

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 9<sup>th</sup> March, 2016

The House met at 2.30 p.m.

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

### PRAYERS

### PETITION

#### CHANGE OF COURSE OF RIVER TANA

**Hon. Aden:** Hon. Speaker, I present a Petition by the residents of Balambala Constituency on the change of course of River Tana between Mudey and Buradansa towns.

I, the undersigned, on behalf of concerned residents of Balambala Constituency, draw the attention of the House to the following:-

THAT, rivers as natural resources are important because they support various economic activities like farming, provision of habitat for aquatic life, generation of hydroelectricity and transportation and/or movement of people, goods and services.

THAT, River Tana is a lifeline in Balambala Constituency providing water to the people of many towns, including Mudey, Kone, Jarajara, Balambala and Buradansa besides supporting farming activities in the area.

THAT, the said river changed its course southwards from the main course between Mudey and Buradansa towns due to heavy siltation, thereby affecting a stretch of about 25 kilometres of farmland and the aforementioned towns.

THAT, the change in the river's course has resulted in the drying up of the main water source in the area, thus forcing the residents of those towns to walk for long distances in search of water, and also affecting their agricultural activities.

THAT, that state of affairs has disrupted economic activities, led to closure of schools and consequently threatened the livelihoods of the residents of those towns; who now want to move to other areas due to lack of water and sustainable food supply.

Noting that, there is a large National Youth Service (NYS) Camp in the affected area which has specialised equipment that can be used to unblock the siltation interfering with the river.

THAT, the matter in respect of which this Petition is made is not pending before any court of law or constitutional body.

THEREFORE, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Labour and Social Welfare:-

(i) intervenes to have the NYS team deployed to the area to build a permanent waterway between Mudey and Buradansa towns so as to resolve that water problem permanently.

(ii) as a matter of urgency, seeks the further deployment of the NYS water experts to the area to drill and equip water-wells to sustain the area residents in the meantime.

(iii) makes any other orders and/or directions that it deems fit in the circumstances of the case.

And your Petitioners will ever pray.

**Hon. Speaker:** I see Hon. Bare Shill desirous of commenting. Remember you are just commenting and seeking clarifications. No more.

**Hon. Shill:** Thank you, Hon. Speaker. I stand to support that Petition. The people of Balambala, which is in Garissa County, are suffering. The river has changed its course. It is over 50 years since we got Independence, but people from that area still lack water. We all know water is life. Sometimes, I really wonder why our area is marginalised. The attention of subsequent governments has never been there, including the county government now. Why do I say so? We have been hearing of massive scandals at the NYS. A lot of money has been misappropriated. The NYS has been in Balambala for the last 40 years doing some irrigation work.

Our Government has been very keen. It has been trying to bring back the Opposition. It has been giving them good amounts of money. Even the Opposition in North Eastern Province is not being taken care of. I do not know why? Maybe, we do not matter. Whether we are in the Government or Opposition, we are being dealt with in the same way. It is high time we are taken very seriously. Soon, we will make our own decision on which way to go if things have not been done properly.

We cannot be crying, especially us pastoralists. We are going down to Isiolo to make a very big decision soon. That is because we cannot be crying all the time.

Thank you. I support.

**Hon. Speaker:** At this point, you are supposed to make comments, clarifications and observations, including crying, if it pleases you.

*(Laughter)*

Do I see another one who wants to cry? Hon. Ali Rasso.

**Hon. Dido:** Thank you very much, Hon. Speaker. I do not want to cry, but I want to support that Petition. Once that river diverts its course, it means all the towns that are lying along that river will die. It is equivalent to telling us that River Nile's course is diverted because Egypt and Cairo will be no more. That is because it is fully dependent on River Nile. I want to add my voice to this Petition. Something needs to be done.

Thank you.

**Hon. Speaker:** Do I see Hon. Dan Maanzo?

**Hon. Maanzo:** Thank you, Hon. Speaker. I want to support the Petition by the Member for Balambala. In Ukambani, we have River Athi. I am also aware that previously, there were plans to build the grand high force dam near Balambala and Mwingi North. It was supposed to be one of the flagship projects in the country that would stabilise the flow of water so that the river would not change its course like it has done in Tana River. I would like to participate in the Committee deliberations so that we can assist the people of Balambala to have a better way of life. There is equipment from NYS. There is expertise. They can deal with the course of that river so that the people of Balambala can be served just like any other Kenyan.

I would like to support. Thank you.

**Hon. (Ms.) T.G. Ali:** Thank you, Hon. Speaker. I also stand to support the Petition. I know that we have NYS camps in Bura and Balambala. It is only prudent that we use the human resource and the capital that we have to ensure that communities do not suffer. I am sure that if that area is unblocked, we will have a better economy and a better way of life for the community. So, I stand to support and urge the NYS Director to act with speed because we have people on the ground who can do that work.

Thank you.

**Hon. Speaker:** Finally, Jimmy Nuru Angwenyi, Member for Kitutu Chache North.

**Hon. Angwenyi:** Thank you, Hon. Speaker. I rise to support the Member for Balambala for bringing this matter. Sure enough, it is not only in Balambala where we should direct NYS to provide positive service. That is because they have the equipment, personnel and financial resources which are being messed up elsewhere. They can be applied to Balambala and Kitutu Chache North where we have many highly polluted rivers. In a sense, they are a source of sickness and death. So, when they are working in Balambala, they should work simultaneously in Kitutu Chache North in Kisii County.

I beg to support.

**Hon. Speaker:** That is the end of the comments on the Petition. Before we go to the next Order, permit me to recognize and welcome to the National Assembly, Masters Students in Social Transformation from Tangaza University College, Lang'ata Constituency, Nairobi County.

Welcome.

*(Applause)*

### PAPERS LAID

**Hon. Katoo:** Hon Speaker, I beg to lay the following Papers on the Table of the House today, Wednesday, 9<sup>th</sup> March, 2016:-

The Draft Merchant Shipping (Seafarer Medical Examination and Certificate) Regulations, 2016 and the Explanatory Memorandum pursuant to Section 450 of the Merchant Shipping Act, 2009.

The Draft Merchant Shipping (Safe Manning) Regulations, 2016 and the Explanatory Memorandum pursuant to Section 450 of the Merchant Shipping Act, 2009.

The Draft Merchant Shipping (Training and Certification) Regulations, 2016 and the Explanatory Memorandum pursuant to Section 450 of the Merchant Shipping Act, 2009.

The Draft National Government Constituencies Development Fund Regulations, 2016 pursuant to Section 43(5) of the National Government Constituencies Development Fund Act.

The Annual Report and Financial Statements of Laikipia University for the year ended 30<sup>th</sup> June, 2014.

The Annual Report and Financial Statements of the Kenya Wildlife Service for the year ended 30<sup>th</sup> June, 2014.

*(Hon. Katoo laid the documents on the Table)*

**Hon. Speaker:** The Chairman of the Departmental Committee on Agriculture, Livestock and Co-operatives.

**Hon. Mbiuki:** Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Wednesday, 9<sup>th</sup> March, 2016:-

The Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on:-

(i) The Public Petition by the stakeholders of the Kenya Planters Co-operative Union Limited for the removal of the Commissioner for Co-operatives Development.

(ii) The Petition of the alleged change of the management model of Kenya Tea Development Authority to Kenya Tea Development Agency, a private entity.

Thank you.

*(Hon. Mbiuki laid the documents on the Table)*

**Hon. Speaker:** Hon. Members, before we go to the next Paper, let me draw your attention to the fact that the Majority Whip has, among other Papers, tabled “The Draft National Government Constituencies Development Fund Regulations, 2016 pursuant to Section 43(5) of the National Government Constituencies Development Fund Act.”

For the information of Members, those Regulations are hereby committed to the Committee on Delegated Legislation so that those of you who belong to that Committee and other committees know where to direct your grievances and any other queries that Members may have. That Committee is directed to act with reasonable dispatch and make it possible for Members and constituencies to begin functioning within the law. So, over to you Hon. William Cheptumo and the team!

Next, is the Chairperson of the Departmental Committee on Administration and National Security, Hon. Kamama?

**Hon. Abongotum:** Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House today, Wednesday, 9<sup>th</sup> March, 2016:-

The Report of the Committee on Administration and National Security on its consideration of the National Police Service (Amendment) Bill (Senate Bill No. 29 of 2014).

*(Hon. Abongotum laid the documents on the Table)*

**Hon. Speaker:** Majority Party Whip!

**Hon. Katoo:** Hon. Speaker, before I give notice of a very important Motion, I would like Members to be very attentive because it is a Motion of its own kind in the 11<sup>th</sup> Parliament. Although it is a notice of Motion, I just want to prepare Members for what we are proposing to do. Members know very well that this House made a decision about three weeks ago or thereabout. We rejected the Motion that sought to reconstitute the Budget and Appropriations Committee.

After lengthy consultations with the leadership of House across the political divide, the House Business Committee explored several options. What I will be presenting shortly may be the only viable option for this House to consider, so that we may have that very important committee running. This is the time we need the Committee most because the Budget cycle has

started. Last Thursday, we passed the Budget Policy Statement. We are now headed to the proper preparation of the Budget.

I want to inform hon. Members that I am just giving notice. The Motion will come up later for debate but, in accordance with all the rules and procedure of this House, we thought, as the House Business Committee that this may be the only viable option, in the short term, for the exercise to move on smoothly.

### NOTICES OF MOTIONS

#### RESCISSION OF RESOLUTION ON THE APPOINTMENT OF THE BUDGET AND APPROPRIATIONS COMMITTEE

**Hon. Katoo:** Hon. Speaker, I beg to give notices of the following two Motions:-

THAT, pursuant to the provisions of Standing Order No.49(2)(a), this House resolves to rescind its decision of Tuesday, 16th February, 2016 (Afternoon Sitting) regarding the appointment of Members to the Budget and Appropriations Committee.

This Motion is based on the decision of this House, through a resolution, on appointment of Members to the Budget and Appropriations Committee. I urge hon. Members to be a little bit patient. There will be time for us to give reasons for that decision. Hon. Members will also be able ventilate on the Motion. I am just giving notice of the Motion. This is not the time for debate.

Hon. Speaker, the next Notice of Motion is on the reconstitution of the Budget and Appropriations Committee. I am giving the notice on behalf of the Chairperson of the Committee on Selection.

#### APPOINTMENT OF MEMBERS TO THE BUDGET AND APPROPRIATIONS COMMITTEE

THAT, pursuant to the provisions of Standing Order Nos.175 and 207, this House approves the appointment of the following Members to the Budget and Appropriations Committee:-

1. Hon. Mutava Musyimi, MP
2. Hon. (Ms.) Mary Emaase, MP
3. Hon. Alfred Sambu, MP
4. Hon. Benjamin Langat, MP
5. Hon. Charles Nyamai, MP
6. Hon. Clement Wambugu, MP
7. Hon. Ferdinand Waititu, MP
8. Hon. Jackson Kiptanui, MP
9. Hon. Jamleck Kamau, MP
10. Hon. John Mbadi, MP
11. Hon. Mohamed Shidiye, MP
12. Hon. Moses Lessonet, MP
13. Hon. Moses ole Sakuda, MP

14. Hon. Nelson Gaichuhie, MP
15. Hon. Ahmed I. Abass, MP
16. Hon. Abdulaziz Farah, MP
17. Hon. Alfred Agoi, MP
18. Hon. (Ms.) Alice Ng'ang'a, M.P
19. Hon. Banticha Jaldesa, MP
20. Hon. Benjamin Andayi, MP
21. Hon. Bitok S. Kirwa, MP
22. Hon. Daniel Nanok, MP
23. Hon. Dennis Kariuki, MP
24. Hon. (Dr.) J.W. Nyikal, MP
25. Hon. (Dr.) Reginalda Wanyonyi, MP
26. Hon. (Eng.) Stephen Ngare, MP
27. Hon. (Ms.) Fatuma Ali Ibrahim, MP
28. Hon. Francis Njenga, MP
29. Hon. Irshadali Sumra, MP
30. Hon. Isaack Mwaura, MP
31. Hon. James Gakuya, MP
32. Hon. James Lusweti, MP
33. Hon. Jared O. Opiyo, MP
34. Hon. Jonathan Lati Lelelit, MP
35. Hon. Joseph Limo, MP
36. Hon. K.K. Stephen Kinyanjui, MP
37. Hon. (Dr.) Makali Mulu, MP
38. Hon. Moses Kuria, MP
39. Hon. Charles Muriuki, MP
40. Hon. (Dr.) Eseli Simiyu, MP
41. Hon. Omar Mwinyi, MP
42. Hon. Omondi George, MP
43. Hon. Patrick ole Ntutu, MP
44. Hon. Peter Weru Kinyua, MP
45. Hon. (Ms.) Priscilla Nyokabi, MP
46. Hon. Richard Tong'i, MP
47. Hon. Samuel Gichigi, MP
48. Hon. Shukra Hussein Gure, MP
49. Hon. Silverse Lisamula Anami, MP
50. Hon. Suleiman Murunga Kasuti, MP
51. Hon. Tiyah Galgalo, MP

Thank you, Hon. Speaker.

**Hon. Members:** No!

**Hon. Speaker:** Hon. Members, I expected that when you commence your fourth year, you obviously know that for a Notice of Motion, there is nothing that it attracts. I cannot put any Question. I hear you. It will be fair for everybody to be allowed an opportunity to express themselves. Those of you who may be serving in other Committees, and might also want to be removed from those Committees, you can also express that so that you are removed and then we

can disband all the other Committees in order to reconstitute all of them afresh. Those are some of the options available.

**Hon. Members:** Yes.

**Hon. Speaker:** That is not now. You will do that tomorrow or whenever the Motion is brought.

Next Order!

## STATEMENT

### STATUS OF ANTI-DOPING LEGISLATIVE PROPOSAL BILL

**Hon. Speaker:** Hon. Tiyah Galgalo.

**Hon. (Ms.) T.G. Ali:** Thank you, Hon. Speaker. I stand to give the status of Anti-doping Legislation Proposal, 2015. Hon. Speaker, the Anti-doping Legislation Proposal, 2015 was referred to the Departmental Committee on Labour and Social Welfare on 10<sup>th</sup> December, 2015, in line with Standing Order No.114(3). By then, the Committee was busy with the vetting of the Principal Secretaries (PSs) pursuant to Standing Order No.45. The Committee engaged the Attorney-General and Kenya Law Reform Commission through a letter dated 22<sup>nd</sup> February, 2016, but it is yet to receive submissions of the Legislative Proposal.

The Committee further scheduled meetings to discuss the Legislative Proposal on 1<sup>st</sup>, 2<sup>nd</sup> and 8<sup>th</sup> March 2016, but the meetings did not take-off as planned. On 1<sup>st</sup> March, 2016, the Cabinet Secretary for Labour, Social Security and Services was scheduled to appear before the Committee to respond to questions submitted by Members of Parliament in line with Article 113(3) of the Constitution. On 3<sup>rd</sup> March, 2016, the Committee lacked quorum to consider the Legislative Proposal, but even the sponsor of the Bill did not appear. On 8<sup>th</sup> March, 2016, the sponsor of the Bill did not turn up for the meeting.

Hon. Speaker, the Committee confirms its assurance and the highest commitment to consider the Anti-doping Legislation Proposal among other legislative proposals on Thursday, 10<sup>th</sup> March, 2016. I would also want to give the list of Committee members and I want to assure you that the Member who is dealing with the issue of Anti-doping is a *bona fide* member of this particular Committee.

We have 28 Members and out of them, I am the Vice-Chair to the Committee. I wish to read the names of members of the Committee:-

1. Hon. David Were, MP - Chairperson
2. Hon. Patrick Wangamati, MP
3. Hon. (Ms.) Janet Teiya Marania, MP
4. Hon. Peris Tobiko, MP
5. Hon. John Ndirangu Kariuki, MP
6. Hon. (Ms.) Winnie Karimi Njuguna, MP
7. Hon. (Ms.) Janet Nangabo Wanyama, MP
8. Hon. John Serut, MP
9. Hon. Samuel Gichigi, MP
10. Hon. Elijah Langat, MP
11. Hon. Abdi Noor Ali, MP
12. Hon. Daniel Sitati Wanyama, MP

13. Hon. (Ms.) Regina Nyeris, MP
14. Hon. Wesley Korir, MP – Who is the sponsor of this particular Bill.
15. Hon. Kinoti Gatobu, MP
16. Hon. Elijah Moindi Musomi, MP
17. Hon. James Onyango K'Oyoo, MP
18. Hon. Omondi John Ogutu, MP
19. Hon. (Ms.) Aisha Juma Karisa, MP
20. Hon. (Ms.) Rose Museo Mumo, MP
21. Hon. Silvanice Onyango Osele, MP
22. Hon. (Ms.) Gladys Wanga, MP
23. Hon. John Kobado, MP
24. Hon. Hassan Mohammed Mwanyoha, MP
25. Hon. Mlolwa Jones Mwangogo, MP
26. Hon. Ferdinard Waitutu, MP
27. Hon. Cornelly Serem, MP

We have one Member who was de-whipped by ODM and that is hon. Mustafa Idd, MP.  
Thank you. Hon. Speaker.

**Hon. Speaker:** Hon. Wesley Korir, it is reported that you never even appeared and you are a member. You never even disclosed to your colleagues and to the House that you are a member of that Committee. You have been running around here making it appear like you know nothing about the inadequacies of your Committee and yet, you are a member. It is reported that even yesterday, you never appeared. You came to tell the House that the Committee did not have quorum.

**Hon. Korir:** Hon. Speaker, it is very absurd to hear---

**Hon. Speaker:** Hon. Korir, remember that even as you speak, under Standing Order No.91, a Member is responsible for the accuracy of what they say. In the event that what you say it is not accurate, you will be deemed to be grossly out of order in terms of Standing Order No.107, and the consequences thereof are well known to you.

**Hon. Korir:** Thank you, Hon. Speaker, for giving that information. It is very absurd to hear the Vice-Chair of the Committee say that I have failed to appear before the Committee. We can go and ask the clerks if I have not appeared as a member of the Committee three times. Once, we had a Committee meeting in the Media Centre, and even the media people were there. I sat there and tried to whip Members to come so that we could have quorum, but nobody came. We had another Committee meeting in Continental House and I appeared. But there was nobody there. People came, signed and went away. Then, I am told that I have not been appearing before the Committee. That is a lie. The Vice-Chair must substantiate and say whether I have not been appearing because people come in, sign and go!

**Hon. Speaker:** What do you mean? What are you suggesting? Those Members of the Committee are actually swindling Kenyans!

**Hon. Korir:** Yes, Hon. Speaker! That is because I am usually seated down there and people come and go and there is no quorum.

**Hon. Speaker:** Hon. Korir, you will withdraw the word "lie". You have no capacity to say no. You must withdraw the word "lie"! It is un-parliamentary.

**Hon. Korir:** I stand guided and withdraw the word "lie". But I will say that she has misled this House by saying that I have not appeared before the Committee and yet, I have.



**Hon. Speaker:** Where are we headed? Hon. Members, this is the route you have taken that we will now have to check the attendance lists, especially because of what he has said. He has said that some Members just appear there, sign and disappear. That is what hon. Korir has just said. Some of you are not listening. You are telling us that, actually, Members of this Committee are swindling Kenyans. They go and sign the attendance list and disappear, just to get the sitting allowance. Is that what you are saying, hon. Korir?

**Hon. Korir:** If the House thinks I am lying, go and ask the media people out there. That is because in that week, we were sitting in the Media Centre. I would see people coming and leaving, and I was sitting there with the clerks. I told people to sit down so that we could have quorum, but it was not possible because people kept on coming and going.

**Hon. Speaker:** Can you give us the dates of those sittings? That is very serious.

**Hon. Korir:** That was last week, Hon. Speaker.

**Hon. Speaker:** Last week is not a date.

*(Laughter)*

**Hon. Korir:** Maybe, the Chairperson of the Committee can clarify the dates.

**Hon. Speaker:** Hon. Galgallo, these are very serious allegations.

**Hon. (Ms.) T.G. Ali:** Thank you, Hon. Speaker. The Statement I am presenting before this House is compiled by the clerks as the true copy of what we have been deliberating in our Committee.

On 3<sup>rd</sup> March 2016, we had a meeting at the Media Centre. I was the first person to arrive. After 50 minutes, the sponsor of the Bill had not appeared. Yesterday, we had a meeting in the new lounge. I was the first one to arrive. By the time I left, the sponsor of the Bill had not arrived. I am giving the true picture of exactly what we have done. Not at any one time have the Committee Members ever met just to sign and leave without deliberations. All the reports that we have submitted to this House are a clear testimony that we have been very active in handling our mandate as a Committee.

**Hon. Speaker:** I can see another Member raising his hand. That is not how it is done here. This is not a marathon. I will instruct the Director of Committees to give me a written report of the record of what the Committee has been doing. Not you, Hon. Lagat! You are not the Director of Committees. You are the Member for Chesumei and a former marathoner. It is not about marathons only. Now, we want to deal with more serious stuff. Hon. (Ms.) Tiyah Galgallo said that the Committee held a meeting on 3<sup>rd</sup> March. Not even you, John Serut. You are not the Director of Committees. I must get a record of how the Committee has been transacting business. What Hon. Korir has just said is very serious; that Members of the Committee just sign and disappear. We will parade all of them here so that they can tell us how they have been doing those things. It is never done that way. It should never happen that way. I will get the report.

**Hon. Serut:** On a point of order, Hon. Speaker.

**Hon. Speaker:** There is no debate on this John Serut. You do not have the record. The Director of Committees is instructed to bring me a report tomorrow of what the Committee has been doing. I will have it on the Floor of the House to confirm what Hon. Wesley Korir and the Vice-Chairperson of the Committee have said.

Let us have the Chairperson of the Departmental Committee on Administration and National Security, Hon. Kamama. You have a maximum of 10 minutes.

STATUS OF BUSINESS BEFORE THE COMMITTEE ON  
ADMINISTRATION AND NATIONAL SECURITY

**Hon. Abongotum:** Thank you, Hon. Speaker. I wish, on behalf of the Departmental Committee on Administration and National Security, to brief the House on the status of business that is pending before the Committee as at 9<sup>th</sup> March 2016. I will be very fast.

First, we have a Petition by three prisoners in Naivasha Prison. The subject is on radicalisation of inmates, review of Penal Code and amnesty for those who have served for more than seven years. We received the report on 7<sup>th</sup> July 2015. I wish to report to the House that the Committee undertook a field visit to Naivasha Maximum Prison from 11<sup>th</sup> to 14<sup>th</sup> March and held meetings with the petitioners, the prison officers and the inmates.

Second, is the Petition by the residents of Kasikeu Ward in Makueni. The subject is on compensation for services rendered by village managers. We got the Petition on 6<sup>th</sup> March 2016. The Committee held several meetings with the Petitioners. The Committee will hold a meeting with the Cabinet Secretary (CS) for the Ministry of Interior and Coordination of National Government on Tuesday 15<sup>th</sup> March 2016. The Committee will table the report in two weeks' time.

Third, is the petition by Hon. Matthew Lempurkel, the Member of Parliament for Laikipia North, on behalf of the residents of Segera in Laikipia County. The subject is on urgent resolution of abuse, torture and land conflict cases in Segera, Laikipia. We got this Petition on 29<sup>th</sup> September 2015. The Committee will undertake a field visit to Segera Laikipia County, beginning tomorrow, and will hold several meetings with the Petitioners and relevant Government agencies.

Fourth, is a Petition by Hon. Dido Rasso, Member of Parliament for Saku, on behalf of the residents of Dakabaricha Location. The subject is on revocation of the appointment of David Mulato as the Chief of Dakabaricha Location in Saku Constituency. We received this Petition in October 2015. The Committee held a meeting with the Petitioner. The Committee will also have a meeting with the Cabinet Secretary on Tuesday, 15<sup>th</sup> March. The Committee will table the Report in two weeks' time.

Fifth, is the Petition by Hon. Florence Kajuju, Member of Parliament for Meru, on behalf of the residents. The subject is on cases of insecurity, boundary conflicts, cattle rustling, sexual abuse, loss of life and property. We received this Petition on 26<sup>th</sup> October 2015. The Committee held a meeting with Hon. Florence Kajuju on behalf of the Petitioners. The Committee will undertake a field visit to Isiolo and Meru counties to meet the Petitioners and the relevant stakeholders, including Government officers.

Sixth, is the Petition by Hon. Muthomi Njuki on behalf of the residents of Chuka/Igambang'ombe Constituency. The subject is on delayed creation of new administrative units. We received this Petition on 28<sup>th</sup> October 2015. I wish to report that the Committee held a meeting with Hon. Muthomi Njuki on behalf of the Petitioners. The Committee will hold a meeting with the Cabinet Secretary (CS) for the Ministry of Interior and Coordination of National Government on 15<sup>th</sup> March 2016. This report will be tabled in this House in two weeks' time.

Seventh, is the Petition by Hon. Jessica Mbalu, on behalf of the residents of Kibwezi East Constituency. The subject is on relocation of Kibwezi Sub-County Headquarters. The Petition

was received on 23<sup>rd</sup> February 2016. The Committee will hold a meeting with Hon. Jessica Mbalu on behalf of the Petitioners on Thursday 10<sup>th</sup> March 2016 to consider the Petition.

The last petition is by Hon. Kimani Ichung'wah on behalf of the residents of Kikuyu Constituency in Kiambu County on the alleged emergence of militia groups in Kiambu County. We got this Petition on 23<sup>rd</sup> February 2016. The Committee will hold a meeting with the Petitioner on 24<sup>th</sup> March 2016 to consider the Petition.

Lastly, we have one proposed Bill, namely, the Refugee Bill 2016. The sponsor is Hon. Aghostinho Neto, the Member of Parliament for Ndhiwa. This was referred to the Committee on 8<sup>th</sup> March 2016.

Hon. Speaker, that is the status of the pending business before this House.

**Hon. Speaker:** The Chairman of the Departmental Committee on Agriculture, Livestock and Co-operatives.

#### STATUS OF BUSINESS BEFORE THE COMMITTEE ON AGRICULTURE, LIVESTOCK AND COOPERATIVES

**Hon. Mbiuki:** Thank you, Hon. Speaker. I am pleased to take this opportunity to update the House on the business pending before the Departmental Committee on Agriculture, Livestock and Cooperatives. On behalf of the Committee, I wish to thank the House for adopting the Report on the Crisis Facing the Sugar Industry in the Country. The recommendation therein, if fully implemented, is expected to positively reform the sugar sector in the country.

Secondly, I would like to seek your indulgence that the House Business Committee (HBC) gives priority to Committee Report on the impoundment of the alleged substandard fertiliser which belonged to the National Cereals and Produce Board (NCPB) of Kenya, which was tabled in this House late last year. This Report would greatly assist in the management of the fertiliser subsidy, a programme being implemented by the national Government.

The following is the business pending before the Committee:-

(i). There is a pending Petition by Hon. Peter Kinyua, MP, on behalf of the dairy farmers in Mathira Constituency, on the establishment of strategic reserves for the long life and powdered milk.

(ii) On legislative proposal pre-publication scrutiny, the Committee is seized with one proposal which seeks to amend the Crops Act 2013 to provide for Guaranteed Minimum Returns (GMR) on coffee and tea crops. The proposal is by Hon. Kang'ata. The Committee has commenced the scrutiny of the proposal and, due to the potential impact of the legislation on safeguarding the farmers' livelihood versus the principles and tenets of a liberalised economy, the Committee will be seeking an extension of time to further consult on the proposal.

(iii) On Bills, the Committee is seized with four Bills currently before it for consideration. One is on the Warehouse Receipts System Bill 2015 (National Assembly Bill No. 12 of 2015). The Committee has concluded consideration of the Bill and a report will be tabled in the House on Wednesday, 16<sup>th</sup> March 2016. The Committee is proposing numerous amendments to this Bill.

The Second Bill is on Seeds and Plant Varieties (Amendment) Bill. The Committee has concluded consideration of the Bill and a report will be tabled in the House on Wednesday, 16<sup>th</sup> March 2016.

On the Food Security Bill 2015 (Senate Bill No. 23 of 2014), the Committee has considered the Bill and is awaiting the decision of the Budget and Appropriations Committee - whenever it will be formed - to confirm whether the Bill is a money Bill. The Committee has already concluded in the affirmative that the Food Security Bill is a money Bill and it will, therefore, be seeking the opinion of the Budget and Appropriations Committee.

The other Bill is the Potatoes Produce and Marketing Bill 2015 (Senate Bill No. 22 of 2014). It was committed to the Committee on Thursday, 3<sup>rd</sup> March 2016, which has commenced its consideration.

Hon. Speaker, we also have other Committee activities that we are undertaking, and which include the Galana/Kulalu Food Security Project. The Committee is at the tail-end of concluding the Report on the status of implementation of Galana/Kulalu Food Security Project. It will table a comprehensive report on the Floor of this House before it proceeds for the short Easter recess.

The Committee is also seized of the Agriculture, Fisheries and Food Authority (AFFA) Bill. As you are aware, this House passed the AFFA Act in 2013 and it has been a very big challenge making the authority operational, owing to difficulties in constituting the board and other various bottlenecks. The Committee is working with the Ministry and other stakeholders and shall be proposing to this House review proposals on various legislations to ensure that the AFFA Act 2013 achieves its intended goals.

Thank you for giving me this opportunity.

**Hon. Speaker:** Next Order!

## BILLS

### *Third Reading*

#### THE NATURAL RESOURCES (CLASSES OF TRANSACTIONS SUBJECT TO RATIFICATION) BILL

Please take your seats for those of you who can only transact business while standing.

*(Hon. S.S. Ahmed stood up in his place)*

Hon. Shakeel, please take your seat! Hon. Members, the debate on this Motion was concluded and what remains is for me to put the Question, and which I hereby do.

*(Question put and agreed to)*

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

#### THE ENERGY BILL

### *Second Reading*

*(Hon. Katoo on 8.3.2016)*

*(Resumption of Debate interrupted on 8.3.2016)*

**Hon. Speaker:** Hon. Members, at the rise of the House yesterday, a total of seven Members had contributed to this Bill. It is a Bill with a lot of interest if sufficient Members have read it. We will deal with those that have indicated interest. I will start off with Hon. Makali Mulu.

**Hon. Mulu:** Thank you, Hon. Speaker for giving me the chance to contribute to this important Bill. This Bill will align the energy sector issues to the new Constitution, bearing in mind that there are two levels of implementation; the national Government and the county governments. This Bill will ensure that we have the right legal framework in terms of how this important sector will be implemented. It will ensure that the policies in this sector are aligned to the 2010 Kenyan Constitution. Just as you have rightly put it, this Bill has a number of clauses and sectors because it looks at all the possible sources of energy. I would like to focus more on three areas because I only have 10 minutes to make my contribution.

I will start with renewable energy---

*(Loud consultations)*

Hon. Speaker, please protect the House from that corner where Members are consulting loudly.

**Hon. Speaker:** Hon. Members, there is a loud female voice from that corner where the Minority Whip is - and that must be the Member for Busia County. Please lower the decibels. You might be excited, but let us allow Hon. Makali Mulu to contribute.

**Hon. Mulu:** Hon. Speaker, renewable energy is very important because it can be tapped for a long time without getting exhausted. It is the case with natural resources such as oil. Clause 73 of the Bill has an important proposal. It reads:-

“The Cabinet Secretary shall, within twelve months of coming into force of this Act, commence a countrywide survey and a resource assessment of all renewable energy resources.”

Hon. Speaker, what this Bill is saying is that when it becomes an Act of Parliament, the Cabinet Secretary will be required by law to do a countrywide resource assessment of all renewable energy resources. In addition, he or she will also come up with a resource inventory of the same. This is very important to potential investors in this country; people who want to invest in that particular sector. They will be able, without spending a lot of money on feasibility studies, to pick the resource inventory from the Cabinet Secretary and make important decisions in terms of where they want to invest. This is a very important part of this Bill, and this is one of the things why I want to support it.

The other area which is also very important - and I want to focus on it - is coal. We are all aware that in the county where I come from, coal is one of the most important energy resources that we have. A lot of efforts have been put into ensuring that we exploit that important resource in our county. We have faced challenges, more so, in terms of compensation for our people in that, as we exploit coal, we should also make sure that the environment is taken care of with regard to the necessary safety measures on environment and health. One of the important things I

find in this Bill is that it provides very clear pre-conditions before any person is licensed to exploit minerals. What they should do has been stated very clearly.

When you look at Clause 24, there are a number of them. But, to me, one of the most interesting one - and is good for our county - is 124 (b). It states that before you get a license to exploit coal in this country, you will have to comply with the environmental, health, safety, planning, maritime and any other relevant legislation or guidelines. This is very important because it will ensure that our people are protected from any negative impact from coal exploitation. So, this is very important and it is something that I want to support. We are introducing an authority which will coordinate all activities relating to coal exploitation. This authority will be in charge to make sure that we have a coordinated framework so that exploitation is properly done.

The other area that I want to focus on in this Bill is Part VII, where we discuss the right of way, way-leaves and use of land for energy resource and infrastructure. We are all aware, more so, as Members of Parliament, of the many challenges in situations where we want to help our people to access power, especially electricity connection. The issue of way-leaves is controversial. People say that electricity posts cannot be mounted on their farms. Most of them demand that they must be compensated before any installation is done. So, this Bill proposes that in a situation where power has to be connected to a public institution and that power will pass through individual farms or public land, private owners should be consulted and given time to consent so that their farms can be used. This Bill says that this has to be done in two newspapers of nationwide circulation, so that it becomes public. They should be told that their land will be used for that purpose.

The Bill goes on to explain what needs to be done. There is a clause which is very interesting. It talks of a situation where the energy resource is going to be for public interest and is going to benefit this country. If a private member or owner of a piece of land cannot allow the Government to use that piece of land, it can go for compulsory acquisition of that piece of land. To me, that is very important because time must be allowed. As Kenyans, we must get to a point where we agree that anything for public good must take first priority. Things that are for private good must be secondary. In that case, where you have land and you say that you do not want your land to be used, the Government can go ahead and use the necessary legislation to make sure that your land is acquired and that particular energy resource is exploited for the benefit of Kenyans, who are the overall owners of this country. So, that is another important clause that I support.

The other important part of this Bill is the so-called fund. Clause 221 says that a county government shall establish a fund for the purposes of promotion of efficient use of energy and its conservation within the county. The whole idea of a fund is very important because we know that some parts of this country may not be able to access power and, more so, electricity through the national grid. So, they might have to think of other sources of power. Through the establishment of that fund, the county governments will make sure that the money is used to ensure that most Kenyans have access to power. Access to power opens quite a number of doors. People are able to create employment. They will start small-scale businesses like salons and welding. That is important if you consider that Members of Parliament have many other projects under the Constituencies Development Fund (CDF). If we get power into the villages, we can create employment through (CDF) projects at that lower level.

With those comments, I support this Bill. Thank you for giving me the chance to contribute.

**Hon. Speaker:** Very well. Hon. Mohamed Mahamud.

**Hon. (Eng.) Mahamud:** Thank you, Hon. Speaker, for giving me the chance to contribute to this very important Bill, the Energy Bill, 2015. The Bill sets to consolidate the energy laws and align them with the provisions of the Constitution, 2010. Hitherto, we have been operating under the Energy Act, which is going to be repealed by this Bill. By bringing this Bill, the energy sector will be put under some control so that it can work efficiently. The Bill also tries to realign or reorganise the energy entities so that they can be more functional and their functionality can be related to the Constitution.

The Bill proposes to establish the Energy Regulatory Authority which will replace the current Energy Regulation Commission (ERC). It will have a mandate that is well defined and very elaborate as compared to what was under the ERC. The Bill also establishes the Energy and Petroleum Tribunal which replaces the Energy Tribunal, which was limited in scope. The Rural Electrification Authority is renamed under this Bill as the Rural Electrification and Renewable Energy which has now the component of renewable energy.

The Bill also elaborately deals with the issue of renewable energy. Renewable energy has been given a lot of emphasis in this country, but the laws that were there were not very elaborate. In fact, the Bill also establishes the Renewable Energy Resources Advisory Committee because the mapping, exploitation and use of renewable energy have not been very elaborate so far. Wind, solar, biomass energy and other energy programmes have not been well defined. We need some mapping to be done so that investors can come in quickly and see how to exploit those energies.

The energy sector - petroleum and oil on one side, electricity on another side and renewable energy on the other side - is well elaborated in this particular Bill. Also, now that we have two levels of Government - the national Government and the county governments - the Bill assigns specific duties to both levels so that there is no confusion. As you know, energy issues are all over the country. Energy issues are also the sole responsibility of the national Government, but with the involvement of the county governments, so that the roles are properly assigned and there is no confusion in terms of exploitation and utilisation.

For a long time, this country has had a lot of programmes for utilising the energy resources that it has. You know what we are doing with the geothermal renewable energy. Kenya is endowed with geothermal energy more than any other country in this region. We may be next to other countries in the world like Philippines, which is well endowed with such resources. I am happy that the country is exploiting that resource to the maximum. We will bring sanity to the whole sector when we repeal the Geothermal Resources Act and bring it under the Energy Act.

The entities that are envisaged in the Bill are going to bring some smooth operations within the energy sector. The qualifications and the membership of that particular board, including the Chief Executive Officer (CEO) and the board members, are elaborate. It has called for people who are qualified and have various degrees like law, engineering, economics and sciences. That is very elaborate. When it comes to the Committee of the whole House, we will look at the areas that need to be amended. However, I am happy because the Bill has attempted to really consolidate all the energy issues so that energy is dealt with properly in this country. Today, we have a lot of companies that are prospecting for oil in this country. The acreage has been put in place without proper guidance in the law. When this Bill becomes law, we will have

concessions in terms of whether it is for coal, geothermal or petroleum. There is a particular regulatory framework that can be utilised so that we can avoid confusion.

I am also happy that there is a proposed fund for energy conservation. Energy conservation is very important. The obligation to conserve energy should not only be on the national Government, but also on the county governments. The introduction of that fund is also important.

With this Bill, we will have proper organisation in both the mainstream and downstream petroleum exploration. I do not see the National Oil Corporation here. Maybe, it has been absorbed. When the Bill goes into the Committee of the whole House, we will see the role of the National Oil Corporation because I have not seen it listed among the four entities that have been proposed to be established here.

The Bill has come at the right time. It is one of the Bills with a constitutional timeline. We are trying to align our laws with the Constitution so that energy is properly exploited, especially in the northern part of this country, which is very well endowed with oil resources. We would like those things to be managed properly. The Bill provides how that will be managed.

With those few remarks, I beg to support.

**Hon. Speaker:** Hon. James Rege.

**Hon. (Eng.) Rege:** Thank you, Hon. Speaker, for giving me the opportunity to contribute to this important Bill. I stand to support this Bill. First, I commend the Ministry of Energy and Petroleum for the splendid work it has done over the years. From the beginning of the 10<sup>th</sup> Parliament, there was hardly any rural electrification existing in Kenya. Today, almost all schools in the country have electric energy. I commend the Ministry for the good work it has done.

Energy is important in our lives at all times. Whether you like it or not, we need it in hospitals, schools and even our own homes. Talking about this document, I see that the Cabinet Secretary is now mandated to respond to licence requests within 14 days. That never existed. I know of some requests that have taken as long as three to four years without being responded to. I appreciate that this has been explicitly mentioned in this Bill.

In the past, the Ministry was giving its parastatals money due to them, but it was still keeping some money to do other work that was meant for the parastatals. I believe that this document will explicitly leave the Ministry to perform its own functions as spelt out in the Constitution, and that is only to deal with regulatory and policy issues and leave other work for its parastatals.

I want to talk about the Rural Electrification and Renewable Energy Corporation. This Bill has created a Renewable Energy Resource Advisory Committee which is composed of:-

- (i) The Principal Secretary in the Ministry for the time being responsible for energy and petroleum.
- (ii) The CEO of the corporation or his representatives, who shall be the secretary.
- (iii) The Managing Director of Geothermal Development Company.
- (iv) The Managing Director of Kenya Electricity Generating Company (KenGen).
- (v) The Attorney-General.
- (vi) The Principal Secretary of the National Treasury and;
- (vii) The Principal Secretary in the Ministry for the time being responsible for matters relating to natural resources.



As I said earlier, renewable energy has now been assigned to the Rural Electrification and Renewable Energy Corporation, but its Chairman is not included in the Advisory Committee. This Bill falls short of mentioning that. It should be inserted during the Committee of the whole House. That is my contribution. Thank you so much.

**Hon. Speaker:** Next is Hon. Nyikal. Sorry, Hon. Members. I thought you were contributing for 10 minutes. I did not know you are talking for two minutes. You have 10 minutes and not just three.

**Hon. (Prof.) Nyikal:** Thank you, Hon. Speaker, for giving me this opportunity. I stand to support this Bill. This country runs on energy. We have various forms of energy like electricity, coal that is coming in, petroleum and renewable energies like geothermal, wind and solar. All those have been used in a way that has no synergy. We have various authorities and Acts. Therefore, this Bill comes at a good time. It puts together all the legal provisions that deal with energy and also puts them in line with the Constitution.

It is also important that this Bill involves county governments virtually in all the areas that it has set up and states clearly the roles of the national Government and county governments in utilisation of energy. The Bill will repeal other Acts that are in place and, therefore, harmonise operations in the energy sector in terms of utilisation and ownership of renewable energy in particular, as well as harmonise issues of investment and exploration. The Bill provides that we will have energy maps not only for renewable energy but also for electricity, solar power and wind power. We need that kind of map so that all these can be put together.

Hon. Speaker, petroleum has been our major source of energy. We have had problems with licensing and third party access to logistics. We know that the storage stations and oil pipelines are used by third parties. There have been many irregularities in this area. Distribution of petroleum all over the country has not been as it should be.

In the western part of the country, we have not been sure what the real consumption needs are because there have always been shortages which the Energy Regulatory Commission (ERC) attributes to storage and transportation facilities.

Coal is something that is just coming into the country for use. We know that we have coal deposits in our country. As always, when we have a new energy source in this country, unless we put in place structures and legal framework for its exploitation, many times the investors in such areas are foreigners who, to a large extent ensure that they make maximum profits with minimal care to benefit the people and the environment in which they live.

We have done well in the area of electricity but this Bill brings in more regulations and reorganisation in licensing, generation, transmission and distribution of electricity. To that extent, this Bill goes a long way to improve our use of energy.

Hon. Members have indicated the problem that Kenyans face when public interest clashes with individual interest in terms of the licences that are required. This is brought in fairly well. I am particularly happy because the offences that relate to energy in this Bill have been categorised as economic crimes. This is important.

Let me talk about the petroleum industry. The amount of adulteration that is going on in this country is unbelievable. There are places where motorists will tell you that they do not use certain types of fuel because of adulteration. If you look at the problem of adulteration, you will find that it is a total loss. Apart from cheating, the losses that motorists incur in terms of the repairs they undertake are huge. This only benefits importers of motor vehicle spare parts. Therefore, if properly implemented, this Bill will address these problems.

It is also important to note that in this Bill the Cabinet Secretary (CS) is mandated to prepare an integrated plan based on a policy that is reviewed from time to time. The time is indicated, which means that whatever policies and plans will be put in place will be implemented. This is the first Bill that I have seen taking this direction. It is important that the CS is mandated or obligated to involve the county governments and all the operators in the development of integrated plans. This is the way forward.

This Bill establishes very clear bodies or entities to deal with regulation, production, distribution, sale, consumer protection, trade and even exploration of various sources of energy. In this regard, the Energy Regulation Authority is of utmost importance because it will coordinate the development in the energy sector. We note that the Chairman of the Authority will be appointed by the President and other members are appointed by the CS. My problem with this is that there is very little participation of stakeholders. Therefore, when we get to the Committee of the whole House, we will move some amendments so that there can be more participation of stakeholders in the appointment process. At this point, it is all left to the CS and there are no stakeholder groups which are identified to be involved.

Clause 25 of the Bill establishes the Energy Petroleum Tribunal. This is an area where there are always disputes. It is interesting to note that the Chairperson of the Energy Petroleum Tribunal will be appointed by the Judicial Service commission (JSC). This sector has had its fair share of problems. I hope the intention of this provision is to ensure that we have a person of high integrity with legal background to settle all the disputes that come up. The members of this tribunal will be selected by a panel appointed by the CS. We notice that there are no guidelines on how the CS will appoint the panel.

The idea of establishing the Rural Electrification and Renewable Energy Corporation is good, because it will focus on nuclear energy as well as rural electrification and renewable energy. That is important.

Hon. Speaker, in conclusion, it is important to note that as we develop our structures for nuclear energy, other people are moving out of it because of environment effects.

**Hon. Speaker:** Let us now have the Member for Turkana South.

**Hon. Ekomwa:** Thank you, Hon. Speaker, for giving me the opportunity to contribute to this debate.

I support the Bill because it has come at the right time as far as the issue of energy is concerned. Because of time and the weighty issues that I would like to raise, I will concentrate on Clause 197 through to Article 204. During the Committee of the whole House, we will move amendments but we might not be able to address all the issues there. One thing that I am very much interested in is power to develop energy infrastructure in any land.

Hon. Speaker, you understand very well that we are yet to pass the Community Land Bill. In this Bill it is clearly classified that we have private, public and community land. We have observed that most of the energy resources in Kenya are found on community land and because of this, some of the provisions in the Energy Bill are not applicable until we pass the Community Land Bill.

For example, an investor would like to explore a resource such as oil and geothermal and yet the Government has not given an exploration permit or a permit allowing him to put energy infrastructure in a place. The way it is written here will not augur well because he or she will have to consult the whole community that owns that land and not a governor or a chief.

It is indicated here that if you do not trace the owner of the land, the CS can decide within 14 days or 100 days to go and inspect that land. I am very sure they will be denied entry to that land because on community land every tree, stone or sand has its owner. So, you cannot say that it does not have an owner. In our community, there are trees that are very holy and are used for cultural purpose. You cannot cut that tree whether you go to heaven and come back. This is because the value of that tree is attached to the whole community. So, when you say that you will compensate, how will you compensate the whole community? How do you compensate the value the community has for that tree? It is not possible. The only way is to divert infrastructure so as not to pass near the tree.

That scenario is not provided here and it needs to come out clearly. It is not just a tree. There are some areas that have cultural attachments and communities use them to carry out initiations. Such areas should not be interfered with even if you have an important function for the public. These are the issues that must be brought out clearly in the Land Community Bill. Once that is done we can apply it in the Energy Bill.

The other issue that I have observed is that whenever an investor comes to invest, he is given a permit by the CS and when he goes to the county government, he starts a new process. The county government tells him that he cannot go to that land until he squares it out with it. After that the same investor will have to go to the community which will cancel everything and start fresh negotiations.

This is not clear in this Bill because this investor will be dealing with long bureaucratic process. So, the best thing is that this has to come out clearly on who an investor should consult whether it is the community, the CS or the governor. This is because in the Community Land Bill, the community recognises itself. It is until you go and talk with the elders and the owners of that land that you will get access to that land.

I have seen investors getting it rough when they come for exploration. This is because when they visit the CS they pay some fees. They also pay some fees when they visit the county government. When they visit the community they ask: "We have paid the CS and the county government, what do you want?" Then the community will also ask: "Does this land belong to the governor or the CS?" It belongs to the community. So, let that one be clear as we make amendments to this Bill in the Committee of the whole House stage. We have to bring it out clearly.

We have realised that most of these resources are found in marginalised areas or areas that were historically oppressed and are underdeveloped. We have seen a scenario where because of the importance of these resources, be it oil or geothermal, the Government wants to build infrastructure in such areas. It is because of these resources that the Government wants to develop that area. We want to correct that perception. The pastoralist areas such as Turkana deserve the same services offered to people in Nairobi. So, since we have realised that the only way we can be remembered is when a resource has been found in an area, we want to pass this message to the Government and investors, that because that is the only God given resource in our place, we will solve all our problems before the resource is taken from our area.

If we did not have roads, then the roads have to be built first. The same will apply to water and power supply. This has to be done before oil or geothermal energy is exploited. This is because that is the only opportunity that we are getting. Were it not for our oil, nobody would have remembered us. We could have been categorised under "others" that are marginalised. This is the time we have become relevant in Kenya. So, we need to be considered and given priority.

So, we have to consider what we call “local contents”. We have realised at one point that a foreign investor would come to an area and all his employees are foreigners. The contractors and even their currency are foreign. We wonder what benefit we get from such a resource. If the contractor is a foreigner and all those working there are foreigners, what value does Kenya get from this resource? You will find that all the benefit from this resource goes out of our country and it does not benefit Kenyans. It is high time this Bill put in place strict measures that if you are a foreign investor, 50 or 80 per cent of the benefits must remain here in Kenya so that we do not become non-beneficiaries of our own resources. The local community must be given priority and benefits so that it does not remain poor and yet it has oil.

**Hon. Speaker:** Let us have Hon. Wamunyinyi.

**Hon. Wamunyinyi:** Thank you, Hon. Speaker, for giving me the chance to speak on this very important Bill that touches on the people’s livelihood. I have had a look at this Bill. While the Bill seeks to consolidate the laws that relate to energy and align the legal and regulatory framework of the sector to the Constitution, it also attempts to deal with issues which would otherwise result into conflict. It also attempts to deal with issues which would otherwise lead to confusion and wastage. This is addressed by the integration of agencies responsible for various activities to deal with energy.

This country has had a number of challenges in the past that led to the fight for the new Constitution and a new system of governance. For this reason, this Bill is very important because it seeks to put in place mechanisms, frameworks and measures which will ensure compliance with the Constitution.

I have looked at Part II of this Bill which deals with energy policy and integrated energy plan. The obligations provided in all these areas are some of the important steps which will ensure adequate service to Kenyans is provided. There is also clear provision, under Clause 249 to the powers and functions of the national Government and county governments. This is very important. While we appreciate devolved government as being the units responsible for issues directly touching people’s lives, some of the devolved units have not undertaken their mandates in accordance with the law.

Clear provisions like the ones given in this Bill will ensure that policies of the national Government that are required to be implemented by the county governments are implemented. There is clarity and every effort to ensure that these functions are known and the county governments are facilitated to implement them because of the relationship that is provided in the Constitution. These requirements will ensure that wherever the agencies are found, be they in charge of petroleum or renewable energy, they are clearly provided for in the Bill and there is no room for confusion.

We have had a problem with rural electrification. It was only until recently that there was a requirement for the electrification of all primary and secondary schools in the country. In the past, it was very expensive. Rural electrification was never “rural”. I only hope there will be strict implementation of this law when it is eventually passed so that the new rural electrification agency can serve the people in the rural areas to ensure that they access electricity. Access to electricity is very expensive and even people who are close to where electricity lines pass cannot be supplied with electricity. The Rural Electrification Programme was meant for a certain category of people who are well endowed with resources. This is what has caused conflict in our country. Some people can access services easily while others cannot and yet we are all Kenyans and are entitled to Government services. It is a constitutional requirement for all Kenyans to

access Government services. This Bill is going to deal with some of these problems. But I am still very uncomfortable unless its implementation is made very clear. It is the responsibility of the Government to ensure that all Kenyans access services, are accorded equal opportunity and treated the same. Access to Government services should not be on the basis of whether you have money or not.

This Bill also provides for clear formulation of policies and planning to ensure that Kenyans are served. It does not only put in place clear policy formulation mechanism, but it also puts in place how these policies can be implemented. That is why there is separation of functions between the national Government and the county governments. The national Government can formulate policies and plans, but the county governments have to implement those policies and plans. So, there are mechanisms for implementation.

This is a very good Bill and we need to support it to ensure that it is passed. Hon. Members, support this Bill so that it is passed and implemented for Kenyans to benefit from the good provisions.

With those few remarks, Hon. Speaker, I beg to support.

**Hon. Speaker:** I know, Hon. Wamunyinyi, you will recall that you actually participated a lot in 2006 as a member of the then Energy Committee when Parliament enacted the current Energy Act (No. 12 of 2006). It is noteworthy that even though the Act is only 10 years old, it is being reviewed. It is also being brought in tandem with the operations of the Geothermal Resources Act of 1982. This is meant to bring the two Acts up to speed and in tune with the current Constitution. To that extent, I think you have captured the exact essence of the Bill.

Hon. Richard Tong'i, you have the Floor.

**Hon. Tong'i:** Thank you, Hon. Speaker, for the opportunity to also speak to this Bill whose intention is to make Kenya a better place to live in. Energy is a resource which, if well managed, will address the concerns of Kenyans and the financial gaps that we all have in our budgeting system. We know resources are limited. Any extra resource that any country gets is welcome. Kenya is one such lucky country that has found gas and oil. It is one of those things that we have taken for granted for a long time. We never get to appreciate its impact and we never get to appreciate some parts of Kenya. This brings to mind what has been happening for a long time. What the Bible tells us that the rejected stone will turn out to be the corner stone, is true.

A county like Turkana, which for lack of a better word, has been ignored for a long time in terms of development, is now turning out to be the saviour of the economy of Kenya. That is why we are encouraging the Government to continue with its plans. So far, the Government has done very well under the leadership of His Excellency President Uhuru Kenyatta. The Government has allocated a lot of resources to develop the infrastructure in that part of the country so that we are able to harvest these resources - gas and oil - when the time is due. We know that infrastructure is key in any development. It is the first requirement that you need to put in place. Actually, what other developed economies do is that even when they are putting up houses, they first have to construct roads. In Kenya, the situation has been dicey. We keep asking ourselves; which of the two come first? Is it the egg or the chicken? We now know that probably we needed to have done roads, infrastructure and supplied electricity ahead of time.

In education, more schools should be put up so that we have enough human resource in those parts of the country to be used by the companies which have been set up there. That way, even the owners will feel they own the resources, are participants and are not just people who

have come to witness what is going on. They will be stakeholders in every sense and they will participate in terms of getting employment opportunities. Their children will get scholarships to go and further their education in various fields, so that they are more useful and resourceful to companies being set up.

If you look at Clause 13, you will find that it talks about the requirements of the Director-General, how he is going to be appointed and his functions. I like the way they have explained it. In 3(a) they have said that the Director-General must be a Kenyan, which I support 100 per cent and that is fair. Again, we need to be aware of the fact that this is a unique position which probably requires different skills. We do not want to limit ourselves, as a country, to a level of saying it has to be a Kenyan. What if we do not have that kind of person in the country? I think even developed economies such as America and other places have left specialized skills open. That if a Kenyan or a foreigner can do a better job than an American they are able to tap into that kind of expertise.

Kenya being a small country in terms of its economy, education expansion and technology, I think we will be locking ourselves in a bottle if we say, it must be a Kenyan. If we do not have such kind of a person who has the experience that it takes to manage the institution well, then we will be shooting ourselves in the foot. Clause 13(3)(b) says:-

“(4) A person shall be qualified for appointment as a Director General if such person—

(b) holds a degree from a university recognized in Kenya or its equivalent in the fields of engineering, physical sciences, law, finance, environmental studies, economics or energy.”

I think it is in our interest that we open it because we know people who have done political science and are very good managers. It will not be fair and in the interest of the country that we lock and limit ourselves to the skills or degrees that one would need to be a Director-General of this parastatal because we know leadership is not necessarily given by virtue of degrees one has done in school.

World over, we have people who have excelled in leadership and done extremely well. If you look at the United Kingdom (UK), you will find that it is a developed economy but they have had leaders who never went to anybody's schools and this is as recent as 20 years ago. Why would a country like Kenya limit itself to such a small field of skills that the person who will be the Director-General must have done certain courses? What if you got one who has not gone to school as such but has leadership skills? If my memory serves me well there is no record which indicates how much education retired President Moi acquired in terms of degrees. History records him as one of the most successful politicians in this country and he will be remembered as such for many years to come.

Education alone does not make one a better manager or person. We need to open up to allow skills which can make a difference and drive this new venture and option that Kenya has of making money. Clause 13(3)(c) says the person must have been a senior manager for, at least, seven years. After finishing university, I found this to be very discriminative. This is where people were asking for experience before they employed you. Where will the youths who are qualified out there and are many get their skills? Where is there an industry where people get skills before they can be employed, so that when we are looking for senior people, we say we need somebody who has seven years experience?

Where do people get experience without promotion and we know sometimes in Kenya, promotion is not based on merit but on whom one knows? This is a culture that we really want to destroy. We need to put it clearly that we need somebody who can run the industry and maybe go the Botswana way where for every senior manager there is somebody who understands what he or she does. For every senior position there are two people, so that at any given time even a local person can take over and run the institution without any gaps being left in the event of death. This is good if an expatriate who was running that institution leaves. That way there is continuity and benefit of history from experience that has been in the industry.

I support this Bill because it is good, but we need, as a country, at the outset, to look back and say we need to develop every part of Kenya. This will ensure that when these opportunities come up we are not held back and say we are not prepared in terms of skills and expertise to undertake those assignments. That is why wisdom demands and I dare say that we are all encouraged to prepare for an opportunity that never comes than to get one and we are not prepared. This is one such opportunity that God has given us.

As a country, we should have prepared a lot better than we have done, but nevertheless, it is a learning curve and we are going to do a lot better. We need to prepare our people a lot more in other fields even those we do not have in the country. This will ensure that when an opportunity arises, we will not send people back to school to study because we know the process of acquiring education. It takes a long time for one to get the skills and experience required to run some of these technical fields.

With those many remarks, Hon. Speaker, I support this Bill. Thank you.

**Hon. Speaker:** Hon. George Ogalo.

**Hon. Ogalo:** Thank you, Hon. Speaker. Having looked at this Bill, I would like to warn, moving forward, that Kenya Power (KP) should, today, start preparing to face what Telkom Kenya faced when the communication sector was liberalized. For the first time, we are bringing democracy to electrical energy. This Bill creates an opportunity for a home in a rural place in Homa Bay to be supplied by power generated in Mombasa without the involvement of Kenya Electrical Generating Company (KenGen), KP, Kenya Electricity Transmission Company Limited (KETRACO) or Rural Electrification Authority (REA). This is very important because consumers of electrical energy can choose today who is to supply them with power, the distributor also decides who is transmitting power to him and the transmitter also decides who to buy power from. This is democracy for the first time in the delivery of electrical energy in this country.

Hon. Speaker, I hope you can protect me from the Leader of the Majority Party. This is not a market in Garissa!

**Hon. Speaker:** I can hear you.

**Hon. Ogalo:** Thank you, Hon. Speaker. Our economy has suffered a lot from sabotage and bottle necks in accessing electricity in terms of cost of power and the erratic manner in which power is supplied. Businesses are moving out of our country to where power is cheaper and is easier to connect for purposes of carrying out their business. This law, when passed, will enable us to finally have private players who are profit and efficiency oriented to be in the sector of supplying consumers with power in this country. By intent of the Fourth Schedule of the Constitution, I had imagined by now that each and every county would be having its mini Kenya Power to do reticulation of power in their counties. I had imagined by now county governments would be getting into agreements with KETRACO to purchase power and retail it within their

counties as the Constitution prescribes under the Fourth Schedule. Reticulation of power is a county government function. If this were to happen, then the rate of electrification of our counties would multiply 47 times instead of relying on one entity with its bureaucratic systems to do this job. If you look at what the REA has done in bringing power lines to rural communities and installing transformers, you will find that it is discouraging to engage the very reluctant KP to charge exorbitant fees to connect electricity. Why would KP, an entity that has found a transformer next to my home, imagine that I need to pay money for them to connect electricity to my home and thereafter pay them for using power? They are in the business of selling power. Instead of allowing me to access their power and pay for what I have used, they say I can only access the power after paying first. This is a bottleneck. This is reducing the rate of electrification in our communities.

For the first time, this Bill is going to democratise issuance of power and access to power connections in this country. I support this Bill. I will bring amendments at the Committee of the whole House stage to make sure that the licences stated in Part VII, from Clause 160, namely, the licence to generate electricity, licence to generate hydro-electric power, licence to transmit electric energy, licence to be a systems operator and licence to distribute are readily availed to whoever applies for them. The wording of this law must be clear that the Authority will not withhold grant of these licences anyhow. Bureaucracy must go. From the date of the enactment of this law, democracy in power generation, distribution and transmission must begin immediately and people must be allowed to generate as much power as they want, distribute it and export it if they want. Why should Tanzania buy power from South Africa when Kenya can generate much more to supply to Tanzania? We have capacity to generate power. We must democratise generation, transmission, distribution and retail of power.

Every county that has not taken advantage of the constitutional provision allowing them to reticulate power in five years is a failed county. By now, each county should have come up with its own KP. By now, they should have be distributing power to areas where KP feels people are too poor to afford the power they sell. This way, our country will grow much faster than it has done.

Another player like KenGen, which is publicly and privately owned has acquired assets. Those assets were paid for by the people of Kenya. Those assets must not be withheld or be a bottleneck for those who are being licensed now, under this Act, to carry out their business. The KP has inherited a lot of power lines funded by the REA, which is also funded by the public. They must allow access to those assets for those who are now being licensed by this Act.

**Hon. Speaker:** Hon. Peris Tobiko, you have the Floor.

**Hon. (Ms.) Tobiko:** Thank you, Hon. Speaker. I rise to support this Bill. The Jubilee Government has made good strides and progress in providing Kenyans with energy. However, a number of our schools are still yet to be connected to the national grid because of challenges, particularly in rural areas where land is sparse and geographical coverage is huge. It has been part of the Jubilee Government Manifesto to provide power to Kenyans, particularly schools because of the laptop project. The REA has tried. In a number of areas, we only have lines that do not have power. I urge that we continue to look for other sources of energy including geothermal hydro-power.

The Government should also realise that the people who own land where we get wayleaves for various power lines should be properly and fairly compensated. In my constituency, we have a challenge with the KETRACO power line, which is a major line. My



constituents have been offered compensation of 30 per cent whereas in other areas like Makueni, they have been granted 85 per cent compensation. All Kenyans must be treated equally and must be seen to be equal. I urge the CS for Energy, who was our colleague, Sen. Keter, to look into these issues, instead of the locals being harassed by KETRACO and being told that they will be taken to court and yet that is their land. If the Government must use their land, they need to be compensated fairly.

I wanted to use this opportunity to express solidarity with my people in that they should be compensated fairly and equally like other Kenyans.

**Hon. Speaker:** Hon. Zuleikha Juma

**Hon. (Ms.) Juma:** Asante, Bwana Spika kwa nafasi hii ya kuzungumzia Mswada huu. Ninaunga mkono. Ninaomba upitishwe kwa sababu tumekuwa tukipata shida sana tangu enzi za Uhuru hadi sasa hapa nchini, hususan sehemu nyingi za Mkoa wa Pwani.

Uenezaji wa umeme umekuwa ukifuata sanasana barabara za lami. Watu ambao wanaishi karibu na hapo ndio wamekuwa wakipata sitima. Wananchi wengine wamekuwa wakiachwa kwa giza kwa siku nyingi licha ya kuwa na huo mpango wa kuleta stima katika sehemu ambazo ziko ndanindani na ni za mashambani. Bado kuna watu wengi ambao wako nyuma kiuchumi kwa sababu hakuna stima ya kutosha. Pia, inaonekana kama sehemu nyingine zinabaguliwa kwa sababu ya kutopata stima.

Mpaka sasa, licha ya kuwa tumesikia Serikali ya Jubilee ikihimiza kuwa shule zipate stima, bado kuna shule nyingi ambazo hazijapata stima. Hata kama kuna wafadhili ama walimu ambao wanataka kuendeleza masomo, hususan ya tarakilishi kuendelesha watoto au kutumia video au runinga kuwaelimisha watoto, haiwezekani. Kwa hivyo, unapata watoto wengi ambao wamesoma sehemu za mashambani, kama huko kwetu Kwale, wameshindwa kupata masomo ya hali ya juu. Hii ndio maana unaona mara kwa mara katika masuala ya matokeo ya mitihani ya shule za upili au za msingi, huwa si mazuri sana kwa sababu ni kama wametengwa wao pekee na hawako pamoja na wenzao.

Pia, biashara zimeathirika sana kwa sababu ya kukosekana kwa umeme. Vijana wetu pia wameachwa kando. Lakini ninaona sheria hii itajaribu kurekebisha mambo haya ili nchi nzima iendelee.

Kwa hayo machache, ninaunga mkono Mswada huu.

**Hon. Speaker:** Hon. Timothy Wanyonyi, you have the Floor.

**Hon. Wetangula:** Thank you, Hon. Speaker for giving me a chance to speak on this Bill. At the outset, I support it because it will go a long way in addressing issues that affect ordinary Kenyans given the fact that we have the REA that will light up our rural homes and bring development in our areas.

This Bill seeks to take away the monopoly of the KP which has for long been a hindrance to the development of this country since many rural communities and business enterprises in Kenya cannot access electricity supply because of its high cost. Creating and bringing in other players will make sure that ordinary Kenyans can afford electricity supply.

The Rural Electrification Programme Fund is established under Clause 171. This is an important Fund that will go a long way in addressing issues of electricity supply in the rural areas.

Clause 172 of the Bill says that the CS may impose a levy of up to five per cent on electricity consumed in the country. That levy will unnecessarily make electricity expensive and they should find another source of funding so that they do not use this route because it will be

like giving with one hand and taking with the other hand. When people are being supplied with power, it should not be too expensive. Sometimes that is what makes people fail to pay their bills.

This Bill establishes various authorities and under Clause 11, the Energy Regulatory Authority (ERA) is established. It has power to license, revoke and review tariffs. Its function is addressed as regulating the upstream and downstream services. The Bill establishes the Energy Tribunal which will be responsible for adjudicating disputes and the rural electrification renewable energy. We have been using very expensive ways of tapping energy especially when we depend on hydro-electricity and that is why we have power blackouts all the time. If we explore other sources of energy supply like wind, solar and other renewable sources of energy, it will be cheaper and environmentally clean. This is also a cheaper alternative because it does not require a lot of resources for investment. It will provide an alternative source of energy instead of depending on hydro-electricity. Sometimes when there is drought, we run out of options and we keep on having blackouts.

This Bill seeks to bring together the energy sector. Oil has been discovered in some parts of this country and the Bill needs to address the issue where the CS comes up with a policy that will stipulate how oil will be extracted and distributed without creating conflicts between the Government, county governments and the local communities. Oil has been a major source of conflict in many countries in Africa that have it. We should carefully address this issue so that we do not end up having similar problems we see in countries like Nigeria and our neighbour, South Sudan.

This is a progressive Bill and I believe that amalgamating the energy sector will address many issues.

I wish to support.

**Hon. Speaker:** Let us now have Hon. Isaack Mwaura.

**Hon. Mwaura:** Thank you, Hon. Speaker. I wish to make my remarks regarding this Bill. It is a rather ambitious Bill because it seeks to consolidate many provisions within our critical sector of the economy.

Energy is a key concern across the world because it has a lot of impact in terms of development of a country. If you have enough energy resources, then it means you can process many other resources so as to industrialise, commercialise and ensure you are dealing with the deficiencies and problems that affect your people and, therefore, removing them from poverty.

Hon. Speaker, more often than not, countries have not been able to expand the capacity they have in terms of energy generation. We have found ourselves in a situation where debate at the global level is whether we are spending too much energy to the point that there is climate change, while on other side, there are many countries that would like to develop and would continue to utilise the natural resources they have so that they can market their ideas and remove their people from poverty. Kenya has had a robust regime when it comes to energy use but the costing is high and distribution is low. Does this Bill speak to such issues or does it just align administrative structures for the sake of it? There is a very serious attempt to ensure that this Bill speaks to that because one of its key innovations is the provision of a regime to regulate and boost renewable energy especially in relation to wind and solar energy. These are energy resources that have not been effectively utilised in our country and yet they exist. This Bill has not gone ahead to create new bodies to manage such renewable energy but rather increased the

mandate of REA. Now it is going to be called something like “RUREC” so that it can also deal with the new regime.

Hon. Speaker, therefore, we would like to see, for example, the various innovations by our young people also finding a market, in terms of, for example, solar lamps and how that functions in terms of renewable energy. Do we see them being promoted in terms of the charging systems of our mobile phones and televisions back at home and any other form of gadget that would actually use solar? We would like to see that and I would like, of course, to imagine that the consolidated Energy Fund and the powers that we have here, as Parliament, will see to it that we increase resources towards this endeavour.

The other issue that also comes out as a novelty for this Bill is the sharing of information so that those who would like to invest in this sector do it accordingly. Of course, I believe that this will go a long way in terms of ensuring that we do not just profile figures in terms of reach but in actual sense we go ahead to extrapolate that so that we can reach out to the deficit that exists. It is during the 11<sup>th</sup> Parliament that Hon. Kangongo Bowen and I brought a Motion about reduction of tariffs. That has been effected. We believe that that will also have a direct effect. The estimate is that when you have proper connection, you can increase your GDP by, at least, 1 per cent. I want to imagine that this Bill will enable as many Kenyans as possible to get electricity.

There is also a controversial issue here about petroleum. You can see that Kenya is going to be an oil producing country when there is a crisis in commodity prices. That being the case then the question that arises is in terms of the processing of this crude oil for value addition so that we do not get the shocks at the international level when Brent crude oil prices come down as has been the case. Even then you will still find that, that dividend is not passed down to the consumer. So, because we are going to start producing this oil very soon, it will be incumbent upon these structures we are putting in place to ensure that there is no shortage especially that which is artificial as has always been the case.

The other issue that comes out clearly in this Bill is that there is a proper provision of law in relation to the way electricity tariffs, contracting and wayleaves are going to be done either by the Government or the agencies of the Government. The new regime should also ensure that there is clear thinking around how one will approach matters to do with compensation if his or her land is being utilised for purposes of distribution. But most succinctly is the issue around billing that has been a key challenge in this country. Most Kenyans will agree with me that sometimes you doubt because electricity metre boxes are not read. Some people just guess and estimate how much electric power a household would consume. You will find that disparity in the high end estates. Bills are usually higher in comparison to the ones in the low end and this has nothing to do with consumption.

In a country like the UK, where I have been privileged to be a resident, metres are very accurate. Nobody steals a shilling from you. I have also noted a very interesting scenario and Kenyans will agree with me, that around the month of August electricity bills in this country are usually higher than other months. It is actually calculated. Even Members of Parliament will agree with me. So, meter reading and billing of electricity in this country is fictitious to a certain extent. Therefore, I hope and believe that with the advent of new technologies and with this Bill, we are going to have a more robust regime. In fact, there has been an assertion that when it comes to prepaid metres, KenGen and KP seem to have been losing revenue. That then tells you that this system has not been good and, therefore, Kenyans have been exploited.

The other thing that comes out clearly is that this country has not been able to utilise nuclear energy. You can see the renaming and rewording of that corporation that was in charge of this resource. I would also like to imagine that this should not be lost just because we are adding new responsibilities.

Otherwise this is a good Bill. I hope it is going to help Kenya to industrialise within Vision 2030. I support it.

**Hon. Bowen:** Thank you, Hon. Speaker. I rise to support this Bill. It has come to this House at the right time when there are very many Kenyans who are still living in the dark after over 50 years of Independence.

The Bill is good. It is among the constitutional Bills. We are living in a new constitutional dispensation where the Constitution provides for basic services to Kenyans especially lighting. This Bill is going to help very many Kenyans, who in one way or another have been undergoing serious challenges in getting power into their houses and businesses.

Sometime last year, I brought a Motion in this House asking Members of this House to approve connection of electricity to all Kenyans at affordable prices. I am happy that, that was only a Motion. We are now working on an Act of Parliament which will go a long way to assist many Kenyans.

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

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

Hon. Temporary Deputy Speaker, I am happy that Part VI of the Bill talks about renewable energy and gives a sense of ownership to those who are going to generate electricity. For a number of years, the KP has been enjoying monopoly of power distribution and retailing. With the new Bill, we are giving way to many investors so that they can generate power without the KP necessarily being the corporation with the monopoly. It also gives the country and investors an opportunity to invest in renewable energy such as hydro-power. Kenya is blessed with many rivers. Some of them like Tana, Embobut and Rori in my constituency, if this Bill is passed and utilised properly, Kenya will have a lot of hydro-power.

In terms of tariffs, they are sometimes crazy. Many Kenyans are given bills which are not theirs. You will find that you have been given a bill that has charges equivalent to those charged on a factory. With this Bill, I am sure that going by the feed-in tariff, Kenyans are going to get exactly what they have consumed. Apart from the tariffs and the billing, there is also the part of the REA, which will be called “the Rural Electrification and Renewable Energy Corporation”. We have been following up with REA because of connection of power to our schools. With REA in place, very many schools have been connected with electricity. However, not the whole country has been connected. I am happy that over 50 per cent of our schools are connected with power. However, not all the schools in Kenya are connected. I still have a challenge in some areas of my constituency. Such problems are also experienced in the rural parts of the country, especially in pastoralist areas.

We need to separate electrical energy and understand its generation, distribution and retailing. There are very many companies which generate power in Kenya and sell to KP. We

also want to see that a community which can come together and generate its power can get ownership and benefit by selling to KP.

On the issue of compensation, we have seen long lines belonging to the KETRACO passing through several farms. Even if it is a half or a quarter of an acre, those people need to be compensated. There needs to be a comprehensive compensation plan for those people who are displaced around those areas where hydro-power is generated. We need to discourage the issue of people getting licences and later speculating on them and selling them without the locals being involved. We have seen this in areas where there is petroleum exploration. People already have licences without the knowledge of the community and they are selling them to investors. We need to be very careful so that the locals are not exploited.

I am concerned about the many bodies which are created by this Bill to regulate the energy sector. They are four. They are the Energy Regulatory Commission, the Energy and Petroleum Tribunal, the Rural Electrification and Renewable Energy Corporation and the Energy and Petroleum Institute. They are very many and they go against the Government's initiative of bringing down the number of parastatals because of the planning and administration costs.

We also want to see that Kenyans can apply for power and KP can install it in their houses or business premises without paying installation fee. We want the installation fee to be put in the monthly bills so that Kenyans can pay it progressively. If you apply for electricity connection to your premise now, KP will give you a quotation of a connection fee of over Kshs1 million. Very many people are discouraged and we want to do away with the connection fee. We want it to be included in the monthly bills so that we can have as many Kenyans as possible connected.

I am happy that we are creating the Energy and Petroleum Institute. This is a very important institute because we also want to see our young professionals and students come up with this knowledge, skills and expertise so that when we generate electricity or get into petroleum exploration, we can have our own experts who are trained in this institute. If you visit the areas where oil is being explored, you will find very many expatriates. I am happy that we are creating an institute which will train Kenyans. With the introduction of amendments at a later stage, this Bill is going to assist very many Kenyans. This is especially on revenue generation and the corporate social responsibility which is coming with this Bill.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I believe that the other two members who have just logged in want to contribute to this Bill and not to the Land Laws (Amendment) Bill. We have had good discussions. More than 20 members have contributed to this Bill. The next person is the Member for Kajiado West, Hon. Moses ole Sakuda.

**Hon. ole Sakuda:** Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity. I will be very brief because the next Order also concerns me.

At the outset, I support this Bill because my background has been in the area of energy. There was a time I worked for KETRACO and after some months I worked for the Geothermal Development Company (GDC). This Bill will cure some of the concerns that the people of this country have been having. I come from Kajiado West Constituency where our logo is "The Home of Green Energy." We have geothermal around Mount Suswa in Magadi and wind power in Ngong Hills. Kipeto Wind Power Project is also under generation. We also have solar power. We have the KETRACO 400KV line that runs from Suswa all the way to Isinya. This is the one

that Hon. Peris was talking about. This Bill will put to rest some of the issues that are coming up with regard to that line. Some sections of this country are paid at the rates of 85 per cent and 100 per cent. This is the case and yet farmers in Kajiado West and Kajiado East constituencies have been compensated at a rate of 30 per cent.

This Bill will go a long way to ensure that the homes that have not been connected with power, despite the many KP lines that run across fields, will have an opportunity of being connected with power at very affordable prices. It is true that KP has been the major player in the field in terms of connectivity. I must say that a number of investors have been frustrated by the long process of acquiring a Power Purchase Agreement (PPA) with the KP. This Bill seeks to cure that so that there can be diversity in terms of investors. If I have a firm, let us say in Magadi and I can produce power, I will also have an avenue to sell that power to investors who might come calling and not necessarily have to depend on Kenya Power that has been a headache to many investors.

Hon. Temporary Deputy Speaker, in the various companies that have been working in the energy sector like the KETRACO Limited, KenGen and the Geothermal Development Company (GDC), a number of staff who are hired from the localities are only given casual jobs. They are given work that does not pay as much as they deserve since the natural resource is within their area. When this Bill gets to the Committee of the whole House, I will bring some amendments, so that we ensure that people in those areas get better jobs. If they do not have the skills, they can be hired as management trainees and be exposed to relevant training, so that they can eventually occupy management positions.

With those remarks, I support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Member for Lamu East.

**Hon. S.A. Ali:** Ahsante Mhe. Naibu Spika wa Muda. Ningependa kuandamana na wenzangu kuunga mkono huu Mswada ambao uko mbele yetu leo. Jambo muhimu ambalo nataka tujiulize ni kwamba umuhimu wa huu Mswada ni nini katika nchi yetu ya Kenya? Ni yapi ambayo tumeweza kuyafaidi ama tumeyaona katika nchi yetu ya Kenya kuhusiana na Mswada huu?

Kwa kweli kumekuwa na tatizo kubwa katika suala la umeme katika nchi yetu. Tunajua vizuri kwamba kampuni ya Kenya Power and Lighting Company ndiyo iliyokuwa ikishughulika sana na suala hili na wao ndio washikadao katika suala la kusambaza umeme katika nchi yetu ya Kenya. Wachache ndio walikuwa wakipata huduma hii na wengi hawakuwa wakiipata. Kumekuwa na matatizo makubwa sana kwa sababu ukilinganisha na matumizi, utaona kwamba malipo ya huduma hiyo yako juu. Kutokana na hali hii, kumekuwa na utata mkubwa lakini nimeshukuru pakubwa kwamba jambo hili limeweza kusambazwa kwa njia nyingine kiasi kwamba kumekuwa na mashirika mengine ambayo yanasambaza umeme.

Jambo ambalo tunahitaji kulizingatia ni kwamba ni lazima kuwe na mwelekeo wa kupunguza umaskini katika nchi yetu. Naamini kwamba umeme utakapokuwepo, viwanda vingi ambavyo vinatumia umeme vitalipa pesa kidogo ili bidhaa kutoka kwa viwanda hivyo ziweze kuuzwa kwa bei nafuu na wananchi wapate huduma ambazo zitawasaidia kujitoka kutoka kwa umaskini. Bidhaa nyingi hivi sasa zimekuwa na bei ya juu kwa sababu zinatumiwa umeme ambao ni wa bei ya juu sana. Hayo ndiyo matarajio makubwa ambayo tunahitaji kuwa nayo tunapolizingatia suala hili.

Ukweli ni kwamba hivi sasa katika nchi yetu, suala la stima linaonekana kuwa afadhali. Nikizungumzia eneo la Bunge langu la Lamu Mashariki, kwa mara ya kwanza tangu tupate

Uhuru, wananchi wa sehemu hii sasa watafurahia kuwa na umeme. Huduma hiyo imepelekwa kule na Serikali ya Jubilee kupitia shirika la Rural Electrification Authority. Hivi karibuni, tutapeana huduma hii kwa wananchi na KP watachukua usukani. Hili ni jambo ambalo Serikali ya Jubilee imeweza kulipea kipaumbele. Hakuna lolote linaloweza kufanyika katika nchi hii ikiwa kutakuwa na matatizo ya stima. Maendeleo mengi yanayofanyika katika nchi yetu na kwote ulimwenguni yanatokana na kuwepo kwa stima. Iwapo tutafanya hivyo, basi, ninaamini kwamba tutaweza kuendelea sana.

Vilevile, kuna kampuni ya Amu Power, ambayo iko Lamu ambayo hivi karibuni itaanza kutumia mtambo unaotumia makaa ya mawe kuzalisha umeme. Amu Power ni kampuni imeenda Lamu kuwekeza katika sekta ya umeme. Naamini kwamba kampuni hii itakapoanza kutoa huduma, vijana wengi watapata kazi na gharama ya umeme katika eneo la Lamu itapungua.

Ni lazima Serikali pia iwajibike pakubwa kuhakikisha kwamba wananchi wamelindwa. Utapata mashirika mengi ya umeme yanapata hasara fulani ama kunatokezea mambo ambayo yanaleta kutokua na mwelekeo katika suala hili. Ningependa Serikali iwe na tahadhari kubwa kwa sababu kuna malalamishi mengi juu ya suala hili kutoka kwa wananchi. Mara nyingi wananchi hulalamika kuhusu huduma duni wanazopata kutoka mashirika kama haya. Wakati mashirika kama hayo yanapokwenda kwenye sehemu kama hizo, kuna mambo fulani ambayo wananchi wanatarajia yazingatiwe pakubwa, haswa masuala ya ajira. Watu kutoka sehemu nyingine hupelekwa kufanya kazi katika sehemu hizo lakini wenyeji ndio wanaostahili kupewa kipaumbele kwenye masuala ya ajira. Vilevile, kuna masuala mengine. Wakati huduma hiyo inapofika katika eneo hilo, wenyeji wanastahili kuzingatiwa zaidi kuliko wageni.

Ningependa kutoa tahadhari na kuwaomba wahusika wahakikishe kwamba mipango yote imetekelezwa vizuri ili huduma hii iweze kumfikia kila mmoja wetu kikamilifu bila ya kumsahau mwananchi wa kule mashinani ambaye hakutarajia kuipata huduma hii. Zaidi, ningependa wananchi waelimishwe jinsi ya kutumia umeme kwa sababu tunajua kwamba umeme ni hatari. Kuna watu ambao hawajawahi kutumia umeme. Serikali inastahili kuwaelimisha watu hao kuhusu uzuri na madhara yanayotokana na umeme.

Mhe. Naibu Spika wa Muda, bila ya kupoteza wakati, ninaunga mkono Mswada huu. Ninawaomba Wabunge wenzangu tuungane ili tuweze kurekebisha pale ambapo panahitaji kurekebisha na tuuunge mkono Mswada huu.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I will give an opportunity to two more Members and I will call the Mover to reply. I can see other Members want to contribute to the Land Laws (Amendment) Bill.

The Member for Kirinyaga is the first one on my request list. After that, I will give opportunity to the Member for Samburu East and then I will call the Mover to reply.

**Hon. (Ms.) W.K. Njuguna:** Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity to contribute. I want to join my colleagues in support of the Energy Bill. Distribution of electricity across the country will help in poverty eradication and improve our health.

I am encouraged by the Bill because our communities have been struggling with paraffin and firewood for lighting and cooking. I am happy because this is going to improve their health. When they use paraffin and firewood, they inhale smoke which affects their health.

When our people are connected to electricity, our country is going to be like other countries where this is an indicator that the country is advancing. Electricity improves economy.

People can work for 24 hours and that is encouraging. The problem is the high cost of energy. Electricity is very expensive and many people cannot afford it.

This Bill addresses that issue, so that everybody can afford electricity. This country has not invested in solar energy which is cheap and can lower the cost of electricity. Although we are headed there, we need to get solar energy, which is cheap to generate. In most cases, it is assumed that solar energy is expensive. I do not agree with this because we have a lot of sunshine in our country. There are counties where solar energy is utilised and the cost of electricity is affordable. I am encouraged because we are going to get solar energy and other types of energy which are going to lower the cost of electricity.

I want to comment on the programme that was started by our President dubbed “The Last Mile”. The project was targeting people who would never afford electricity. When the project was introduced, it was very good in the beginning. You find people living in villages with electric cables running over their houses and yet they cannot access electricity. In Kirinyaga, many people in Mwea, where we produce a lot of rice and the area has a lot of potential, live in darkness yet electric cables run over their houses. I hope this Bill will look at this programme, where the owner of a house is supplied with electricity at a cost of Kshs1,100. In Kirinyaga, there are people who were identified to benefit from this Last Mile Project, but the project has turned out to be riddled with corruption. These people who were identified as beneficiaries of the drop cable are given different quotations by the various contractors. They say that the cables are not enough.

I hope this will be addressed in this Bill. We need to have it streamlined, so that the needy people living in villages and congested areas where they sell their small products for long hours into the night are connected to electricity. The cables should not be diverted and given to people who can afford to pay Kshs15,000 or Kshs20,000. This should be addressed because the people who were to get the drop cable connection at Kshs1,000 are still waiting and cannot afford Kshs15,000 or Kshs20,000. So, Mwea and villages in Kirinyaga where there are many needy people, should be connected to electricity.

This is going to improve the economy because when they have electricity they shall be working for 24 hours.

This Bill is important. Schools are being connected with electricity. We suggest that when this is happening, enterprises should get electricity. We want everybody who is running a small business like a salon or *kinyozi* to be connected to electricity, so that they can improve their livelihoods. In Kirinyaga, many people are not connected to electricity yet it is full of potential. We have people growing rice, tea and coffee and we want them to be connected to electricity, so that they can extend their business time to 10.00 p.m. I support this Bill and I know it is going to improve the lives of our people and the economy of this country.

I support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): I give the Floor to the last Member to contribute before I call upon the Mover to reply. Let us have the Member for Samburu East.

**Hon. Letimalo:** Thank you, so much Hon. Temporary Deputy Speaker for giving me the opportunity to speak to this Bill, which I support. I know there are several companies owned by the Government under the State Corporations Act. However, I want to speak to three that are actively operating in my Samburu East Constituency and by extension, Samburu County. These are the KP, REA and KETRACO.



I register my appreciation to the fact that KP has extended a power line on the national grid from Isiolo through Archers Post to Wamba. I am happy the lines have been connected to electricity and the County Government of Samburu is planning to install streetlights in Wamba and Archers Post, which are major trading centers in the constituency. This is certainly going to boost economic activities in the areas. My concern is that KP has distributed very few transformers to the extent that many institutions and residents in the area covered by the national grid are not benefitting from the power line. I know they are doing this in phases and in Phase 1, they have already installed transformers. My appeal, which I have already made to KP, is that they should consider distributing more transformers, so that many residents can benefit. Equally, there are a lot of delays. This is one of our concerns. Processing and responding to applications take a long time. Kenyans appreciate the good work done by KP, but it is important they expedite processing of applications, so that Kenyans can benefit from the power lines, especially youths in business.

I want to appreciate the good work that REA is doing. My constituency is a typical rural constituency and a lot of power connections are through the solar system. I know REA has connected many schools to electricity and the exercise is ongoing. I just want to appeal to REA, like I mentioned about KP, to add more transformers in the areas and to consider connecting power instead of relying on solar system in areas that are covered by the national grid. I understand they are now concentrating on supplying electricity to our primary schools, but many secondary schools are coming up, mostly day secondary schools, which should be supplied with electricity. Given the fact that we are trying to ease the burden on parents, day secondary schools are becoming popular. I appeal to REA to also extend their power lines to schools and markets.

Looking at the geographical position of Samburu County, there is a power line to the national grid from Nyahururu through Rumuruti, Kisima to Maralal and another line from Isiolo to Ugamba. My appeal is that REA should connect Ugamba and Kisima to the national grid because there are several schools and markets on the main road that connects Ugamba to Maralal in Samburu East and Samburu West constituencies. If the line is extended, many residents of that county will benefit.

We appreciate that KETRACO is making connections and they have several lines in different parts of my constituency. However, Part XIII of the Bill talks about rights of way, wayleaves and use of land for energy resources and infrastructure. Clause 198(a) provides that:-

“A person who wishes to enter upon any land, other than his own to-

- (a) to undertake exploratory activities relating to exploitation of energy resources and development of energy infrastructure, including but not limited to laying or connecting electric supply lines, petroleum or gas pipelines, or drilling exploratory wells;

shall seek prior consent of the owner of such land, which consent shall not be unreasonably withheld:

Provided that where the owner cannot be traced, the applicant shall give fifteen days' notice, by public advertisement, in at least two newspapers of nationwide circulation.”

The key words here are “seek prior consent of the owner of such land”. We have a concern in Samburu East Constituency. Every community has got its own dynamics. In Samburu East Constituency, and by extension Samburu County, people do not own individual land. Land is registered under group ranches and members are registered under every group.

The fact that KETRACO is connecting power lines in different parts of the constituency without involving the local community and the political leadership in the constituency is not good. People were surprised to see KETRACO officials coming to their land and trying to register their houses and structures along that route, not knowing that people in that area are registered under group ranches. We shall not stop at any point if there is going to be discrimination of the people. You will get a structure on a land and assume it belongs to people you find there, but because of the nature of our life and the fact that we depend on pastoralism, today we are here, tomorrow we are elsewhere--- People can move from one end of the group ranch and settle anywhere. So, you may register a household and the people that you find there as the owners of that land, but after two weeks, another group will be on the same land. Therefore, they will not benefit from any compensation. That is tantamount to discrimination.

So, I am appealing to KETRACO, and it is good we have started engaging with them, to create a lot of awareness amongst the people. They should know that Samburu has people registered as members of group ranches. If there is any compensation, then the members of the affected group ranch must benefit from that compensation. That is what we appeal to KETRACO to do.

Secondly, they should employ locals to educate and sensitise people and transmit information. Every time we go there, we are told that they are trying to collect data. However, given the terrain of that place, not everybody will access the places. The Samburus in particular, live in settlements of several households. You can get about 100 of them in a village and the following day, they have moved elsewhere. So, it is important for KETRACO to engage the locals to assist in getting the right information, so that they can carry out their work without any hindrance.

I want to appeal to KETRACO not to commence any development until an agreement is reached with the political leadership and the community on compensation.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Your point is made and your time is over. Hon. Members, I call upon the Mover to reply.

**Hon. A.B. Duale:** Thank you, Hon. Temporary Deputy Speaker. From the outset, I thank my colleagues who have contributed to the Energy Bill, 2015. Basically, the Bill is trying to consolidate all the laws relating to energy, aligning them and making sure the regulatory framework of the energy sector is in line with the Constitution of Kenya. The Bill does this by sorting out and giving various clarifications to specific roles of both the national and county governments in as far as the energy sector is concerned. So, this Bill clearly demarcates the roles of the national and county governments.

The Bill also proposes to repeal the Energy Act, 2006 and the Geothermal Resources Act (No. 12 of 1982) of the Laws of Kenya. These are some of the laws we are enacting as a Legislature. This Bill will also go to the Senate in conformity with the provisions of the Constitution. We have a deadline of 27<sup>th</sup> August 2016. As we go to the Third Reading, I want to make it very clear that this is not a Bill where Members can come with any amendments under the sun that does not concern it. This is a Bill that is drawn from certain provisions of the Constitution. The amendments must be in line with the Bill itself.

Secondly, I want to take this opportunity, in replying, to thank the CEO of KP. He is one among the many CEOs who are serious with their work and is lighting up Kenya. Two weeks ago, my constituency was among those that benefited from the World Bank and Kenya Government funded programme in making sure that street lights are erected. As, I was busy with

the Kericho and Malindi by-elections, the report I got was that young boys in my constituency are playing football at night courtesy of KP street lighting programme. I want to thank the Jubilee Government and more so, KP under the steward leadership of the former Speaker as the Chairman of the Board and the CEO, Ben Chumo.

This is a very important Bill. We will bring it for Third Reading, maybe, next week by the leave of the House Business Committee. The amendments which will be brought must be those that do not disagree with the principle of the Bill.

I beg to reply.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, we are not in a position to put the Question to the Energy Bill (National Assembly Bill No.50 of 2015). I direct that the Question be put in the next appropriate sitting.

*(Putting of the Question deferred)*

Next Order!

#### THE LAND LAWS (AMENDMENT) BILL

**Hon. A.B. Duale:** Hon. Temporary Deputy Speaker, I beg to move that the Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015) be now read a Second Time.

Before I go into the details of this Bill, it is one of the most controversial and important Bills on the land laws. It is unfortunate that we are hardly a dozen or a group of less than 14 or 15 Members. I am sure our colleagues are busy in their constituencies serving the nation. This is a Bill that I expect Members to get on the HANSARD and give due diligence. As you are aware, legislation relating to land was enacted by Parliament as required under Article 261(1) of the Constitution. Having done that under Section 15 of the National Land Commission (NLC) Act, 2012, the NLC was required by law to recommend to Parliament certain appropriate legislations that would provide for investigation and adjudication of claims arising out of historical land injustices. This was for the sole purpose of Article 67(2)(e) of the Constitution and this was to be done within two years of the coming to office of the NLC.

Along that line, under Section 159 of the Land Act, 2012, which we did in the 10<sup>th</sup> Parliament, the Cabinet Secretary, Ministry of Land, Housing and Urban Development was under obligation and required to commission a scientific study. This was to do a determination of the economic viability of what we call minimum and maximum acreage of land in respect of private land for various land zones in the country. This is where I earlier said it is a very important piece of legislation because this House has to make a determination on what is maximum or minimum acreage of land that a private sector player can hold in relation to various land zones.

There are certain sections of our country where land is plenty and you can talk about ownership of maximum acreage. There are other sections where the minimum is what only exists. For example, in Kisii, you cannot talk of maximum, you can only talk of the minimum. This House must speak to that. There are parts of this country where you can still own thousands of acres of land. This piece of legislation is very fundamental. I hope in the next two House sessions, we will not rush it. We want people to debate it, so that we make a sober, informed and constructive decision in the interest of the citizens that we represent.

This Bill also deals with historical land injustices, another very emotive matter. The Land Registration Act, 2012, the NLC Act, 2012 and the Land Act, 2012, were enacted as required by the Constitution in the 10<sup>th</sup> Parliament. The laws were enacted and created a lot of inconsistency. The provisions created inconsistencies and some of them created overlaps between the functions of the NLC and those of the Ministry of Land, Housing and Urban Development. Their mandates were overlapping. The three Acts of Parliament have resulted in difficulties in the implementation of the Land Registration Act, 2012, the Land Commission Act, 2012, and the Land Act. I am sure every citizen and Member is alive to the many squabbles we witnessed in the last three years between the leadership of the NLC on one hand and the Ministry of Land, Housing and Urban Development. We are also aware of the advisory opinion given by the Supreme Court in this matter when both parties appeared before it. I hope the current Cabinet Secretary for Land, Housing and Urban Development, Prof. Jacob Kaimenyi, and the Chairperson of the NLC, Mr. Mohammed Swazuri, are under obligation to fulfil their mandate.

As you recall, this Bill should have been passed by 27<sup>th</sup> August 2015. It was a requirement of the Constitution to address claims arising out of historical land injustices. It is for the purpose of Article 67(2)(e) of the Constitution. This is meant to give a prescription on the matter of minimum and maximum acreage with respect to private land, which was an oversight and was not provided for in the legislation that we did in 2012. It also seeks to amend the three enacted land laws. It is called the Land Laws (Amendment) Bill because we are amending all the three land laws. It deals with the NLC Act, the Lands Act, 2012 and the Land Registration Act, 2012.

To address these inconsistencies and overlap of mandate that hindered effective implementation of constitutional provisions relating to land that went through the First Reading, the National Assembly extended the time to 27<sup>th</sup> August 2016. This is the last extension that we had. The importance of this Bill with regard to amendment of the Land Registration Act, 2012, the NLC Act, 2012 and the Land Act, 2012, which were enacted as required by the Commission for the Implementation of the Constitution (CIC) in order to clarify all these ambiguous issues, led to the stakeholders bringing this piece of legislation. These stakeholders are the NLC, the Ministry of Land, Housing and Urban Development, the private sector players, the Office of the Attorney-General and the Law Reform Commission. I will go through specific clauses to make it easier. It is a summary for Members to understand what these amalgamated land laws are dealing with.

Clauses 2 to 41 contain proposals to amend the Land Registration Act and to clarify the roles between the NLC and the Ministry of Land, Housing and Urban Development in order to eliminate the overlap of the mandate that caused conflict between the two organisations.

Clause 3 of the Bill proposes to amend Section 6 of the Land Registration Act to confer powers to constitute land registration units to the Cabinet Secretary in order to enhance harmony in the Constitution.

Clause 5 introduces a new section that provides for the development and publication of a comprehensive programme throughout the country for registration of titles. It states that we must have a comprehensive plan, as a country, on the issuance of title deeds.

Clauses 6 and 7 amend the Land Registration Act. Some of us have tracts and tracts of land and because of the climatic conditions in our areas we may be comfortable with livestock rearing. We may be doing very well and want to maintain those lands and turn them into

conservancies. However, this Bill gives clarity between the roles of the community, the NLC and the Ministry of Land, Housing and Urban Development.

Clauses 8 to 10 are very important because they propose to amend Sections 12 and 14 of the Land Registration Act and insert a new section that creates the position of Deputy Chief Land Registrar, County Land Registrar and Land Registrar. It then states their qualifications and respective mandates. This will ensure that we have land registrars at the county and the national level. We will know their qualifications, their mandates, who signs the title and who is mandated to register.

Clauses 11 and 12 of the Bill propose to amend Sections 16 and 17 of the Land Registration Act. I need to make it very clear that for one to understand this Bill very comprehensively, you also need to have the NLC Act, the Land Registration Act and the Land Act, 2012. This Bill is dealing with the principal Acts. It is amending a specific section of a particular act. If it is amending the National Land Registration Act, you can then check and see what the principal Act says *vis-à-vis* this Bill.

Colleagues, when I say the Bill proposes to amend Sections 16 and 17 of the Act, I mean the Land Registration Act, where it provides ratification, preparation, submission and custody of cadastral maps. Many people create their cadastral maps and have their own plans. We must specifically state in law how we ratify, prepare, submit and the custody of cadastral maps.

Clause 13 proposes to amend Section 18 of the Act. This deals with the procedure for the determination of boundary disputes and other disputes involving a piece of land. I can say without fear of contradiction that all the 47 counties in our country and even all the constituencies have boundary disputes. It is a very emotive issue. We formed the Independent Electoral and Boundaries Commission (IEBC) and it only deals with elections. We need to ask where the section dealing with boundaries is. Mr. Isaack Hassan should tell us that out of the nine commissioners, three or four commissioners, with a separate secretariat, deal with boundary issues.

Hon. Temporary Deputy Speaker, today, the whole country from individual private land owners to constituencies and counties is full of conflicts from Western, North Eastern to Coast. As a country, we must agree once and solve all these conflicts.

Clauses 14 to 31 of the Bill propose various amendments to the Act to bring consistency between the provisions and correct the typo and grammatical errors found in these laws. In the last Parliament, we enacted some of these laws past midnight as there was a rush and there were a number of typo errors.

Allow me to move step by step because this is the Bill that broke the camel's back between Mr. Swazuri, Mr. Matiang'i on one side and Charity Ngilu, when she was the Minister for Land, Housing and Urban Development.

Clause 32 of the Bill proposes to amend Section 79 of the Act to provide for ratification of mistakes and updating the register. We are talking about historical injustices and there are many Kenyans who have title deeds. The Member for Laikipia North will agree with me as we had a chat this afternoon with colleagues and he told us that it is true that there are one million acres of land in Laikipia North in the hands of white men. That is a historical injustice. That section says that we must find a way to ratify that mistake, update the register and bring back part of that land. You cannot graze your animals in another person's land who has its title deed. The title deed does not matter much to pastoralists.

On a lighter touch, we say in my community that the boundary of a pastoralist ends where the camel turns back. The camel will only turn back if the environment is very hostile. If it is very cold and the camel cannot survive, it will turn back. Where it turns back is where the beacon of the land of a pastoralist is. I do not know whether the fishermen say that the fish will turn back.

Clauses 33 to 40 propose various amendments of inconsistencies between various provisions of the Act. Clauses 2 to 41 provide amendments to the Land Registration Act. Clauses 42 to 46 of this Bill contain proposals to amend the NLC Act. We agreed that we are dealing with three laws, namely, the NLC Act, the Land Registration Act and the Lands Act. Clauses 42 to 46 contain proposals to amend the NLC Act. Why do they amend the NLC Act? They want to eliminate duplication of institutions at the county level. We do not have many institutions at the county level run by the Minister for Land, Housing and Urban Development or the NLC. It provides the manner in which the NLC shall undertake investigations of historical injustices and complaints recorded with them pursuant to Section 67(2)(e) which says that any historical land injustices must be resolved by the NLC.

Clauses 42 to 46 harmonise the mandate between the Commission and the Ministry. We are all Kenyans, including those who have been given the mandate at the NLC. They should sit, have tea and resolve this matter for the interest of our country.

Clause 42 proposes the deletion of the definition of the term “Board”. The Chairman of the Departmental Committee on Lands who engaged stakeholders will tell us what they said. We will come with amendments and see the best way forward to deal with this matter. I am dealing with what is in the Bill now.

Clauses 47 to 109 contain proposals to amend the Land Act, 2012 to harmonise it with the Constitution. This is to remove overlaps and clarify the mandate of the Ministry and that of the NLC. There was a difficulty in implementation and I am sure we are aware of the incident where Madam Ngilu and Mohamed Swazuri were forced to resolve their issues by the President. We should not go to that level. The Commission and the Cabinet Secretary have mandates. Land is emotive, expensive and 20 per cent of the brokers in this country are in the land sector. People die because of land. The post-election violence in 2007/2008 was caused by land disputes. This piece of legislation must be dealt with in a sober way, so that Kenyans do not use land as a source of conflict. Land should be a source of production to help the economy grow.

Clause 52 of the Bill proposes to amend Section 12 of the Act to create the initiation of the process of allocation of public land by the national and county government. How do you allocate national land? Clauses 55 to 64 propose to amend Sections 15, 16, 23, 24, 25, 36, 38, 42, 63 and 65 of the Land Act. We will ask the Office of the Clerk to provide Members with copies of the Land Registration Act, The NLC Act and the Land Act at the entrance. This Bill seeks to amend other laws and we should have them here. All the sections that I have mentioned deal with inconsistency, grammatical and typo errors. The amendments are correcting them.

Clauses 66 to 71 seek to amend Sections 78, 79, 81, 82, 87 of the Land Act to rectify certain apparent mix-ups of technical terms relating to how you charge land. Clauses 72 to 79 seek to amend Sections 88, 90, 91, 92 up to 96 of the Act, again for editorial purposes. I have given a summary of the Bill.

Finally, Clauses 108 and 109 amend Section 159 of the Act and insert a new section immediately after Section 159 to provide for the manner and procedure of proscribing and reviewing the minimum and maximum land holding acreage. So, even if you want us to decide

on the minimum and maximum land acreage then, a framework and a proscription of how to review it is provided for in Clauses 108 and 109.

I wish to request Members to support this Bill, so that we can have a harmonised legal framework that will facilitate proper management of land in an efficient, less costly manner and less time consuming. Land is a key resource in our country. We will also eliminate difficulties experienced by our citizens in the implementation of the various Acts like the Land Registration Act, the NLC Act and the Land Act which has been occasioned by inconsistency and overlap of the mandate.

Hon. Sakuda, myself and those who were with me in the last Parliament should take the blame today because when we were enacting this law in a rush in the last Parliament, all these inconsistencies and lack of clarity created bad blood and overlap of the mandates between the Ministry of Land, Housing and Urban Development and the NLC.

I have said all that I could and I am sure my colleagues will say more.

I beg to move and ask the Vice-Chair of the Departmental Committee on Lands of this august House, the Member for Kajiado West and a man of God, to second. In 2007 when he was campaigning, he was holding the Bible on one hand and the Maasai *rungu* on the other hand. I used to tell him that we will see. He was competing against my good friend, the former Minister for National Security, the late George Saitoti. I told him one day that he was a lucky man because he was carrying two powerful objects, namely, the Bible and the Maasai *rungu*. Unfortunately, he lost the elections. I do not want to say whether it is the *rungu* or the Bible that failed him. He lost the elections.

I beg to move and ask him to second.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Very well done by the Leader of the Majority Party. Let us have Hon. Moses ole Sakuda, Member for Kajiado West, to second.

**Hon. ole Sakuda:** Thank you very much, Hon. Temporary Deputy Speaker. I am actually amused at the memory of the Leader of the Majority Party that goes all the way to 2007, but we thank God. Thus far, the Lord has been good.

As you rightly put it, this Bill, from the outset, is a very huge Bill. I want to ask the Members of this House to, please, grab a copy of this Bill, which is very huge. It needs thorough reading, so that you can understand what each of the clause represents. It has about 109 clauses. As the Departmental Committee on Lands, we sat and invited various stakeholders. I just wish to give a brief summary. I will not take much time, so that Members can be aware of what they should be looking out for in this Bill.

This Bill is a bit controversial. Therefore, as a Committee, we encourage Members to go to Room 8 and get the amendments that we are proposing to bring to this Bill. In our Report, we have proposed amendments from Clause 3 all the way to Clause 109. I encourage Members to look at those amendments, so that as the Bill comes to the Committee of the whole House, all the amendments can be accommodated.

The principal objective of the Land Laws (Amendment) Bill is to amend the laws relating to land to align them with the Constitution. The Bill will give effect to Article 67(2)(e) and Article 68(c)(i) of the Constitution and to provide for procedures on evictions and resettlement from lands. The Constitution says that Parliament should enact a Bill that will respond to those Articles.

As Hon. Duale said, there are a lot of Acts that are not consistent. He has mentioned the Land Registration Act, the NLC Act and the Land Act, which were enacted as required for the

implementation of the Constitution. He was alluding to the fact that in the 10<sup>th</sup> Parliament, we passed these Acts which were intended to clarify the roles and mandates of the Ministry of Land, Housing and Urban Development and the NLC.

The Bill proposes to rectify inconsistencies and overlaps of mandates in the land laws that have resulted in difficulties in the implementation of the Land Registration Act, the NLC Act and the Land Act. Hon. Duale mentioned that the proposals in those clauses seek to rectify all the inconsistencies, rectify them and remove overlapping of mandates. This House is aware of the constant bickering between the NLC and the Ministry of Land, Housing and Urban Development. Although the Constitution tries to clarify that, this House is aware of the stalemate that has been happening in terms of registration of land and who should do what.

As I said, the Bill has 109 Clauses, which are amendments to the Land Registration Act, the NLC Act and the Land Act. I want to speak briefly on the three Acts. Why are amendments introduced to the Land Registration Act? This Bill proposes to amend the Land Registration Act to bring clarity on the mandate of the NLC and the Ministry of Land, Housing and Urban Development. As I said, this is intended to eliminate the overlap of mandates that has caused conflict. The amendments will remove duplication of roles in terms of matters relating to registration. Who should register land? Where does the process begin? Who does what in regard to public, private and community land? The amendments proposed here seek to remove duplication of roles and conflict.

The Bill provides key definitions. There are a number of definitions that have been given. It also creates the Office of the Deputy Chief Land Registrar. Right now, we only have the Chief Land Registrar. Right now, we do not have county registrars. They are the old ones. The Bill prescribes the qualifications and powers of registrars. It also provides for the procedures of constituting land registration units. Given the new constitutional dispensation, the Bill tries to put order in the existing offices right from the Ministry of Land, Housing and Urban Development through the counties. It defines the roles and powers of each office and provides for the procedures to be followed in dealing with land matters. That is as far as the amendments to the Land Registration Act are concerned.

Secondly, the Bill proposes to amend the NLC Act in order to eliminate duplication of institutions at the county level. It provides the manner in which the NLC shall undertake investigation of historical land injustices complaints pursuant to Article 67(2)(e) of the Constitution.

The Bill seeks to harmonise the mandate of the Commission with that of the Ministry. It seeks to guide the NLC structures all the way to the county level. It is true the NLC needs presence at the county level. Once this Bill is passed, instead of having the County Land Boards, the NLC can just have administrative units within the county. There have been lots of complaints in several counties that the county management land boards have been turned into instruments that governors use to do whatever they deem fit with land without consulting the NLC. This aspect is well captured in our Report.

Finally, the Bill proposes to amend the Land Act in order to harmonise it with the Constitution, eliminate overlaps and clarify the mandate of the Ministry and NLC. Right now, it is difficult to implement this Act. The Bill proposes to limit the mandate of the NLC to the management of public land on behalf of the national Government and county governments. It also seeks to limit the policy making powers and other powers of the NLC regarding allocation of public land. The Bill proposes the establishment of a board of trustees to manage the



Settlement Scheme Fund. It also proposes a mode of prescribing minimum and maximum private land hoarding acreage pursuant to Article 68(c)(i) of the Constitution.

Further, the Bill provides for the manner of undertaking eviction from private, community and public land. Land issues are very emotive in this country. This Bill seeks to put to rest some existing issues. The Constitution mandates the NLC to manage public land. On matters of policy and power, this Bill clarifies who should do what and who has powers. For instance, who has the power to sign title deeds? A number of issues have come up in this country. Banks no longer trust title deeds as security for lending money because of the manner in which the NLC and the Ministry of Land, Housing and Urban Development have handled this issue.

In summary, this Bill tries to put some of those issues and conflicts to rest. As a Committee, we engaged a lot of stakeholders. They brought their proposed amendments, a majority of which we have carried. According to our Report, about 27 stakeholders presented memoranda to the Committee in terms of what they proposed to be amended. We had proposals from the Ministry of Land, Housing and Urban Development and the Ministry of Agriculture, Livestock and Cooperatives because they were the Ministries that were given the mandate to look into the question of maximum and minimum acreages. So, they presented their findings and proposals. We had comments from the NLC whom we had invited and they listed some of the issues that they raised with the Bill.

One of the challenges that the NLC raised is that they had earlier developed a comprehensive Historical Injustices Bill that was summarised and included in this Bill. They had an issue with that and with the establishment of county boards. We had input from the Council of Governors (CoG), Commission for the Implementation of the Constitution (CIC), Institute of Surveyors of Kenya (ISK), Kenya National Commission on Human Rights (KNCHR), Land Development and Governance Institute (LDGI), Kenya Land Alliance (KLA), Kenya Forest Research Institute (KEFRI) and the Law Society of Kenya (LSK). We received memoranda from the Ashitawa and Company Advocates and Sirikwa Peace Society Initiative (SPSI). As you can see, this Bill raised a lot of interest.

I concur with Hon. Duale that these Bills need time and consideration and I ask all the Members to look at them. When we sat as a Committee, we came up with amendments as advised by the various stakeholders. I encourage Members to look forward to the amendment stage, so that all the input can be captured as raised by the various stakeholders.

With those few remarks, I second and support the Bill.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I have a number of requests and I must appreciate that the moving and seconding of the Bill was done very well. It is a very important Bill touching on issues of land. I give the Floor to the Member for Kandara. You can use the Dispatch Box.

**Hon. (Ms.) Wahome:** Thank you, Hon Temporary Deputy Speaker for giving me this opportunity to contribute to the Land Laws (Amendment) Bill, 2015, which is very important. I want to join this debate considering that we have had a serious standoff between the NLC and the Cabinet Secretary in the Ministry of Land, Housing and Urban Development. These two offices have appeared before the Departmental Committee on Lands. They have also appeared before the

CIOC with a view to try and resolve the standoffs, the conflicts and lack of movement in terms of their mandates for this important work.

The duplication of roles and overlaps of their mandate was not intended in the Constitution and was not in the Constitution. It is these laws that we enacted to implement the Constitution that created the confusion. Therefore, the amendments that are proposed in these land laws are timely. Hopefully, as we debate and finalise, we will remove conflicts and bring clarity in the implementation, so that the NLC's mandate is clear. The mandate of the Cabinet Secretary is also clearly defined.

Dealing with land is not a small issue. We have seen people being killed in this country because of land disputes. Therefore, even as we debate, we must remind these institutions that they are handling very emotive and serious issues. The country is aware that the Ministry of Land, Housing and Urban Development has been a den of corruption and misapplication of the law. Public land in this country has been grabbed or stolen. Public land has not been properly used and allocated in accordance with the law. We are hoping that, even as we make these amendments, the holders of these important offices will have a new view of their work and exercise due diligence as they deal with the land question. Therefore, streamlining the laws will guide their work and help them implement their mandate.

As a lawyer, I have been frustrated a lot. Many lawyers have been frustrated while dealing with the Ministry. Titling has been a problem. We have seen files disappearing, registers manipulated and interfered with. We heard of disappearance of important documents like development plans, maps and registers in Government offices. This must be a thing of the past and this message must be clear and taken to the offices of the NLC. Once these amendments are passed, we expect the management of public land to be done with caution. The important message must be that it is not possible for people to collude and dish out public land to individuals who do not deserve and who are not going to use this land for public interest and the larger public good. Therefore, I support the amendments.

I am very keen on the provisions on minimum acreage. Although the Cabinet Secretary will have a role to commence a study to come up with a participatory process, the law will guide that process to ensure that people participate and give their views as to the minimum and maximum land that a person should own in this country. This question is very critical because some people have very large tracts of land and the ownership of those tracts is also in question. The ownership is not legally clear or the land was not properly acquired. This is land needed by other people. Therefore, the question of the maximum acreage is so critical than the question of the minimum acreage. It is the ordinary Kenyan that buys one acre, half an acre, or 0.2 acres. Other people hold unutilised land and they are not even paying any land rates. Therefore, this Bill seeks to clarify and empower the Cabinet Secretary to come up with regulations that will also be brought to this House. I am persuaded that these amendments are good and we should support them and move with speed, so that the NLC and the Cabinet Secretary can perform the duties they should have performed before.

The issue of historical land injustices also needs to be taken with caution and speed.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon Member, you can spend your next one minute.

**Hon. (Ms.) Wahome:** Thank you, Hon. Temporary Deputy Speaker. I was speaking to the question of historical land injustices which needs to be taken quickly, so that we can settle these questions.

This morning, the Member for Gatanga, Hon. Humprey Njuguna, asked the House to be allowed to eulogise the late Hon. George Ndung'u Mwicigi. I seek your indulgence because I have arrived this afternoon to also pay my tribute to the former Member of Parliament for Kandara Constituency, who served more than four terms, 22 years. He was a devoted, astute and eloquent speaker. He left a huge mark of development in my constituency, which covered Gatanga and Kandara. We now have two constituencies, but we remember him fondly. He initiated projects like water, agriculture and livestock farming. In terms of the agricultural movement in the constituency, Mwicigi is a household name.

On my own behalf and on behalf of the people of Kandara Constituency, I would like to pass my condolences to the family and to the widow of the late George Mwicigi.

I beg to support.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): You will have two minutes in the next sitting, Member for Kandara, to make your contribution on the Land Laws Bill.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, the time being 6.30 p.m., it is time to disrupt the business of the day. Therefore, the House stands adjourned until Thursday, 10<sup>th</sup> March 2016 at 9.30 a.m.

The House rose at 6.30 p.m.