms.) Lesuuda: Hon. Speaker, thank you. I rise to support the withdrawal of the Motion since it is the Mover who has requested to do so. We are waiting for your directive on the same, so that this House can deliberate on more important issues instead of debating a Motion whose owner wants to withdraw.

I support.

Hon. Speaker: Member for Kikuyu.

Hon. Ichung'wah: Thank you, Hon. Speaker. I rise to support the Mover's desire to withdraw the Motion. The Mover of that Motion has said that he intends to come up with a Bill which will do what he intended to do with the Motion. I want to encourage him to come up with a Bill because it is very important for this country to have designated areas where people can picket and demonstrate. I do not find anything unconstitutional in the Motion. Like all developed democracies, we should designate places where people can picket and demonstrate. I, therefore, want to support and encourage the Member for Ruiru to hurry up and bring a Bill, which we will consider and designate such areas, so that we can have order in this country. We are in a country where everybody wakes up every morning and decides that he will picket outside your gate even when the issues he is picketing about have got absolutely nothing to do with you. The same thing happens when doctors and university lecturers are on strike. As much as everybody has every right to meet with his representative at Parliament, he should not interrupt our business and the business of other people within town. It will only be right to designate a place for picketing. It can be around Kenyatta International Convention Centre (KICC), where Members of Parliament and other Government officials can meet demonstrators and picketers. Demonstrators and picketers should not interfere with other people's freedoms in the name of picketing.

Thank you, Hon. Speaker.

Hon. Speaker: Let me hear the Member for Igembe North.

Hon. Maore: Hon. Speaker, before a Member brings a Motion to the House, he should do his homework next time, so that he does not take the precious minutes of the House like the ones he took withdrawing it. I also plead with the House. Once a Member has lost the spirit that inspired him to bring a Motion, whether it is backed by law or not, it is good to give him a leeway. The reason is that on the day of moving the Motion, he does not show up---

An Hon. Member: Point of order.

Hon. Maore: What is out of order?

Hon. Speaker: Proceed, Hon. Maore.

Hon. Maore: The Member wanted to designate the areas where people can picket, but he has withdrawn the Motion. It is an exercise in futility for the House to push him to move a Motion which he does not intend to move.

Before the Member interrupted, I was saying that if on the day of moving that Motion the Mover does not show up, what can you do? The Motion dies. So, instead of wasting all that space and time, let us agree with his plea that he withdraws the Motion.

Thank you, Hon. Speaker.

Hon. Speaker: Hon. Members, as you may have noticed, the Clerk-at-the-Table was busy counting who is supporting and opposing the withdrawal of the Motion. The reason is the issue of “Leave of the House”. I thought the Member for Kisii County was looking at her Standing Orders. Look at the definition of “Leave of the House.” The Member must be supported by at least 5 Members. We have counted those in support of the application for leave to withdraw. They are more than five. So, leave of the House is automatically granted. There is no need of flogging a dead horse.

The other aspect about this is that Hon. Oluoch raised the issue of constitutionality or otherwise of that Motion. It was because some of the issues raised in the Motion went beyond the areas which would have been, for instance, contemplated in the Powers and Privileges Act, which you passed last year. For that reason, it was likely to limit the freedoms and not comply with the provisions of Article 24 of the Constitution. The Member is entitled the leave to withdraw. Therefore, that Motion by Hon. King’ara, Member for Ruiru, stands withdrawn because the request to withdraw it was supported by more than five Members. So, we do not need to flog a dead horse.

COMMUNICATION FROM THE CHAIR

REQUEST FOR MEMBERS’ *KAMUKUNJI*

Hon. Speaker: Hon. Members, I have a short Communication to make. It relates to a request for Members’ *Kamukunji* and the way forward.

Hon. Members, I wish to notify the House that I am in receipt of a letter which was signed by 208 Members of Parliament who are seeking for a Members’ *Kamukunji* as a matter of urgency to address their welfare and other emerging issues with immediate effect. The letter was coached in the language of demand.

Informal fora for deliberation of issues of Members’ welfare popularly known as Speaker’s *Kamukunjis* were very popular and convenient. This was due to the fact that there were fewer Members of Parliament - 222, and more than 80 of whom were in the Executive. There were lesser issues to be addressed and there lacked a formal avenue to channel and address issues and concern relating to facilities and services availed to Members.

Hon. Members, you may also recall that following a series of unsuccessful *Kamukunjis* in the last Parliament, the House established an *ad hoc* Committee led by the then deputy leaders of the Majority Party and Minority Party, Hon. Naomi Shaban and Hon. Jakoyo Midiwo. That Committee attempted to formalize the manner of addressing and following up on matters of Members’ welfare raised in informal meetings with the Parliamentary Service Commission (PSC).

Matters of Members’ welfare are very close to me both as your Speaker and Chairman of the PSC. This is why in the 11th Parliament, under my leadership, the Procedure and House Rules Committee amended the Standing Orders to provide for the establishment of the Committee of Members Services and Facilities which is mandated to receive and consider views of Members on the services and facilities provided for their benefit and well-being. This Select Committee was born out of the realisation that:

1. While *kamukunjis* might appear to be popular among Members, they are in essence informal sittings. Therefore, it follows that decisions made therein are informal and not binding.

2. The manner of calling of *kamukunjis* was also limiting as it was and still remains the discretion of the Speaker in consultation with the leadership of the House as opposed to a request from individual Members.
3. There was need to formally engage PSC as the National Assembly on certain matters of Members' welfare as opposed to engaging the Commission through an informal gathering of individual Members.

Owing to the fact that *kamukunjis* are informal and not founded in the House's Standing Orders or in any other recognisable codified document, when I received this request, I had two choices. One option was to assume that the Committee on Members' Services and Facilities does not exist and, therefore, call for the informal Speaker's *kamukunji* to address the Members' concerns. The second option was to recognize that, indeed, we have a Committee established specifically for the purpose of addressing Members' concerns and, therefore, allow this Committee to discharge its mandate as provided for under Standing Order No.212B.

As your Speaker, I chose the second option. This choice is guided by the provision of Standing Order No.86 which provides that: "No Member shall refer to the substance of the proceedings of a Select Committee before the Committee has made its report to the House." As you may be aware, the Committee on Members' Services and Facilities under the leadership of Hon. Ezekiel Machogu recently deliberated on several issues including the Members' medical scheme, catering services and the general welfare of Members. Indeed, the Committee also undertook benchmarking visits to both the House of Commons and House of Lords in England, as well as to the Assembly of the Republic of Northern Ireland, in Belfast to have a comparative feel of matters of Members' welfare, services and facilities in those jurisdictions.

The Chairperson has indicated to me that the Committee will table its reports in the House next week. In this regard, it is inevitable that a discussion of those issues will most likely prejudice the Committee's work and offends the provisions of Standing Order No.86.

I call upon the Member who initiated the letter to formally reveal the concern the Members wanted to raise in the Speaker's *kamukunji*, so that I may forward the same concerns to the Committee. I will, thereafter, allow the Chairperson of the Committee to table the report in the House after which the House may choose to debate the reports either openly or *in camera*. The resolutions made by the House in regard to the said reports would then become actionable points to be actualised by the PSC. Thereafter, should there be need to address any matters of personal nature that may not be addressed by the Committee on Members' Services and Facilities in their report to the House, as your Speaker, I will facilitate the request for a Speaker's *Kamukunji* in consultation with the leadership of the House. Please, be guided accordingly.

Hon. Members, I encourage more Members to participate in the deliberations of the Committee on Members Facilities and Services so that any issues they may have may be captured properly and be acted upon in a manner aforesaid.

Thank you, Hon. Members.

The Members who unwittingly appended their signatures on the documents that were submitted to me did not indicate what they wanted. Speakers' *Kamukunjis* are never called that way. There is no provision for it in the Standing Orders. It was just a gathering of Members from time to time. There is no requirement that all Members or any Member attend it. That is why we cannot move that way. The language used was demanding, which is un-parliamentary. You cannot demand. I am not obliged to call a *kamukunji*. There is no Standing Order that provides that the Speaker must call a *kamukunji*. Indeed, there is nothing in the Standing Orders known as a *kamukunji*. Those Members who may be new to this perhaps should speak to Hon. Maoka Maore to understand the history of what today is called a *kamukunji*. It was an informal way of

meeting. Those were days when there was no Commission. We have now gone further and established a Committee so that we get a formal way of engaging as opposed to meeting in the corridors and at the tea place to sign papers that Members may not know what they are signing for. You sign a document, but you do not know under which law you are being told to sign. Please, I encourage Members to ask whether what they are signing is within the law before you append your signature. I saw very many of you had signed it. Should you also want to codify *kamukunji* in Standing Orders, again, it is within your power to amend them and create a forum called *kamukunji*. But for now, it has not been created yet. It is just a matter of consulting the Speaker with the leadership of both sides of the House to know whether there are issues we need to meet.

Next Order.

BILLS

First Reading

THE PHARMACY AND POISONS (AMENDMENT) BILL

(Order for First Reading read - Read the First Time and ordered to be referred to the relevant Departmental Committee)

Second Reading

THE IRRIGATION BILL

(Debate on the Bill concluded on 10.4.2018)

(Question put and agreed to)

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

Second Reading

THE ENERGY BILL

Hon. A.B. Duale: Hon. Speaker, I beg to move:

THAT, the Energy Bill (National Assembly Bill No. 50 of 2017) be now read a Second Time.

This Bill was dealt with in the 11th Parliament by both Houses, but there was a Memorandum from the President which the National Assembly considered and sent it to the Senate where it took some time and died. So, we had to republish this Bill with all the amendments and the reservations of the President. I want to thank, at the outset, the Committee led by Hon. Gikaria for bringing its Report to the House this morning and for doing good work.

The objective of this Bill is to consolidate all the laws relating to energy and align the legal and the regulatory framework of the energy sector within the Constitution of Kenya. This Bill is one of the constitutionally mandated pieces of legislation that Parliament was expected to deal with in the first five years of the promulgation of the Constitution 2010. So, it is a constitutionally binding Bill. It does this by setting out clearly the specific roles of both the national and the county governments in relation to all matters pertaining energy. The Chairman of the Committee, when he will be seconding, will dwell much on the issue of stakeholders' public participation. Allow me, therefore, to deal with both preliminary and substantive matters in the Bill.

Part I of the Bill deals mainly with preliminary issues. These are issues like definition of terms, application of the Act, and, of course, and the supremacy of this Act over other laws on matters relating to energy. So, once we pass this Bill, it will go to the Senate. Thereafter, it is expected to be assented to by the President and then it will become an Act of Parliament. All other laws that are currently in existence will have to lapse as this particular law will have supremacy over them.

Part II deals with energy policy and the integrated energy plan that is in line with the constitutional mandate of the national Government on policy-making. The implementation of national Government policies is a task assigned to counties and other implementing agencies. So

Part II deals with the role of the Ministry in as far as energy policies are concerned. In that part of the Bill, the Ministry of Energy is under obligation to provide the national energy policy and an integrated energy plan.

Part III deals with the Energy Regulatory Commission (ERC), which is to be a single sector regulator. It also talks about the Energy and Petroleum Tribunal. There are some sections of this Bill that deal with petroleum. When I talk of petroleum, remember that the Petroleum Bill is coming. I can see my colleague, the Member for Embakasi, shaking his head. In the Chamber, you do not shake the head; you wait and give your counter proposal. Your voters do not see you when you shake your head; they hear your voice which is recorded in the HANSARD. I am told you are a Member of the Departmental Committee on Energy. So, if you have issues, this is the time to say you disagree with this Bill on this-and-that clause and then during the Committee of the whole House you bring amendments. My good friend, I am just telling you that shaking of the head is not allowed here.

I have a son and he used to cry a lot at night when there was darkness. Whenever I would ask him what the problem was, he would only shake his head. I realised I could not understand his problem. So, I told him not to shake his head. So, do not shake your head, my good friend.

So, matters to do with the ERC are well documented in Part III because the ERC deals with many issues within the energy sector. We have the Energy and Petroleum Tribunal set together. It will be the successor of the current Energy Tribunal. Under the new structure, we have separately the petroleum and energy sectors. In fact, that is why we have the Energy and Petroleum Tribunal to deal with those issues.

Under Part III, we have the Rural Electrification and Renewal Energy Corporation which will succeed the current Rural Electrification Authority (REA). I suppose Members know about it because it has done a lot in our constituencies.

Finally, the other entity you will find under part III is the Nuclear Power and Energy Agency, which again will be the successor of the current Kenya Nuclear Electricity Board.

Part IV deals with renewable energy which is defined as a non-fossil energy generated from the natural land depleting resources, including but not limited to the use of solar energy, wind energy, biomass and biological waste energy, hydro energy, geothermal energy, the ocean, and even tidal energy. All these are covered within the framework and the title of renewable energy. They are found in Part IV.

The Renewable Energy Resource Advisory Committee under this Bill is established to advise the Cabinet Secretary (CS) for Energy on the criteria for the allocation of renewable energy resource areas and the licensing of these areas to investors. There are investors who will want to invest in wind, solar, hydro, biomass energy, geothermal. All these will fall under the new committee that will advise the CS. This committee is known as the Renewable Energy Resource Advisory Committee. Its advice to the CS is how these investors can access the various locations where these resources are found and how they are to be licensed in as far as making investments in the infrastructure of those resources is concerned.

The Renewable Energy Resource Advisory Committee also provides for what we call the feed-in tariff and the energy auction system. Feed-in tariff is a case where an investor invests in one of the renewable energy resources available in our country and sells power to the Kenya Power. So, how you feed-in to the national grid and the tariff that you want to charge will be addressed by this Renewable Energy Resource Advisory Committee and, of course, the energy auction system. That includes the obligation, investors and private equity players. They must also operate within certain obligation licences in order to connect and purchase electrical energy generated from the renewable energy resource.

Part V of the Bill deals with coal exploration development. Coal has been defined to include many things: bituminous coal, sub-bituminous coal, lignite and many others. The whole of this part deals with how we use and develop coal in order to generate power.

Part VI deals with electrical energy, how we have to provide for the licencing of electricity transmission and distribution. We have very many companies in the country owned wholly or substantially by the Government. The Kenya Electricity Generating Company Limited (Kengen) is in generation; Kenya Electricity Transmission Company Limited (KETRACO) is in the business of transmission; and the Kenya Power and Lighting Company (KPLC) is in the business of distribution to customers. Part VI deals with electrical energy in how we provide the licencing of electricity generation; how we provide licences to those who want to do transmission; and how we deal with the distribution network which is the KPLC.

Hon. Speaker, this Part VI also sets out certain specific provisions relating to rural electrification, retail supply of electrical energy and electrical installation. This is about the Last Mile Connectivity (LMC). It is only under this Government that the Rural Electrification Programme (REA) has reached each and every village – the LMC as they call it. Let us be honest. Three successive governments combined - the government of the late President Kenyatta; the government of President Moi; and the government of President Kibaki - have connected less than 2.1 million Kenyan households with electricity. But, in five years, the fourth President, Uhuru Kenyatta, has connected more than 3.9 million Kenyan households with electricity. Some of us come from regions and families that lived in Kenya. We know that for you to get power in your house, you had to belong to a certain class of society. With the handshake, we can now agree on some issues and disagree on others. Uhuru Kenyatta's government of five years under the Jubilee administration will be remembered for lighting up very remote villages and poor houses whether in slum areas or rural areas. We cannot deny him that. Yes, you can deny Uhuru

Kenyatta anything else but 3.5 million extra Kenyan households have been connected with electricity. I am sure he will connect more than 5 million Kenyan households in his last term.

A Somali hut is called herio. It is not permanent. They are some even in Budalangi. It is a makeshift that can rarely stay for one month. After one month, the guy puts it on top of his camel and moves with it and erects it in the next 100 kilometres. Even herios have been connected with electricity. I was with the Cabinet Secretary (CS) of Energy and Petroleum last weekend. I do not know whether the Member for Mbalambala is here. We went to his constituency and 75 houses or herio huts were connected in a village called Bulakuro in Mbalambala, my former constituency. One elder told me: "I think the world is coming to an end in Somali land." I asked him why and he said: "I never thought this can happen." You can deny Uhuru Kenyatta anything else, many things, but three successive governments combined did 2.1 million connections to Kenyans. He added 3.5 million connections in five years. The Member for Budalangi who is a ranking Member... We must introduce ranking Members. They must be recognized. Last night, I was watching the US Senate when they were grilling the CEO of Facebook. When ranking Member of either side of the House was asking questions, their names were put on the screen. They would show whether it is the Member for Ntonyiri or Igembe North Constituency who we served with in the 9th Parliament. If it would be Hon. T.J. or Member for Budalangi, it would be shown. The Member for Budalangi misbehaved a bit and left but now he is back. He was given some contract but he never delivered. He is a ranking Member. He is telling me the huts in Budalangi are connected. So, give the devil his due. You might not like Uhuru Kenyatta but when it comes to electricity, he did more than anybody else. The percentage that is connected in every constituency is over 50 per cent. We want to do it. We want the whole country to be connected the way he wants to provide universal healthcare.

Part VI deals with the licencing of electricity generation, transmission and distribution.

Part VII deals with the rights of way, way leaves, use of land for energy resources and infrastructure. It deals with communities. It is dealing with how you deal with transmission lines passing through community private lands. It deals with where the resources are found whether they be geothermal, wind and solar. We went to the border between my constituency and Mbalambala where you find the 50 megawatts solar projects costing Kshs13 billion. The biggest solar project in East and Central Africa is in Garissa County and it because of the sand. The guys who wanted to put it there were looking for sand. It will generate 54 to 55 average aggregate megawatts of power. Not all the power will be used by the people of Garissa. It will be connected to the national grid and sold to other regions because there is a transmission line from Garsen all the way to the Garissa sub-station. So you can see where the distribution of these energy resources. Geothermal energy is mainly in Naivasha, Narok, Baringo County and Elgeyo Marakwet County. How those matters will be dealt with is found in Part VII of the Bill. The proposals are meant to streamline and provide a one-stop-shop for issues of way leaves and rights of way in the energy sector.

Once this Bill is assented to, an investor in the energy sector sitting in Hong Kong does not need to come and talk to the CS of Energy and Petroleum. He will look at the Bill by accessing it online and see whether he can invest in the geothermal area or in the transmission area – individually or through partnership with KETRACO. This Bill is very important. It wants to provide a one-stop shop on issues of way leaves, rights of way and what goes on in the energy sector in our country.

Part VIII deals with energy efficiency and conservation. How can we use the energy resource we have more efficiently and conserve it? That is Part VIII of the Bill. It contains

provisions relating to the roles of the national and county governments in energy efficiency and conservation. That part also prescribes penalties and provides for adjudication mechanisms. It further provides for the establishment of funds for energy conservation at the national and county levels.

Part IX deals with miscellaneous provisions. If you have the Bill, it is very voluminous.

This House must be serious about local content. I am saying this because we must protect our local resources and businesses. I want to give an example. We have a very good working relationship with the Chinese Government. At the rate in which they are coming to our country and getting all the businesses, in ten years' time, you will find them hawking in the streets of Nairobi and Mombasa. So, we must find a way of controlling and protecting the local content whether it is energy, infrastructure and even the companies. The threshold, in which a foreign company can tender, must be known. As a House, we should use our legislative powers to protect the local content interest and give it a preferential treatment.

If you go to some part of Nairobi, particularly on Kirinyaga road where our people own spare parts shops, you will find that the goods they are selling, a company in China is selling the same good in the streets at the same or even a lower price than them. So our people are closing business. So, the element of local content is very important. We do not want to turn our country into a place where other people are offloading their excess population. We are only 45 million people. There are countries with a billion plus people. So, they will look for any space on the globe where they can offload their excess baggage. This House therefore, has an obligation to protect the interest of our people through the local content. I am sure that is not hate speech. If it is, I am doing it on the Floor of the House. I am not doing it outside the precincts of Parliament. This is part of the privilege I enjoy. Hon. Mulyungi is waging war, some of it good and some bad. Sometimes if you think you will be told to have made hate speech, look within the Standing Orders whether you can make your statement on the Floor and nobody will hold you accountable. Make sure the Speaker allows you to do it within the contents and the parameters of the Standing Orders. So whatever you say here, if the Speaker agrees with you, nobody can take you to National Cohesion and Integration Commission (NCIC) or the Director of Public Prosecutions (DPP). I am not encouraging Members to make hate speech. I am only telling Hon. Mulyungi because he is very short and vibrant. I pass through his constituency before I go home, so I have no choice. I have to support him because he can block the road to Garissa. Of late, he is picking wars with everybody including the President and the Governor of Kitui. Maybe he wants to inherit Hon. Kalonzo Musyoka's seat and so, he is preparing himself.

Finally as I finish, Part X deals with repeals of the Energy Act No. 12 of 2006 and Geothermal Resource Act No. 12 of 1982. This is what we call the transitional clauses. There are certain laws that will become redundant in terms of the staff, assets and liabilities.

I can see Hon. Keter. He was not around. He should get a copy of your Communication. He must have been told you have made certain communications.

Hon. Keter, there was a communication on the matter. So, get a copy and find out how you will go about it.

Part X deals with that. We are even changing Rural Electrification Authority (REA). How do we protect assets, liabilities, staff and all that? Those are the transitional clauses. There are new entities we are creating such as the Energy and Petroleum Tribunal. Part X is just dealing the repeals of the Energy Act No.12 of 2006 and the Geothermal Resource No. 12 of 1982. Of course, it will do a lot of savings and provide transitional provisions.

With those many remarks, mine was to make sure that the Bill belongs to the Government. I had done the salient and I will ask Members to robustly contribute to this Bill, enrich it, make it better and I am sure through your contribution in the Second Reading, the Clerk's office, all of us, the Committee Chair and the Members will pick. Next week when we come to the Committee of the whole House, we will adopt the committees' and individual Members' amendment so that by the time we are sending it to the Senate, we will have a better piece of legislation.

When we were publishing this Bill, we took into consideration all the amendments of the 11th Parliament, individual Members, the committee and the reservation which were made by the President. All of them are here. I am sure what we will add or subtract will be minor.

With those many remarks, I beg to move and ask Hon. Gikaria, the Member for Nakuru Town East and the Chair of the Energy Committee, to second.

Hon. Speaker: Hon. Gikaria.

Hon. Gikaria: Thank you, Hon. Speaker. I rise to second this very important Bill. First, I want to take this opportunity to thank your office for the cooperation that it has given to the committee. As the Standing Orders stipulate, we were supposed to have brought back a Report to this House within 21 days, but you gladly gave us an okay for us to proceed after the committee requested for an extra 21 days. We really want to thank your office, the office of the Clerk and the office of the Leader of the Majority Party. The Leader of the Majority Party never attended any of the sittings of the Committee but I can see the knowledge that he has in the Bill. This is so encouraging that he has spent a lot of time to look at the Bill, understood it and, more so, articulates on the matters that the Bill has. I want to thank his office for the so many occasions that we went for his assistance. His doors were always opened for us.

Secondly, I want to thank the secretariat for the good work that they have done especially writing a Report that is within the requirement of this House. However, I would like to request that in future we look at the Standing Orders and the requirements of laying a Report before the House on matters to do with legislation.

Two Bills were brought to my committee, that is, the Energy Bill and the Petroleum Bill. I want to thank the committee members most sincerely for the dedication that they have given to these very critical Bills. These were constitutional Bills as indicated by the Leader of the Majority Party. They went through a process and found their way back to Parliament after they lapsed in the last one. We would like to ask the Senate be patriotic once this Bill goes to them. Most of the Senators are on transit. They either want to be governors or are seeking bigger seats. They normally do not debate most of the Bills for posterity; they do it with the intention of being a governor in the next term. They therefore do not give the Bills the seriousness they require. We ask them not to take too long when these Bills land before them so that we can present them for Presidential assent.

This is the most progressive Bill that has been brought to this House in this 12th Parliament. First, as indicated by Hon. Duale, is the aspect of the tribunal; any player in the industry—whether a licensee, a contractor, a governor, a consumer—will have an opportunity of taking his or her grievances to the tribunal. It has already been indicated how they will be handling cases that will be brought before them. Because we were faced with two regulatory commissions, one in the Petroleum Bill as an authority and the Energy Regulatory Commission (ERC) as a committee, we have decided to bring the advisory committee and the commission together. Within the commission, we can have divisions to address upstream, midstream and downstream in matters of petroleum and another division can address energy issues. I think that

will go a long way in addressing the runaway wage bill and expenses that this government normally incurs by having so many commissions duplicating the same roles and responsibilities. This Bill has actually addressed that aspect.

On matters of compensation, assuming anybody will be walking into your land, there will be compensation both for the land usage for any infrastructure, be it on energy or petroleum. Also whenever there are power surges and most of the machines or electrical appliances in the house or in the company are damaged, there is possibility of getting compensated.

The right of wayleaves is addressed very articulately in this Bill. During our public participation in Murang'a, and specifically in Mathioya Constituency, it was so sad that tea farmers who had come together and collected Kshs2.2 billion to be able to generate power for use at the tea factory, could not undertake and finish that very dear project within the required period. This was just because they could not access less than 50 square metres of land because two farmers had refused to give them access, but this Bill will address that issue. Although Murang'a farmers spent two more years, which delayed their programme by two years; this Bill will address any future occurrences. It gives the right of wayleaves, whether it is on private or public land, or any of the community land; of course with the provision for compensation and other matters.

This Bill does bring very critical agreements which have never seen their way into Parliament. One of them is the production sharing contract, which is normally just signed by the ministry and the explorers or the contractor without finding its way into Parliament. This Bill now requires the ministry to bring the production sharing contract and the field development plan to this House for approval. That will go a long way for us to understand the content of the production sharing contract that the ministry will have signed. Most importantly, as Hon. Duale has indicated, is the local content. For the first time in this country, this Bill does address local content and what the people where that resource has been found are going to benefit. That is a very important component. When we went for public participation in the field, the public did add a few other items to be included in the local content sections. We agreed with the community that whenever any contractor walking into a certain region, then he must recognise and bring value to the local people. We now have this under the law. That is one of the most progressive issues that this Bill has brought to the common mwananchi. The county government will get some share, so will the local community. Again, this Bill has defined a local community and has been given as a sub-county, that is, at the constituency level. We have also realised the need to have renewable and clean energy in this country. The environmental, health and safety issues raised by the public have been taken into consideration in this Bill.

As Hon. Duale has just pointed out, this Bill does bring other players to generate, distribute and even sell energy to the common mwananchi. So, the dominance of Kenya Power (KP) has been addressed. Other key players will be moving in to this industry and be able to do almost everything within the energy sector to address the runaway costs that KP has always had through its monopoly. Of course, that comes with some conditions: That as you transit KP, you must also carry some obligation that that customer had with KP to wherever you are migrating to. That is a very fundamental issue.

This Bill also does address the destruction of energy infrastructure. For example, this government has spent billions of shillings to put the transmission lines. But Kenyans just vandalise this very important energy infrastructure. So, this Bill does address the economic crimes, where any person or entity is found to interfere with or destroy the energy infrastructure. Another very important aspect that has been addressed in this Bill is a consolidated fund where

money will be set aside. In case of any increase in the electricity bill, then the customer will not bear that cost. Some of that cost will be recovered from the fund.

Let me now go into public participation, a very important component. The committee, while considering the Bill pursuant to Article 118(b) of the Constitution and Standing Order 127(3), invited the public to submit memoranda. We received memoranda from the Council of Governors (CoG), which was headed by Hon. Kimemia, the Governor of Nyandarua, the KEPSA, the KOGA, Natural Justice, Turkana County Assembly; the Turkana County Government and there was a community from Narok; the Keikoyek community. We also had an opportunity to get a memorandum from the African Centre for Technology Studies, the Conservation Alliance of Kenya, the Turkana University and College Students Association, and Nakuru and Narok county governments. They visited the committee and were able to give their submissions.

I want to thank the committee members for the very good work that they did. We were able to have a total of 27 public meetings with the public in various counties and over 25 sittings with respective stakeholders.

The Report of the Committee contains a number of proposed amendments to the Bill for adoption and shall be brought during the Committee of the whole House. One of the issues that we realised when we went out for public participation is the need to harmonise the Energy Bill and the Petroleum Exploration Development and Production Bill. I request the Members of Parliament to be a bit careful when we will be debating. Some of the provisions in the Energy Bill have already been moved to the Petroleum Exploration, Development and Production Bill because that is where they belong, particularly the mid-stream and down-stream aspect of Petroleum Exploration, Development and Production Bill. The whole of Part V has been taken to the Petroleum Exploration, Development and Production Bill. At the same time there are other aspects in the Petroleum Exploration Development and Production Bill which have been brought back to the Energy Bill. One of them is the consolidation of the Commission in the Energy Bill and the Advisory Committee. So, this Bill has brought the need to harmonise the two Bills.

Secondly, prior to this, the Energy Regulatory Commission (ERC) just used to give drivers of the petroleum products a licence to drive these trucks. When the driver would adulterate the fuel, the ERC would only withdraw the licence from him. Now, we have included penalties and jail terms for any driver who is found adulterating petroleum products, be it petroleum or gas and even the shambas. We wanted to propose, but we thought it was not proper for us to have a special police force to be attached to the Ministry to deal with these shambas where there is fuel adulteration.

Hon. Speaker, fuel adulteration is one of the worst crimes. Recently, some transportation companies' drivers were caught adulterating a product that is meant for export. It, therefore, means that Rwanda, Uganda or any other landlocked country would never trust Kenya for business. Therefore, these are some of the issues that this Bill has brought as was suggested by the public. They wanted some action to be taken on the drivers and not just withdrawing their licenses. I have also mentioned that Part V will be moving to the Energy Bill and the National Integrated Energy Plan should, therefore, be developed in consultation with the private sector.

Hon. Speaker, our contact with the private sector brought that need to have the Ministry to be in constant consultation with the private sector and the relevant stakeholders who play a very key role in this important sector. There is also need to broaden the scope of qualification. In the Bill, they had suggested specific qualifications for you to be a member of a certain board, advisory committee or the Commission. However, we need to harmonise our laws, if the other

laws have just given the qualification of a degree recognised in the country. That is what we needed to do so that we can broaden the entry point for so many Kenyans out there without limiting them to have specific degrees for specific professions.

Again this has, therefore, broadened the entry point for various people to be potential nominees to the respective boards, advisory committees and the Commission.

Hon. Speaker, we had the need for a licensing authority to safeguard against a licensee. We came to a realisation that a licensee walks in and is frustrated because of the many licenses required. We have tried to harmonise some of these licenses to attract more investors into this sector. We also saw the need from the public as protected by the public the need to harmonise the licenses. This is a debatable issue.

In Tanzania, they increased the tax on kerosene to almost the same price as diesel and there is no adulteration whatsoever. This is because kerosene is bought and used to adulterate the petroleum product. In Tanzania the price of kerosene and diesel is at par. Therefore, there is no need for you to buy kerosene at the same price and adulterate it. In our country, the big margin between kerosene and petroleum is about Kshs33 and that is what entices these people to continue adulterating petroleum.

From the interaction with the Ministry and Kenya Power Company (KPC), per month they give 8 million litres of kerosene and from that only 2 million is used by the common households and so the 6 million litres of Kerosene go to different use. I think per day they transport almost 8 million litres of kerosene. Therefore, you can imagine with 6 million litres at Kshs33 that is a business everyone would want to venture in. As a country, we need to think and debate whether we should take it. Kerosene is referred to as the common mwananchi's fuel which is not the case because only 2 million litres are used by the common mwananchi. 6 million litres finds its way to adulterate petroleum. So, it is also good for this country to start debating as to whether we should bring at par the prices of kerosene and diesel for us to stop this madness of fuel adulteration.

Hon. Speaker, we have realised that gas is the next frontier and we thank the Ministry for having engaged and also budgeted for provision of gas exploration. We were very surprised when we went to Lamu Pate Island, that this country started exploration of petroleum in 1971. There is a rig that was done in 1971 which is still there in Pate Island. There is a company called Zarara which has been licensed to explore gas and this will go a long way in addressing some of these issues.

Hon. Speaker, the high cost of electricity and more so energy was also brought up during our public participation. We had the feeling that Kenyans also want to use electrical appliances that will save energy. The efficiency and saving of energy will go a long way to reduce the amount of energy that is wasted where people use 1000 watts of bulb in their houses and they do not need it. Maybe they need an energy saving bulb or any other measure that can be taken. In this Bill we have brought some incentives to encourage people to use more energy efficient people to use more energy efficient gadgets and they get incentives towards that.

From the public participation, there is need for this House to fast-track the Land Value Index Bill. This will address the huge problem that this Government is facing on matters to do with compensation of land that is being used for energy infrastructure.

As I had said earlier, this House will have an opportunity to look at the production sharing contract. There are many pertinent issues which we will raise as a Committee during the Committee of the whole House. One key component in the situational review is that Kenya has

discovered oil and gas and that is a new frontier we have, which will go a long way in addressing the issue of energy supply shortage.

Currently, there is an ongoing debate regarding the Lamu coal power project. It is surprising because there are two cases in the Tribunal which are more of business related and have nothing to do with the environmental effects of the Lamu coal power project. I understand that two countries whose businesses will be affected by the Lamu Port and the coal power plant are already using civil societies in court to stop this important project.

The Lamu Port-South Sudan- Ethiopia-Transport LAPSSET Corridor project requires a lot of energy. The National Environmental Management Authority (NEMA) had already given the new coal power project an okay to proceed in Lamu. It is very unfortunate that some people have continued giving false information to Kenyans regarding coal mining, the environmental and health effects which will occur. Without the input of almost 1,000 megawatts from the Lamu coal power project then the death of LAPSSET will be instant because of lack of enough power. It was to process fuel from Turkana which will be pumped to Lamu for exportation. The oil that was discovered is good with very low sulfur content, but a little waxy so, the pipes need to be heated so as to transport that crude oil.

Currently, the Standard Gauge Railway (SGR) is powered through other means of energy and we want to use electrical power which will be very close to the SGR terminus in Mombasa. We are looking forward to Konza City which will also get its energy supply from the same place in Lamu. The main key players in this field are distinct as follows: under power generation we have the Kenya Electricity Generating Company Limited (KenGen), the Geothermal Development Company (GDC) and the independent power producers who are also important. Others involved in transmission and distribution are the Kenya Power Company (KPC), Kenya Electricity Transmission Company (KETRACO) and the Rural Electrification Authority (REA). For policy matters, the implementing institutions in the petroleum sub-sector include the Kenya Petroleum Refinery (KPR), the Kenya Pipeline Company (KPC) and the National Oil Company (NOC), among others, including the private sector. We had an opportunity to compare Kenya with other jurisdictions such as South Africa under a company called Eskom Tutuka Power Station which is South African electric public utility and its coal usage. Also two Members of our Committee visited Canada for purposes of comparison.

As I second this important Bill and I want to inform Members that we have made a lot of progress. We have substantive amendments which the Committee will be bringing during the Committee of the whole House where we will address the issues which arose. In future we need advice from the Speaker regarding the lapse of the two Bills in the last Parliament. We need to know whether the Presidential Reservations are still a subject matter. Are they alive or have they lapsed? I am saying this because they were included in those two Bills, but we realised there were a few issues regarding them. We have already addressed that in consultation with the Ministry. In future the Speaker needs to give direction on what happens to the Presidential Reservations after a Bill lapses.

With those few remarks, I beg to second the Energy Bill, 2017.

(Question proposed)

Hon. Speaker: On the request list, the leading is nominated Member Cecily Mbarire. Next is Manje Wathigo.

Hon. Manje: Thank you, Hon. Speaker for giving me a chance to contribute to this Bill. The energy sector is very important in this country. This Bill seeks to separate energy from petroleum because it was controlled by similar Acts with petroleum. Energy in this country is extremely expensive such that the cost of doing business has risen. The manufacturing sector is most affected and it is one of the Big Four Agenda of the current Government. It is very expensive to manufacture items in Kenya. For example, in the scrap metal industry, the Chinese collect materials from this country and take to China where they process and export back to us as steel which they price lower than steel made in Kenya. That is how expensive it is. If we are to succeed with the Big Four Agenda, then the energy sector comes in handy and something needs to be done.

The cost of power is very expensive for households and small scale businesses. They have realised that the cost of doing business is a bit high. Security is also affected because we find areas without light experience a lot of thuggery. This means that lighting those areas is very expensive. Kenya has been relying on hydro and geo-thermo electricity. It is high time we looked at other sources for example coal. As the Chair has said, the Lamu coal power project has stalled because the Government has not compensated land owners in Lamu.

As the Chairman has said, that project stalled because the Government did not compensate the owners of land in Pate Island. They needed to be compensated so that the coal production can start. I remember during public participation, the investors said that they have been holding on to their money for the last three years without using because they expect the Government to compensate people and then they can start work. There is also need to look at the way they can generate electricity using solar. It is catching up.

In Nairobi, you have to install solar system in new developments to power the water heating system. This is the way to go. There is also wind power we have to exploit. In the long run, there will be nuclear energy. I think there is a sector that is already laying a strategy to see whether or not the country can use nuclear energy in the future. Currently, 70 per cent of the energy in Kenya is produced by biomass. I am talking about charcoal, firewood and all that. It has repercussions. It has side effects to the country. The clearing of forests is happening. Also, I think we should change because if we have to continue relying on biomass, it means we will not achieve the development that is targeted.

While going around, we also found that we have to consider the local content. Every company that starts energy business has to consider the local content because this is a very emotive area, especially when it comes to petroleum. Recently, the country discovered petroleum in Turkana. When you talk to the people on the ground, you realise that the discovery of petroleum is, indeed, an emotive issue. The locals would like to get a very high percentage of the proceeds from the product. We should make sure that when a resource is discovered in an area, it should also benefit the local people. We should see development in that local area. Hospitals and schools should be built in that area and also the general infrastructure of that particular area should be improved. Our experience needs to be different from what other African countries with minerals, for example gold, have been experiencing. The people within those belts with minerals do not benefit. You find that minerals are extracted and yet they do not change the living standards of people within that area for the better. We should be able to take care of that problem. We should get this concept from the word go. Otherwise, in the long run, it might turn to be a curse as we have witnessed in other African countries.

Why has it become a curse in other countries like Nigeria? Do you remember the Biafra war? It is because of the local content. The people from the area where minerals are exploited

most times feel left out because they do not benefit from their minerals. There is also the general feeling that people come to exploit the area without ploughing back what belongs to the local communities. Be that as it may, the local community also needs to be rational and know that this country belongs to all of us. Places like Lamu and Turkana are part and parcel of Kenya and the resources used to do this exploration – because it is a very expensive undertaking – also belong to other Kenyans. Therefore, when oil or other minerals are discovered in those areas, the communities there should accept to share with other Kenyans. That way, we will remain a united nation as opposed to separating simply because we have discovered something.

The transportation of petroleum has become an issue in this country. It is transported through the pipeline, railway, or trucks. When it comes to trucks, there is a lot of adulteration. The trucks are taken to a den somewhere and super petrol is removed and paraffin is added into that tanker. It is because paraffin is relatively cheaper in this country. As the Chairman has narrated, the Government should see the possibility of raising the price of kerosene to equal that of diesel so that we can stop this adulteration. It is becoming very expensive for the country. We were told by the transporters association that Uganda prefers to transport its oil through Dar es Salaam even though it is a longer distance by 600 kilometres compared to the normal direct route from Mombasa to Uganda. They have complained that the Kenyan fuel is adulterated. Therefore, we have to find a way of stopping this menace. Those are the few challenges I can cite in my contribution.

However, we should concentrate more on the local content if we want to see this sector improve. Again, mineral exploitation should not affect the stability we have in this country. I support the Energy Bill.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Mwingi Central.

Hon. Mulyungi: Thank you, Hon. Speaker. I rise to support this Bill because energy can make a country rich and the opposite is also true. Energy can make a country very poor if you do not have it. There is coal in the constituency I represent; which is a source of energy and there is every intention by this country to start mining it. As leaders from Ukambani region, we made a memorandum and submitted it to the Committee for consideration. We would like it to be included in this Bill.

During the Committee of the whole House, we shall move amendments because I think the Committee did not consider the submissions which I made before it. I listened to the Chairman of the Committee when he mentioned something about the stakeholders that the Committee listened to. He did not mention leaders from Ukambani. Maybe it was an oversight. I have seen the memorandum attached; but when he was making his presentation, he forgot to mention leaders from Ukambani.

We were recommending that where the energy resource is being mined, the royalties be increased from five to 10 per cent so that the local community can also benefit. We also said that prior to production of coal; there must be proper land adjudication. When land was adjudicated in the coal basin area, it elicited a lot of interest. There were a lot of errors that were either intentional or otherwise. Therefore, there must be proper adjudication of land so that there are no mistakes. If there will be compensation, then people must be compensated properly.

I see a challenge because in my community, trying to compulsorily acquire land, especially ancestral land, is very complicated as we value graves. I would rather leave my house and carry the grave of my relative. Therefore, that is a challenge that needs to be addressed. My community may have a problem with relocation. This Bill must address compensation issues. If

people have to be relocated, how are they going to be compensated? If they do not want to be relocated, what will happen?

There will also be need for the licensees to undertake corporate social responsibilities (CSR). For example, there is a lack of water in my constituency. We expect a big company coming to mine coal to provide us with the necessary infrastructure, especially water, roads, and electricity so that the local community can benefit from the coal mining. It has been proposed to build a coal mining plant in Lamu. The other day I saw leaders from Lamu rejecting that coal plant. I propose that that coal plant be located in my constituency - if the coal will be mined - so that the local community can benefit from job opportunities.

I expect that there will be a proper environmental impact assessment so that we can understand whether that coal will have an impact on health. I do not want to die early because of coal mining. If there will be an impact on health, we shall reject that coal. We will not accept it. In terms of local content, we expect employment opportunities. At least 70 per cent of the employment opportunities should be given to the local community. I wish we can start mining this coal tomorrow so that all my people can be employed and I can be re-elected to Parliament because of getting opportunities for my people.

With those few remarks, I support the Bill.

Hon. Speaker: Let us have the Vice-Chair of the Committee.

Hon. (Dr.) Pukose: Thank you, Hon. Speaker. I stand to support the Energy Bill, 2017.

This is a repeal of the Energy Act which has been in operation within our country. It is a Bill that has looked at the energy sector in all its aspects and forms. When we talk of energy, people just think of electricity. When you think of electricity, you imagine the Kenya Power (KPC). The KPC is just part of the whole process.

At the beginning, right from generation of power, is where we have the Kenya Electricity Generating Company Limited (KENGEN) and the Geothermal Development Company (GDC). Those are the companies involved in power generation. We also have independent power generators that use diesel. This has been going on for quite a long time within our country. We entered into some agreements with the independent power generators. They use thermal energy. This has made power very expensive within our country. As time progresses, our country has seen tremendous development of power. Power is developed at the source as geothermal, hydropower or gas energy. With regards to gas, we are talking of using methane as the main gas.

Gas exploration in Lamu takes place in Pate Island. It started way back in 1947 when gas was discovered in Pate One, which is a monumental place on Pate Island. This is where the community visited. This is history in the making but at that time, when gas was discovered by TOTAL, people did not realise the importance of gas. Over a period of time, we realised that generation of power using gas will be much cheaper than what we were using such as the diesel generators.

From there, power is transmitted by the Kenya Electricity Transmission Company (KETRACO). Once KETRACO has transmitted the power, you have the distributor. The distributor will either be the KPC or the Rural Electrification Authority (REA) in rural areas. The REA and KPC will distribute power to consumers. Once REA has distributed power to consumers, the KPC continues with management. Therefore, more often when there are black-outs, people say that we have a problem with the KPC. The problem might not necessarily be at the point of distribution, it might be at the point of transmission.

We have also had challenges when KETRACO is installing power. We have had cases of vandalism. We have also had cases of communities moving closer to the lines especially in

sparsely populated areas, for example, the line from Ethiopia to Kenya. At the initial stage, there were no people living along that line. But when they realised that there is a line that would pass through there, communities moved into that position and started demanding compensation. This has hindered development of power within our country.

This Bill has looked at all those aspects in terms of power generation, transmission and distribution. We have also looked at the position of the regulator. The Energy Regulatory Commission (ERC) is our regulator. What is its role? Now that we are expanding into the petroleum sector, do we need to have a regulator for energy and a different one for petroleum? In the wisdom of the Committee, we felt that those two regulators should be one for the purposes of both financial management and efficiency. We can have one division which will be responsible for energy and another for petroleum and gas. Therefore, there should just be one energy regulator but with various divisions.

Where do you go when you are dissatisfied with the energy regulator? We have a tribunal. This law provides for the establishment of the Energy Tribunal. We have also seen cases where matters pertaining to energy generation are referred to the Environmental Tribunal and it drags on for years and years when those are very expensive projects where investors have come in, started the process, met all the necessary conditions and even signed the Power Supply Agreements (PSAs) and contracts. In this law, we are also making a provision that once the production sharing contract (PSC) and the Field Development Plan (FDP) have been signed, they should also be submitted to the House for debate. The House can then look at the conditions that were met before the contractor can now move into full development of the field. Therefore, this House has a major role and once it disagrees with what has been signed, it can still send it back to the Cabinet Secretary who looks at it and resubmits it to the Floor. There are checks and balances in terms of any contract that will be signed.

Another challenging area is in terms of the PPAs. It is taking too long for them to be signed. Although they fall under regulations, it needs to be looked into so that we make it much easier for investors to come. One wants to invest in solar energy, wind or any other renewable energy. The same law also looks at the bioenergy.

There have been proposals on bioenergy, especially from the Kenya Private Sector Alliance (KEPSA); that we need to establish a bioenergy authority which will look at the challenges we have. All the renewable energy sources, like wood fuel and charcoal, are now being depleted within our country. However, as the depletion rate increases, the rate of replacement is quite low. We have challenges of bioenergy as far as regulation is concerned. We should not wait until the state comes in to declare that we need to stop logging for 90 days to save the wood being depleted by our people. This also creates challenges.

In Mathioya Constituency, there are farmers who have invested in hydroelectric power generation. They generate 5.6 megawatts of electricity. They use their own timber to generate that energy. They grow trees on their farms. When they cut some trees, they replant. We have now declared a ban on cutting of trees. These farmers have a stock that will last them for two months. It is private land. They grow the trees on their own land. They will be affected because they will have to wait until the Government lifts the ban for them to continue with their process. This affects the economy of our people who are willing to invest. They generate 5.6 megawatts. They only need 1 megawatt. So, they will load the remaining 4.6 megawatts to the national grid so that the country can utilise it in other areas. The year 2013 through to 2017, we saw tremendous power generation improvement in this country, but we also need wananchi to consume as much power as possible of that which is being produced.

With those few remarks, I support the Bill.

Hon. Speaker: Member for Turkana Central.

Hon. Nakara: Thank you, Hon. Speaker, for giving me this opportunity to contribute. First of all, I want to thank the Departmental Committee on Energy. They went to Turkana and listened to proposals from the people. It was the first time for a Committee of Parliament to go to the grassroot level to take the views of the people. They spent many days there. I want to thank them.

The Government has an obligation to provide energy to all parts of this country. This area is encouraging. Clause 7 has stated very clearly that it is an obligation of the Government to provide energy to all parts of the country, irrespective of whether they are poor or economically empowered. There are areas where we have natural energy resources, which the Government can tap. They will be cheaper. For example, we have plenty of solar energy in Turkana County but we are still using generators, which cost a lot. Investors and small business people who have kiosks spend a lot of money on electricity bills. If the Government wants to save the people, it can tap that source of energy. If it does that, it will be cheap for business people to run their businesses. We also have wind energy, which can be tapped. That one will be very cheap and businesses will grow.

Clause 8 talks about promotion of energy investment. That is a good idea. We need to empower the local people through funding and giving them expertise, so that they can become investors in their own land. For instance, the county governments can allocate some money for investment in energy generation, so that they can collect revenue instead of relying on the national Government. They can invest in energy as a way of raising resources locally. If they do that, the revenue in that county will be more than what they get from the national Government. We want the Committee to see how we can fund the county governments or how the county governments can get money to invest in energy generation so that they can collect money locally.

There is also the issue of entities. The Committee has identified several entities which may cause a lot of problems. It has identified almost four entities in the same field, but they will be expensive to operate. The four entities will compete and their resources will be limited. Some will not have jobs. So, we are asking the Committee to do what Hon. (Dr.) Pukose has suggested. It should put all these entities together to become manageable, so that they can operate in one area instead of having a commission at one place and board in another place. We will save a lot by doing so. During the 11th Parliament, we said that we had many commissions in this country. Some of them are not even functioning. They are consuming taxpayers' money without doing anything. So, we want the Committee to reduce the entities to one or two.

There are concerns I want the Departmental Committee on Energy, to take into consideration. We have energy resources which are along the borders in two counties, and they are fighting for them. We want the Committee to put a law on how the two counties can share this resource without fighting. A good example is Silale, where we have geothermal energy. The Turkana and Pokot communities are fighting for it. The name belongs to the Turkana community. Three quarters of the resource are in Turkana County while a quarter is in West Pokot. Therefore, it is important for the Committee to look for ways of solving that problem.

Secondly, there is the issue of safeguarding the Bill from the Executive. Last year, we passed a Bill here on petroleum but we did not put capping. However, when this Bill was taken to members of the public for their input, it was discovered that there was capping on revenue allocation, which we did not pass. We just said 10 or 20 per cent of the revenue but the Ministry technocrats advised the President to put a capping. This has caused a lot of problems amongst the

wananchi. This Committee was told about it. You cannot give food and when somebody wants to take a scoop of it, you remove it. We appeal to the Committee to be very careful when they take this Bill forward. They should be careful about the input of the ministry concerned, so that it does not bring more problems.

Finally, we want the Committee to rely so much on input by members of the public because that is the reality at the grassroot level. Members of the Committee went there and listened to the people. They heard what they were told. Three quarters of this Bill must come from the inputs of the people. If they do so, it will be accepted across the nation. We have this energy resource in Turkana County today. We will have it in West Pokot tomorrow. We will have it in Murang'a on another day. President Uhuru is good but tomorrow we can get another dictator because this country is democratic. We go for elections after every five years, and we can elect another dictator.

Hon. Speaker: Hon. Nakara, when you say “another dictator”, it is an addition to which one?

(Laughter)

Hon. Nakara: Hon. Speaker, I am saying other Kenyans want to be presidents in the future.

Hon. Speaker: You said that we shall elect another dictator. I was wondering who the first one was. I said others after you.

Hon. Speaker: Maybe the country can get a dictator.

Hon. Nakara: Thank you, Hon. Speaker for your diligent direction.

I would like to conclude that let us enact a law that will be applicable across the nation. Let us not just enact one that covers a particular period favouring us now then we regret in the future. Let us make this law favourable to all of us so that tomorrow when there is oil or an energy resource in Embu, Hon. Speaker, you will not complain. You will acknowledge that the law is good and you will enjoy.

With those few remarks, I support the Bill.

Hon. Speaker: Maybe the Committee should take some lesson or benchmark with what obtains in Norway. If you visit Norway, you will understand the way they have addressed the issue of natural resources. They have not done it regionally. They have put a cap that natural resources available are not just for the present generation of Norwegians. It is for posterity. Therefore, any current Government cannot spend of the current wealth from natural resources in excess of 25 per cent. The rest is kept for generations to come. So, the issue of moving from one county to another or from region to region does not even arise there. They take account of generations. Perhaps, we need to start thinking about that because our Constitution encourages us to think about future generations. The current generation must be mindful of future generations even when they are dealing with wealth from nature. Sometimes people tend to get confused and think about themselves and make laws for the current generation. We should be more futuristic and look at generations to come, 1,000 years from now when nobody will even remember that we existed. But, if we pass good laws, they will still be there and the future generations will enjoy and benefit from our foresight and knowledge.

Member No.001, Hon. Sankok.

Hon. ole Sankok: Thank you very much Hon. Speaker. At the onset, I support this Bill. We really need to be very careful as a country when we develop such a Bill because we have

seen and learnt from what has happened when resources have been discovered in other countries in Africa. Some have turned into a curse rather than being a blessing to such countries.

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

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

Discovery of such resources in some African countries leads to wars, displacement of masses and mass murder and such like capital crimes.

It is very important for us to think as a country. I would like the Departmental Committee on Energy to stress much on conflicts that may arise due to discovery of natural resources. It is also important for us to note that in any civilised nation, we have three very important factors of production. One is the human resource and the other is raw materials. Energy resource is just as important as the other two factors of production. In Kenya we have stressed so much on the two factors of production leaving out energy which is a very important or crucial factor of production. We have concentrated on acquisition of knowledge and development of skills by training our human resource and we have also concentrated on the raw materials, but we have forgotten energy as a very important factor of production. That is why we have an exodus of our trained human capital as well as exportation of raw materials because we have not concentrated on the very important factor of production that is energy. That is why you find that production has become very expensive in our country.

Factories in our country are making massive losses not necessarily because they do not have the skilled and trained human resources and raw materials. We have raw materials in abundance. It has been due to lack of energy. When energy is available, it is very expensive.

I would also like to advise the Committee whose Chair, Hon. Gikaria, is here, that we should also try to concentrate on reducing the price of our energy. The only way we can do that is by reducing monopoly. When we have monopoly of any product, prices will shoot up and people will not have any other alternative. There was a time we had Safaricom as a monopoly in the market, for instance. A sim-card then cost around Kshs2,500. To buy it was like having a title deed. You were asked the name of your chief and your Identity Card (ID) number to own a sim-card. It was very costly. I remember, to make a call for one minute, would cost you around Kshs76. But when the monopoly of Safaricom was reduced, the same call of one minute came down to almost Kshs1 or Kshs2. So, monopoly sometimes increases prices. The Departmental Committee on Energy should try as much as possible to attract more investors to this country by making laws that are friendly to investors so that they can come in abundance and we shall then have many people giving us this product.

It is also important for us to note that the moment other forms of energies become affordable, we will save our forests. At the moment, in the rural areas, the form of energy used en masse is wood. This form of energy has depleted our forests via the production charcoal and firewood. If we had cheaper electricity, then people would prefer to cook using it and if we had cheaper gas, people would resort to cooking using gas. We will then phase out the use of charcoal. The moment we phase out charcoal burning, we will save our forests. I am very sure it will be good music for the ears of the honourable Governor of Kitui County.

It is also important for us to realise that bioenergy does not only mean energy from firewood and charcoal; we also have bioenergy in the form of biogas from livestock which we can capitalise. We have a lot of livestock in our country, but we have not been able to capitalise

on the by-product of livestock especially biogas. We should invest in it a lot. I request the Departmental Committee on Energy to come up with ways in which we can utilise cow dung as another source of energy in the form of biogas. If we use biogas, we will reduce the use of charcoal and firewood hence save our forests.

This is a very important Bill and that is why I strongly support it.

Thank you.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Osotsi Godfrey.

Hon. Osotsi: Thank you, Hon. Temporary Deputy Speaker, for this opportunity to contribute to this very important Bill.

At the outset, I support this Bill. I have few comments to make on the Bill. This is a very important Bill in the sense that it has consolidated all other pieces of legislation in the energy sector into one. That is very important because it makes it easier to regulate the sector because we now have geothermal, renewable energy, nuclear energy and electrical energy all consolidated into one Bill. It is proper to have all those pieces of legislation under one Bill for efficient regulation of the sector.

The Bill also talks about nuclear energy. Nuclear energy is the way to go because it is safe, sustainable and has less carbon emission. Hydro energy may not be sustainable in the long run. So, we should start seriously thinking about how the country can invest in nuclear energy because nuclear energy will provide enough energy for this country. We need enough energy for us to run this economy.

I have serious concerns about some sections of this Bill. My concerns are hugely on the ERC. The ERC is a key regulator that should be fully independent. Under this Bill, especially in Section 9(3), it gives an impression that the ERC is not fully independent. If you read through the Bill, you will see some sections which contradict the mandate of the ERC. For example, the Bill talks about the Energy and Petroleum Tribunal that is supposed to handle all disputes and complaints in the energy sector. At the same time, it gives the ERC the mandate under Section 11(i) to investigate and determine complaints and disputes between parties over any matter related to licenses and licensing condition. That will create contradiction because we will have two organs which will handle disputes on the same issue of licenses and licensing condition.

At the Committee of the whole House, we will need to harmonise this so that if we are giving the tribunal the mandate to handle all disputes, then let the tribunal handle all disputes. Let us not have some disputes handled by the ERC and other disputes handled by the Tribunal because that will cause confusion.

The other thing is that Section 79(1) seems to contradict the mandate of the ERC in terms of licensing geothermal resources. It seems to give the CS powers to grant licenses, but if you look again under the mandate of the ERC, the ERC has the mandate to issue or manage licenses. You can see that the roles of the CS and the ERC are conflicting. That kind of contradiction is not good for a piece of legislation that seeks to manage a serious sector like the energy sector.

Another very important point is that Part II of this Bill proposes that the CS shall prepare and publish a report on the implementation of the national energy policy and also the mechanism for implementation of the integrated energy plan. That is a good thing. In fact, for the first time, I can now see a Bill that has a self-implementation mechanism. What the Bill has failed to say is what happens to the report after the CS has prepared and published it. There must be a mechanism where another organ must be able to oversee that report. I would recommend that the committee –and the Chair who is here – finds out what happens to the report produced by the CS

after he has prepared the report it. Does the report go to the relevant parliamentary committee for oversight or where does it go? Just preparing the report and publishing it is not enough.

The other very important thing is on the qualification of the Director General (DG) of the ERC. If you look at the qualifications of the board members of the Tribunal, they have insisted that these members must have knowledge and experience in the energy sector, but for the DG, there is no mention of knowledge and experience in the energy sector. The DG of the ERC must be individuals who have exemplary knowledge and experience in the energy sector because it is a complex organisation to manage. It is too technical and you cannot just pick someone who has only seven years of experience in any sector to come and head such a technical organisation.

At the Committee of the whole House, it is important that amendments are introduced so that whoever becomes the DG of such a highly technical commission must have knowledge and experience in the sector.

There have been many cases of incompetence on the part of the ERC. In December last year, there were cases of adulterated fuel in the market. Questions arise: What is the role of the surveillance system of the ERC in addressing matters like adulterated fuel and improper licensing regimes? We have seen utilities or plants which have been licensed improperly or which go against the NEMA regulations. For example, in Nairobi West, we have a gas plant that has been constructed next to a petrol station. That is a disaster waiting to happen. The question is: How was that gas plant licensed? Did they follow the NEMA regulations? It is important that the ERC works very closely with NEMA and other statutory organisations when licensing utilities or plants that are involved in the energy sector. The complaints are becoming too many.

Hon. Temporary Deputy Speaker, Part II of the Bill talks about the Cabinet Secretary (CS) having the powers to formulate and publish reports. It is important that we have proper monitoring and evaluation mechanisms for these reports.

The Temporary Deputy Speaker (Hon. Mariru): Very well. Your time is up, Hon. Member. Shall we now have Hon. Mbogo Menza, Member for Kisauni?

Hon. Mbogo: Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute on this very important Bill, the Energy Bill, 2017.

From the outset, I want to congratulate the Departmental Committee on Energy for the job well done. To be sincere, the Committee received so many memoranda and visited so many parts of this country to discuss and engage the public on this important Bill.

I have been in the energy sector for the last 20 years, and so, this is my specialty. I am very comfortable contributing to this Bill. I want to say here without fear of contradiction that this Bill has captured many of the challenges that the energy sector is facing, especially on the upstream, midstream and downstream operations.

Secondly, for the first time, this Bill has introduced a tribunal that will give an opportunity to Kenyans to air their grievances whenever they feel they have not been addressed adequately. However, I wish to concur with my colleague on the part of the ERC. I wish the Chairman of the Committee takes the issues we have raised seriously because there is a contradiction on some of the roles of the ERC. If you remember many years back, the licensing role was in the hands of the Permanent Secretary. The powers of licensing were given to the ERC, but if you look at this Bill, it is trying to take those powers away from the ERC and giving them to the CS. That should be taken into consideration so that we can continue the way we have been doing things.

On the same ERC matter, if you look at it, it is being referred to as a commission. We all know commissions are bodies that have a timeline. It is a commission that will be there for a

number of years. If you look at the ERC today, the tasks that they have doing for this country are massive. It is high time we reconsider that, maybe, it needs to be renamed to become a full authority with full mandate to take charge of the energy sector. When you say it is a commission, it is considered like the Independent Electoral and Boundaries Commission (IEBC) and other commissions that will be there for five years. There is a feeling that it can be disbanded any time. The Departmental Committee needs to relook into this matter and give the ERC the mandate it requires and give it full authority to take charge of the energy sector as they feel like.

Furthermore, we have been discussing the issue of adulteration here. Kenyans have been conned. Kenyans have been messed up. Vehicles have been messed up because of adulteration of petroleum products where unscrupulous business people have used kerosene to adulterate super petrol and diesel. It is not because of the difference on international prices. When you look at the international price of petrol *vis-a-vis* the international price of diesel, kerosene is much higher in the international market. When that product lands in this country, what makes it cheaper is the tax regime we have in this country. Taxation of kerosene is much lower compared to taxation of diesel and super petrol. This has made it very attractive for unscrupulous business people to make money out of this adulteration. It is high time the Committee thought about introducing a proper taxation regime for kerosene, so that we bring it up to the level of super petrol and diesel.

There will be no attraction or appetite for any person to think they can use kerosene and upgrade it to become super petrol. We know the damage it has done to so many motor vehicles in this country. A lot of revenue has been lost in that sector. It is high time we, as a country, rethink about that. I know we have always been talking about kerosene as a poor man's product because it is the main product being used for illumination in our homes, cooking and other uses. But it is time, we, as politicians, and this House, made punitive decisions to bring the taxation regime for kerosene to that of super petrol and diesel, so that people who are not straight forward business people can stop doing what they have been doing.

Finally, it is the issue of Liquefied Petroleum Gas (LPG). This is another area we need the Committee to put a lot of effort in. I am really happy that there were some directives that were issued by the Ministry of Environment and Forestry and the Deputy President a few months ago on banning logging in this country. We know the destruction that has happened in this country. The forest cover of this country has been going down. Water catchment areas have been highly affected. The main reason of this destruction has been on energy consumption. About 70 per cent of Kenyans are still dependent of biomass energy. We need to relook at the penetration of LPG in this country.

Today, this country consumes about 16 million kilos of LPG per annum *vis-a-vis* a population of 47 million. Per capita consumption is about 3 kilos. It is very low compared to countries like Senegal where per capita consumption of LPG stands at 12.5 kilos. It is time the Committee engaged the various Government bodies to introduce incentives in terms of, maybe, waiving the Value Added Tax (VAT) on the accessories. We appreciate the Government of the day for zero-rating LPG as a product. However, if you look at the accessories used like the LPG cylinder, burners, hosepipes and the rest, they still attract VAT. This has made it very difficult for a common *mwananchi* to afford those accessories. The only other option left to them is to continue using biomass. So, I am requesting and appealing to the Chairman and the Committee to pursue this line so that we can improve penetration of LPG into this country. We appreciate the Ministry of Energy has done a lot of commendable work. They have set aside some money to acquire LPG cylinders which will be distributed to various parts of the country. They have already mapped out the various counties that will benefit from the cheap cylinders which will be

arriving in this country. We do not know when, but I know the process is ongoing. This will help in the penetration of LPG in the country. It will help in the conservation of our forests.

With those few remarks, I support the Bill.

The Temporary Deputy Speaker (Hon. Mariru): Very well. Let us have Hon. Hulufu Oda, Member for Isiolo North?

Hon. Hulufu: Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to this very important Bill. I would like to start by saying that I support the Bill. It is a Bill which helps us as a country to consolidate the various pieces of legislation that have been regulating the energy sector. These are the Energy Act of 2006 and the Geothermal Research Act of 1982. Energy sector has undergone a lot of transformation. If we look at the evolution of this particular sector, you will realise that the Energy Act of 2006 is the first piece of legislation which tried to separate the function of generation and distribution of energy. All the same, this legislation will help us to consolidate and look at the various sources of energy for us as a country.

As a country, we aspire to be an industrialised nation by 2030 as per the Vision 2030. For us to achieve that, we must have reliable, affordable and efficient sources of energy. If we look at the current situation, the majority of Kenyans rely on biomass as their source of energy. This is putting a lot of strain on our forests. In the Departmental Committee on Environment and Natural Resources, where I sit, we are struggling to see how best we can achieve the minimum 10 per cent forest cover which we need to have as per the provisions of our current Constitution. That particular aspiration is undermined by the fact that the majority of our people rely on wood fuel. This particular piece of legislation enables us as a country, to tap into the various sources of energy. It specifically puts a lot of emphasis on renewable sources of energy, which we have not exploited to the full potential. We have a lot of wind, solar and biomass in our country. These are the various sources of renewable energy which we have not made a lot of efforts to tap into. If you look at the Bill, it provides incentives to encourage private investors and researchers to come up with innovations which will enable us to generate energy from these sources so that we can have a mix of sources to power our economy.

I particularly appreciate the importance of this legislation in enabling us to protect our biodiversity especially our plants as I have already mentioned. It also provides for feeding tariffs systems which is an important thing which can encourage generation of electricity by private power generators. Therefore, looking at the various provisions, the only area which the Chairman of the Departmental Committee on Energy has alluded to, and we need to look at is Part IV, which relates to petroleum. Probably, various provisions need to be moved to the Petroleum Exploration, Development and Production Bill, which is under consideration by the same Committee. Overall, this is a very important Bill and it is also very timely in terms of enabling us to address the various challenges that the energy sector is facing in terms of generating energy from various sources and ensuring that the energy needs of Kenyans is met.

I would like to appreciate that Arid and Semi-Arid Lands (ASALs) where we come from, for quite a long time after Independence, we have not had access to electricity. I would like to appreciate the effort of our current President. In the first five years of his leadership, most of our rural areas managed to be connected to electricity. For example, in my constituency, most of the wards are connected. I am sure if this particular Bill is passed and we provide adequate resources for the various agencies which are mandated as per the provisions of this Bill to generate and distribute electricity, those areas that do not have electricity will have.

I am impressed by the fact that the law provides clear provisions on the role of county governments in rural electrification. This is one of the gray areas. Most of our counties desire to participate in the energy sector, but the previous pieces of legislation were not clear on what their roles is. This particular Bill provides clear role for county governments *vis-a-vis* the role of the Cabinet Secretary in the Ministry of Energy. The county government can regulate energy through courts, local regulations which will be mandated as per this Bill, if it is passed and hopefully assented to by the President. These are things they can do to ensure that the energy sector is regulated properly.

I would like to appreciate that this Bill requires the Cabinet Secretary for Ministry of Energy to develop an integrated national energy plan. I am sure this is not new. We have various legislations and national policies which requires Cabinet Secretaries to develop national plans. The challenge we have most of the times after these Bills become Acts of Parliament, after they have been assented to by His Excellency, implementation becomes a problem. My only hope is that once we are done with our work and this Bill becomes law, the Ministry responsible is going to implement the provisions of this law. The Cabinet Secretary is required to develop a national policy and this policy is supposed to be reviewed after every five years. The Bill has clear provisions in terms of monitoring how the plan is going to be implemented. It also has clear provisions in terms of promoting investments to ensure that the plan is implemented.

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

The Temporary Deputy Speaker (Hon. Mariru): Hon. Kibunguchy Wamalwa, Member for Likuyani Constituency.

Hon. (Dr.) Kibunguchy: Let me start by asking the Energy Committee a question. For this Committee to help this country, we must be able to answer one question. Why is energy very expensive in this country? We should be able to answer that question. Is it because of production or the monopoly of the Kenya Power Company? We have to answer that. As you know, when energy is expensive, then the cost of production of goods and services become very expensive. We are not competitive like our neighbors and other countries in this continent. As you know, and I think many studies have been done, there are places like Egypt where energy is very cheap. I wish we could answer that question so that we can help this country to move forward. We can write beautiful Bills and come up with the Energy Bill – and it is nice that we have a Bill – but we must in-build something to be able to help this country and answer the cardinal question of why energy is very expensive in this country.

The next issue I would like to talk about is that there has been a lot of talk in terms of depletion of forests. There has been a lot of talk lately in terms of our forest cover being very low. The Deputy President recently banned logging in our forests. In my view, this is a kneejerk reaction. The second thing is that we must understand our people. We must understand the country we live in. We cannot just purport to bury our heads in the sand. The majority of our people depend on wood fuel for cooking and lighting. The majority of our people depend on charcoal for them to cook their food. We cannot run away from it. So, you cannot just wake up one day and say, “we are banning charcoal burning.” Where are we throwing these people in this country? Are we throwing them to the dogs? Who is going to protect the very vulnerable members of our community? I wish we could come up with a programme that would enable us to sustainably produce charcoal, have wood fuel and yet have forest cover in this country. This is what we want to see. We cannot just wake up one day and say, “Now no more.” Where are our

people going to get fuel from? Where is LPG in the rural areas? Where is it? So, unless we can look at this thing, we are cheating ourselves.

Where do we begin, especially when we talk about forest cover and all these things? Let us begin from the very beginning. It is President Moi who used to say that you move from the known to go to the unknown. We used to have a tree planting day in this country some years back. Not anymore. If you asked me, I would say that we should even have a tree planting week in this country. When we were pupils some years back, we used to plant trees. Not anymore. Our prisons are clogged by people who have committed petty crime. Why do we not have those people planting trees in this country? Why do we not have students planting trees in this country? Yet when you see things happening on television, it is just like people want to have a show. We have seen staff of the Kenya Commercial Bank (KCB) going to plant trees in Karura Forest, accompanied by photographers and television crews. We can never plant trees in this country when we go that direction. So, let us be serious.

Finally, some of the colleagues in this Parliament were talking about nuclear energy and others were talking about coal energy yet the world, especially when you talk about coal, is moving towards green energy. We cannot keep going back. We have opportunities in this country where we can produce green and clean energy and move away from dirty energy like coal energy. So, the Bill should come out very clearly. Let us go the direction the world is going. The world is going green. We have, for example, people talking about hydro production of energy and we say it is not sustainable. I do not know why anybody says hydro is not sustainable. We have rivers in this country. If I may just mention one river...

Hon. Mohamed Abdikhaim: --- (*Off record*)

Hon. (Dr.) Kibunguchy: We are going to plant trees. If we sit here and think we are going to survive in this country without planting trees, we are cheating ourselves. We will be living in what the English people call 'fool's paradise'. We must plant trees. Let us do it as a policy, as a deliberate move. I would even like to see chiefs, assistant chiefs and all these cadres of people, one of their appraisal points being how many trees they have planted in their areas of jurisdiction. Unless we do that, we are going nowhere.

I was talking about hydro. I was just going to mention one river, namely, River Nzoia. It borders many areas, including my area of Likuyani. On the upper part, it is a very nice river, but once it goes down around Budalang'i and Teso, it is a very destructive river. I think there was a proposal that we dam this river. Once we dam it, we can produce electricity. We can do many other things. Yesterday, we were talking about irrigation as we discussed the Bill on irrigation. We can do all those things. This is a river that is not exploited.

Let me finish by just saying one other thing. We must again be mindful where we have natural resources that the local community benefits. That must be crucial, because we are going to have more and more resources in this country. Let us mind about our local communities where we have natural resources.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Mohamed Osman, Member for Fafi.

Hon. Mohamed Abdikhaim: Thank you, Hon. Temporary Deputy Speaker, for giving me the opportunity. I am also a Member of the Departmental Committee responsible for the energy sector. I am sitting behind my Chair.

Kenya is in a very interesting development phase with regard to our domestic energy requirements. This country has been grappling with the issue of burning charcoal, which is extensively used in the rural areas, mostly by poor households, for cooking and heating purposes.

Hon. Temporary Deputy Speaker, the Departmental Committee on Energy has gone around the country and visited different counties. We also met transporters from different parts of the country. We listened to many Kenyans especially transporters. We lost almost all Rwanda, Democratic Republic of Congo (DRC) and Burundi businesses to Tanzania in the last few years due to product adulteration as said by my Chair earlier and the cost of transport through Kenya due to police and county permits. We have also lost more than 50 per cent of the Uganda market to Tanzania in the recent years.

We also visited Turkana and during our public participation, the Turkana people asked for two things: The percentage of what they are going to make out of the fuel discovered in their county and capping. As a Committee, we went back and had a meeting and listened to the Turkana people as the Member said. Before they were given 5 per cent and we came up with 10 per cent, which is a give and take situation. We could not have given them the capping and the 10 per cent at the same time.

So, I support the Bill. We have done our best going round the country and listening to Kenyans. We have incorporated inputs from the public participation that we held around the country.

Thank you very much and I support the Motion.

The Temporary Deputy Speaker (Hon. Mariru): Next is Hon. Moi Kipruto, Member for Rongai.

Hon. Moi: Thank you, Hon. Temporary Deputy Speaker for the opportunity to contribute to the Energy Bill. This Bill seeks to consolidate laws relating to energy and align them with the 2010 Constitution of Kenya. It seeks to do this with clarity by seeking to define the roles of the national Government and the roles of county governments. The Bill also proposes to repeal the energy Act of 2006 and the Act of 1982. In Kenya, we rely on three sources of energy as I heard the Member saying. About 68 per cent of energy in this country comes from biomass, 21 per cent is from petroleum and a further 9 per cent is from electricity.

The challenge for Kenya is how to achieve sustainable energy use through the gradual increase of renewable energy and decreasing use of finite resources such as oil and coal, which are mainly considered in the West as dirty energy. We should not be going that way. We should be emphasising the need to go green in terms of energy. Kenya in the past had effected a number of policies to govern the energy sector by way of policies and creating institutions and by enacting legal frameworks from time to time. In 1997, there was the Electrical Power Act and in 2006, the Energy Act was effected. These legislations attempted to separate the functions of generating electricity, transmitting electricity and distributing power. This Bill consolidates all the laws relating to the energy sector and establishes the ERC. By passing this Bill, it will provide the much-needed regulatory framework to streamline the energy sector to spur socio-economic development in this country.

However, for this Bill to be successful, there are several things that we or the Government needs to do. We need to invest a lot of money in research and innovation in new infrastructure. We need to increase capacity so that we can create efficiency in the adoption of clean energy. We also need to look at the cost of energy through price regulation. If we do not bring down the price of energy, it is pointless to produce it. Our people must be in a position to

afford it. So, the cost of energy must be competitive and this will bring the cost of living down. This will also attract investors.

For this Bill to become very effective, we also need to reduce Government ownership and control in the energy entities. We need to increase private sector participation thereby bringing about competition and efficiency. We also need to increase our cooperation with our regional neighbors such as Ethiopia and Sudan, to create bilateral and multilateral agreements to ensure mutual benefits for these nations. Ethiopia will soon be producing a lot of electricity. Kenya will soon will be producing oil and we can exchange these items for mutual benefit. We also need to involve local communities. I have heard this said and I am not the first one to have said this. Local communities and county governments are very important. If we were to have a harmonious and peaceful country, our people must be made to feel that they are part of these projects. We need to enhance ownership of these projects by involving county governments and local communities.

We also need to diversify this energy mix. We need to reduce over-reliance on these finite resources, create and increase the local capacity so that we can reduce foreign labour in the energy sector especially in the petroleum sector. We do not have too many of our people there. So, we need to increase that capacity to reduce the domination of labour in that sector. We need to fully exploit clean and renewable energy sources that are locally available such as geothermal power.

Revenues resulting from all these could be shared out to the various stakeholders such as county governments and local communities to prevent discontent and civil strife. This has happened in many African countries such as Nigeria. My constituency is also a prime example because that is the headquarters of the Geothermal Development Company (GDC). Initially, when GDC came to Rongai, people had high hopes. They thought that it would mean employment, cheap power and many things through corporate social responsibility (CSR) and the entire good things that we associate with these kinds of companies, but it was not to be.

The GDC was controlled from Nairobi. Employment opportunities had not been accorded at that time. There is a new regime in GDC, but initially, employment opportunities for the people of Rongai were not there. Corporate social responsibility was non-existent and the relations between GDC and the people of Rongai was at an all-time low. These are the things that we need to correct and I hope this Bill will change all that.

With those few remarks, I thank you and support the Bill.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Elisha Odhiambo, Member for Gem. You have the Floor.

Hon. Odhiambo: Thank you, Hon. Temporary Deputy Speaker. I stand to support the Bill, but most importantly, I am also a Member of the Departmental Committee on Energy. Having gone been through the rigorous process of going through the Bill, I think my colleagues in Parliament require to go through a process of self introspection and realise that this Bill will provide a competitive framework under which it will grow. The Bill seeks to cure the *lacuna* which exists in our current law and sets the legislative framework that will address issues of local content.

Currently, in our country, we produce around 2,300 megawatts of electricity. Our consumption is 1,700 megawatts in the evening. In the next one year, we are going to have additional electricity of 1,300 megawatts. About 300 megawatts will come from the Turkana wind power and 1,000 megawatts from the Lamu Coal Power Plant. I want to tell my colleagues that this country needs more power in order to have a robust economy and our young men and

women can attain employment. I know many issues have been raised even with regards to the fact that we should use and explore hydro-power. It is prudent to remember that our rains are inconsistent because we have cleared our forests. Even, as we start planting more trees, it will take many years before our rivers go back to where they were 30 years ago. History will remind Kenyans that the former Prime Minister was at the fore-front in the Rift Valley fighting for the Mau Forest and he sacrificed his political ambition for it. I want us to make those sacrifices as Members of Parliament even in the face of our own ambitions.

Importantly, I also want to mention that this Bill will create a competitive environment where players in the distribution of energy will operate at the same level. Looking back at 1990s, I can remember very well that this county only had the Kenya Power and Lighting Company (KPLC). But with a more liberated economy, we have improved and grown making more electricity generating companies. Currently, we have a transmission company which will help independent distributors coming to the market to hire transmission line and ensure that the ordinary Kenyan benefits from competitive pricing of energy.

As I have mentioned earlier, once we have an extra 1,300 megawatts on our grid, it means we will have surplus power and about 2,300 megawatts on base load. Base load is consistent energy that is available 24 hours which can only be got from coal, nuclear and hydro-electricity. But you cannot get base load energy from wind power or solar. For us to grow this economy and to achieve the four drivers as explained by His Excellency the President, it is important for us to stand together and support this Bill. It will help Kenya grow and for years to come, we will be remembered as having fostered progress, growth and prosperity for the people of this country.

This Bill will solve the issue of local content. The drive that the local communities want a share of the national cake is provided for here. It will be nice to note that even in the Petroleum (Exploration, Development and Production) Bill, we have resolved the issue of local content with our friends and brothers from Turkana. This Bill will help us to set pace and accelerate exploration not just in North Eastern Kenya, but also in Nyanza Province, because there are huge deposits of oil there. There are also huge deposits of coal around Lake Victoria. So, this Bill will not just benefit my brothers from North Eastern Province but will equally benefit the people from Western Kenya.

Hon. Temporary Deputy Speaker, I support the Bill.

The Temporary Deputy Speaker (Hon. Mariru): The Member for Kapenguria.

Hon. Chumel: Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to contribute and share with my colleagues. First and foremost, I want to thank the Departmental Committee of Energy. Some of us have been here for sometime and this Committee is different because one can interact with the Chairman, be it in the corridors or on the streets and he listens. But I hope he will translate this kind of relation to action.

I come from Kapenguria where we have the Turkwel Hydroelectric Power Station which is manned by the Kenya Electricity Generating Company (KenGen). Before it was set up, people had settled there and were displaced as a result. It is very clear in our Constitution that if a project affects a certain community, the first beneficiaries through the Corporate Social Responsibility (CSR) should be the people in the area. I have carefully read this Bill and it is not the first to come on the Floor of this House. Many have come and they are gathering dust somewhere. We will pass it with a clean heart and pray that is implemented so that it benefits Kenyans.

We need to have a proper implementation mechanism in place. I hope this Committee will seriously follow-up this Bill once it is passed with amendments to strengthen it. It needs to monitor and evaluate whether it is serving the people or not. This House has been given powers to ensure that Kenyans benefit from the resources God has given us. As we talk about energy, we are rich. As my colleague has said, the whole of Kenya is blessed with plenty of resources which can support energy production.

We talk of strengthening whatever is there because some of us have been briefed on what has been there. We have companies like KenGen and KPLC, which is the main power distributor. Kenyans are not benefiting out of it. We have to empower the local communities where the resources are found. We should improve the lives of the people living within those areas. Previously, county councils were in charge of the resources. They would oversee mining in their respective areas. However, it was only the chairpersons and the clerks who would benefit from the exploitation of those resources. The rest of the community used to suffer. That is going on up to now because we have not changed. When the new outfit, namely, the county government came in, nothing much changed. That is why we still have arguments where the national Government says it wants a certain percentage, but county governments are opposed to it.

You saw what happened in Lodwar, where oil was discovered. Up to now, nothing is going on there. Every day there are demonstrations. Before, people used to work there. There were cleaning services. There was a security firm which used to employ people there. This empowered the locals economically and it was not only one community. The Turkana, Pokots and other communities used to benefit. However, as I speak, the project was moved from its original position, namely, Turkwel. The officers are now manning it from Kitale leaving the other people in disarray. Those who used to get a salary have it no more. I have shared that issue with the current chairman and he has promised to do something. He is my friend and I do not want to quarrel so much about it, especially at the moment.

Otherwise, I support this Bill totally. When we come to the Committee of the whole House, some of us will propose amendments. We might also agree with whatever is already here. However, we need a thorough forum after that. I support the Bill.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Kositany Caleb, Member for Soy.

Hon. Kositany: Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute on the Energy Bill. Energy is a key component of driving our economy especially as we move towards the Vision 2030, which we have all embraced as Kenyans.

First, I would like to congratulate the Departmental Committee on Energy led by my colleague, Hon. Gikaria, who despite the very short period they had, they have come up with a very comprehensive Bill that we now seek to pass in this House today. As we progress, we would like to see that Kenyans benefit from the natural resources that are found within their areas of residence. We do not want the resources that are found, be it oil, coal or whatever, to benefit others and not the residents. Let the people who reside within that area benefit so that we do not have conflicts like we see in other countries. In some countries which produce oil, people fight constantly over the proceeds. The owners of land where minerals are exploited do not benefit at all.

We would also want to see a move by the Government and all Kenyans in terms of increasing our forest cover. Let us not have power rationing year in, year out, because water levels in our major dams like Ndakaini have gone down. I am the Member for Soy Constituency

and we have started an initiative whereby on Monday 16th April, we will plant trees in every primary school in the constituency. We have sourced trees from well-wishers and we are not planting one tree here and another there. We will be planting a little forest within every school to teach our young ones how to take care of the environment and that may leave Kenya a better place than we found it.

We also call on those who will be charged with the responsibility of implementing this Bill in the energy sector, once it has received Presidential assent, to think of Kenya first. Let us stop this culture of whenever you have anything at your desk, the first question somebody asks themselves is how they are going to benefit from it. If they see no personal benefit, then they sit on the files and things do not move. We would like to see efficiency and a situation whereby we put Kenya first in everything we do.

I support the Bill.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Kibiwott Melly, Member for Tinderet.

Hon. Melly: Thank you, Hon. Temporary Deputy Speaker. I rise to support the Bill. It is actually very important for our economy and for our country. As we all know as Members of this House, energy is the most important ingredient to spur development of any nation. I commend the Bill especially on the new energy sources. The Bill has placed a lot of emphasis on renewable energy, more so, wind and solar energy. These renewable energy sources are non-pollutant. They will ensure that our environment is safe and our economy grows faster. Fossil-based fuel like petroleum, coal and others have a direct effect on our social economic development and even health.

The Bill tries to regulate and align the energy sector to the Constitution and the Vision 2030. In fact, I laud the Chairman for a good job done. Previously, there have been no concerted efforts amongst the various energy bodies. This Bill tries to ensure that the various energy bodies that we have are geared towards making this country energy-sufficient. I can give an example of the large windmills in the northern part of Kenya, especially in Turkana, Isiolo and Marsabit. If the wind energy in those particular areas is exploited and redirected to the very important areas of our economy, then that would spur the levels of development. It will bring the cost of production down. Industrialists, manufacturers and even the hospitality sector is expensive not because of anything, but because of the high cost of running business, which is as a result of the high cost of energy.

I laud this Bill in the sense that various bodies that are engaged in power distribution, for example, REA, KPLC and others are being regulated. They are going to redirect their efforts in different areas, for example, rural areas, homesteads and small urban areas to ensure that we have small industries coming up. This Bill is going to assist areas where we have small rivers which can generate electricity.

A few months ago, the Ministry of Environment and Forestry decided to have a nationwide campaign to plant trees and conserve the environment so that energy can be easily produced by Kenyans themselves which then serves their homes, industries and towns. This is one of the things that have promoted economic development in the South East Asian nations, South Africa and even Canada. The 24-hour economy will only be spurred by enough energy that will enable industries, hotels, and even the hospitality sector to run with no problem. Investors coming to this country will have a problem especially when they find that the energy sector is expensive. The economies of our neighbours in Ethiopia, South Africa and even Tanzania are growing faster because they have enough energy in their countries. Ethiopia, for

example, has harnessed her hydroelectric power generation to an extent that the neighbouring nations import energy from that nation.

This Bill will ensure that our nation is energy-sufficient and our industries run well. It will also spur employment because unemployment in a nation is occasioned by non-productiveness where we have fewer industries and less work because of the high cost of production.

I sincerely support this Bill.

The Temporary Deputy Speaker (Hon. Mariru): Very well. Before giving an opportunity to Members on my left, I will give an opportunity to two Members on my right.

Hon. Cecily Mbarire, you have the Floor.

Hon. (Ms.) Mbarire: Hon. Temporary Deputy Speaker, I am waiting to reply.

The Temporary Deputy Speaker (Hon. Mariru): That is fine. It is only that I saw your card. It is fine. You have the opportunity to contribute as you reply. That is very well. I thought you wanted to contribute but not as a reply. That is fine. You can combine the two.

Let us have Hon. Were.

Hon. Were: Thank you, Hon. Temporary Deputy Speaker for the opportunity. I rise to support the Bill. The Bill has very good intentions. It is a game changer in terms of economic development.

Production of energy relies on natural resources. The only thing that needs to be done is implementation and being proactive in issues of the environment. We cannot generate electricity through hydroelectric power, wind or coal if we do not take our environment seriously. Most of our rivers are dry simply because we do not plant trees. We could also come up with policies whereby it becomes mandatory for towns and schools to have at least over 20 per cent forest cover.

The other thing which will promote energy production is planning. I had an opportunity to visit Europe. The planning of land assists to generate energy and that is why most of the green energy companies have exhausted their regions and are now investing or intending to come to Kenya. Good energy production brings about immediate economic empowerment as it will create job opportunities through industries. It will create employment in rural areas where even a local welder can generate some funds for the community. It is also important that if energy is spread all over, the world becomes a global village so that we can engage in business in the rural areas. The same cannot be done if energy is inadequate. The Government has tried to connect homes to electricity, but it is inadequate because some learning institutions are not connected.

The Bill has very good intentions, which, if electrical power is spread within all areas, then Kenya will move ahead.

I support the Bill.

The Temporary Deputy Speaker (Hon. Mariru): Let us have Hon. Maanzo, Member for Makueni. You now have the Floor.

Hon. Maanzo: Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this very important Bill.

Energy is very critical and especially in the modern world where we talk of nuclear energy, which has been captured in this Bill. In the previous laws, the issue of nuclear energy was not well-captured. Issues of environment have also been captured in this Bill. The issues of wayleave where electricity or power lines go through somebody's land which renders some of the areas unusable or make construction impossible because of the power lines have now been

captured in this Bill. It was not there previously. Under the Constitution, we have to compensate the persons who have been displaced for purposes of electricity wayleave.

Kenya is planning to construct two major dams which will also generate electricity. One of them is the Thwake-Athi Dam, which is being constructed where River Athi and the Thwake River, which are great rivers in Eastern, meet. Luckily, this is in Makueni Constituency. Construction is about to begin. There is also the High Grand Falls Dam, which is even much bigger than the Thwake Dam on Tana River where we are already producing electricity. This is for the simple reason that with insufficient rain - and we must really thank God for the rains - electricity production was going down. We were resorting to diesel production which was very expensive. Kenyans started getting unusually expensive bills. There were all manner of complaints which the Ministry of Energy and Petroleum is currently making efforts to resolve. With those two big plans - and I am sure in future we could improve - we will generate more electricity.

We also have serious coal reserves in Kitui County, which, once mined, can also be used to generate electricity. It can supplement the current electricity production and is cheaper because it is generated through heating water systems which in turn produce electricity. There is also the issue of clean energy, namely, the use of solar and wind energy. If we keep on using diesel-generated energy, we will pollute the environment. This had not been covered properly in the past. Now it has been regulated. The Government is investing in wind and solar energy in many areas.

There is a very big effort to take electricity to many homes and parts of the country under the Last Mile Connectivity Programme. It has not been very effective because of the infrastructure and the expense. I know the World Bank is working with the Kenyan Government and there is a good effort to make sure that each Kenyan home gets electricity. As much as there is an effort to take electricity to homes of Members of Parliament, I have remained on record as telling the residents of Makueni, where there is a big effort to take electricity to every home, that I will be the last one to be connected to the normal electricity. I am still using solar so that the other homes can get electricity before my rural home. I believe that is the way to make sure that the people are served. I want to thank the Departmental Committee on Energy for coming up with this very improved Bill. It has now complied with the new Constitution in very many set-ups.

I believe that if we mine coal in this country, we will export it and use it locally. People will stop cutting trees to make charcoal. Coal is cheaper than normal charcoal. Charcoal, as a source of energy, is a pollutant. Charcoal burning wastes the environment. We look forward to when we will mine coal, export it and use it locally because it is cheaper than other sources of energy. We can use it in schools for boilers to cut on electricity costs. We can plant more trees and the Government will construct more dams. This will improve the local climate and stabilise the rainfall cycle. We will have enough rainfall, which will supply us with water to generate electricity.

As a country, we need to educate our people so that they can know that there are many alternative sources of energy that we can utilise. We can generate solar power in areas where it is not cloudy in the country. We have quite a number of them. Waves can also be tapped and can still generate electricity. In certain countries, this technology had been applied properly. I know there are several commissions and parastatals which deal with energy. The question of nuclear energy is very sensitive. We have seen what has happened to countries where nuclear energy has not been utilised. The effects are adverse. In certain places, nuclear accidents have resulted in

deaths. It is even a bigger challenge for a third world country to use that technology. What happens in case of a nuclear leak? As much as this Bill has not yet been passed into law, we need to improve on it, so that we can have the necessary precautions. If Kenya is ever going to use nuclear energy, we need to know how best to make it safe for our people. We are blessed with many great rivers. We also have a lot of sunlight and other natural resources, which we tap to produce enough electric power.

Power improves safety in the rural homes. I have a habit that every time I go to Makueni Constituency, I buy small solar lamps and give them to school children, especially those who come from homes which do not have electricity. I give them so that they can stop using paraffin, which at times causes accidents. That way, I also educate the rural community that there is an alternative source of lighting which is very clean, useful and which does not affect their studies. I encourage many Members to do that. Solar lamps are sold all over, including at petrol stations. There are many companies which supply them. It is a way of educating our people and we will be sensitised on energy sources.

Hon. Temporary Deputy Speaker, I thank you again for giving me an opportunity to contribute and urge Members to support this Bill. We look forward to the Committee of the whole House where we shall make improvements in the areas that have not been framed well in the initial stage.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Mariru): It is clear that Members have had quite an elaborate space to engage on this Bill. They have done so. There is no further interest to contribute on this Bill. In the circumstances, I call upon the Majority Party Deputy Whip to reply.

Hon. (Ms.) Mbarire: Thank you, Hon. Temporary Deputy Speaker. I rise to reply. As I do so, let me take this opportunity to first and foremost thank the Departmental Committee on Energy, to which I belong. I appreciate the able leadership of the Chair, Hon. Gikaria. I know the amount of work that has been behind this Bill. I know the long hours that it has taken the Members of the Committee to come up with this Report, propose certain amendments and conduct public hearings. I must say that it was one of the most consultative processes I have been involved in. I believe what is before us is in the best interest of the nation. We will surely see the energy sector grow as we consolidate all the laws that relate to energy and make sure that they are aligned to the Constitution of Kenya, 2010.

As it has been ably said before, we want to ensure that we diversify our energy sources from the major sources, which are mainly biomass in the form of wood fuel and charcoal. We know that this resource is getting depleted and its extraction is destroying our environment in a great way. We depend on the environment for farming. We need to diversify to other renewable energy sources and nuclear energy. The new law we are enacting will definitely ensure that this happens.

Because a lot has been said by the many Members who have supported this Bill, let me say that the whole idea is to ensure that we increase our energy sources. We will diversify and make sure that our sources of energy increase at the same rate of population growth, urbanisation and industrial growth, so that energy costs can remain low. This will enable us to compete with other countries in investment and attract foreign direct investment. Our goods will be competitive in the market place.

The law we are enacting will also ensure that we undertake a lot of research and innovation in new technology, especially on matters of modern energy infrastructure, so that we

can increase capacity, efficiency and have clean energy. I am very sure this Bill has come in a timely way. As we work towards ensuring that we achieve the Vision 2030, we will definitely compete and achieve our goal of being a truly developed country by 2030. Through this Bill, we also hope to ensure that clean energy is made available to our people at affordable costs. These are the poor who cannot afford electricity and, therefore, have to look for firewood and use paraffin everyday. The whole idea is to make sure that every Kenyan has access to affordable energy for either cooking or lighting.

One of the Big Four Agenda components is industrialisation and job creation through value addition, which will mainly happen at the county level. We must make sure that affordable energy is available, so that the products to which we are going to add value can be competitive at the market. That way, we can create jobs for the young people.

With those few remarks, let me say that we are truly glad because we have got this far. The support that this Bill has received from the Members is remarkable. We are sure the Bill will pass through the Third Reading, so that implementation can start.

With those remarks, I beg to reply.

The Temporary Deputy Speaker (Hon. Mariru): Hon. Members, I will defer putting the Question to this Bill for obvious reasons. The Question will be put at an appropriate time.

(Putting of the question deferred)

Next Order.

BILL

Second Reading

THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL

The Temporary Deputy Speaker (Hon. Mariru): Deputy Whip of the Majority Party.

Hon. (Ms.) Mbarire: Hon. Temporary Deputy Speaker, we wish to step down this Order until the next available allocated time.

The Temporary Deputy Speaker (Hon. Mariru): I direct that Order No.11 be deferred for the reason given by the Deputy Whip of the Majority Party.

Next Order.

(Bill deferred)

COMMITTEE OF THE WHOLE HOUSE

THE KENYA ROADS BILL

Hon. (Ms.) Mbarire: Again, Hon. Temporary Deputy Speaker, I wish to request that we step down this Order until the next allotted available time.

The Temporary Deputy Speaker (Hon. Mariru): I direct that Order No.12 be deferred for the same reason until when it is slotted again in the Order Paper.

Next Order.

(Consideration of the Bill in the Committee of the Whole House deferred)

BILL

Second Reading

THE KENYA COAST GUARD SERVICE BILL

Hon. (Ms.) Mbarire: Hon. Temporary Deputy Speaker, I request that this Order be stepped down until the next available allotted time.

The Temporary Deputy Speaker (Hon. Mariru): I also direct that Order No.13 be stepped down until a subsequent time.

(Bill deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Mariru): Hon. Members, there being no other business and the time being 6.32 p.m., this House stands adjourned until tomorrow, Thursday, 12th April 2018 at 2.30 p.m.

The House rose at 6.32 p.m.