

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 22nd September, 2021

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

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

PRAYER

PAPER LAID

FINANCIAL REPORT OF TETU-ABERDARE WATER AND SANITATION COMPANY LIMITED

Sen. Farhiya: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate, today, Wednesday 22nd September, 2021:

Report of the Auditor-General on the Financial Statements of Tetu-Aberdare Water and Sanitation Company Limited for the year ended 30th June, 2019.

(Sen. Farhiya laid the document on the Table)

The Speaker (Hon. Lusaka): Next Order.

NOTICE OF MOTION

Sen. Cherargei is not here.

POOR OLYMPICS RESULTS AND MISHANDLING OF ATHLETES

(Notice of Motion deferred)

The Speaker (Hon. Lusaka): Next Order.

STATEMENTS

INTERNATIONAL DAY OF SIGN LANGUAGES

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order 47 (1) to make a Statement on an issue of general topical concern; namely, the International Day of Sign Languages.

Mr. Speaker, Sir, the world marks the International Day of Sign Languages on Thursday, 23rd September, 2021 to raise awareness on the importance of sign language in the full realization of the human rights of people who are deaf. This year's theme is: "We Sign for Human Rights." The day is celebrated in conjunction with the International Week of the Deaf (WFD).

Mr. Speaker, Sir, the United Nations (UN) General Assembly, on 19th December, 2017, declared that every 23rd September will be marked as the Sign Language Day. 23rd September is in itself a memorable date, as it marks the day the World Federation of the Deaf (WFD), which was established in 1951.

The WDF estimates that there are 72 million deaf people in the world. Out of this population, 80 per cent live in developing countries. This day is, therefore, important as it presents the chance to support and protect the linguistic identity and cultural diversity of all deaf people and other sign language users. The first International Day of Sign Languages was marked in 2018.

Mr. Speaker, Sir, this year's theme highlights how each of us; that is, both the deaf and hearing people around the world, can work together, hand in hand, to promote the recognition of the right to use sign languages in all areas of life. This is, indeed, the essence of inclusion. In a truly inclusive society, sign language ought to be a language for everyone; that is, both the hearing and deaf population, since the deaf do not live in a society of their own.

It is important for everyone to know that sign language is a means of communication and conveys messages, just like verbal languages do. Unlike verbal languages, sign language uses manual codes and symbols to convey messages. Contrary to popular belief, sign languages are not the gestural translation of spoken languages. They are, in fact, fully-fledged natural languages that are structurally different from spoken languages. Deaf people all around the globe collectively use more than 300 sign languages.

Mr. Speaker, Sir, on 30th March, 2007, Kenya signed the UN Convention on the Rights of Persons with Disabilities, which entered into full force in 2008 and ratified it on 5th May, 2008. The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all people with disabilities.

The Convention recognises and promotes the use of Sign Language. It makes it clear that Sign Languages are equal in status to spoken languages. It, therefore, obligates state parties to facilitate the learning of sign language and promote the linguistic identity of the deaf community. The world needs to know that in walking the talk, salient sessions of these rights are enshrined in the Constitution of Kenya, in Articles 7 (1) (b), 54 and 120.

Mr. Speaker, Sir, in fulfilling this constitutional mandate, Sen. (Prof) Margaret Kamar and I have sponsored the Kenyan Sign Language Bill (2021). The Bill seeks to obligate both the national Government and county governments and their agencies to take a multi-sectoral human rights approach in effecting the Articles in the Constitution.

The Bill also seeks to provide for the inclusion of sign language in Kenya's education curriculum; to ensure that the deaf and hard of hearing are integrated into the society and gain access to justice, education and employment; to provide the use of sign language in legal proceedings, promote access to public services by deaf persons and provide support for deaf by teaching KSL to significant others of the deaf, that is, siblings, parents, guardians of the deaf child and for connected purposes.

Mr. Speaker, Sir, as we mark the International Day of Sign Languages, Kenyans need to know that the membership of the Senate is truly inclusive and is in support of laws that enhance the human rights perspective of Persons with Disabilities (PWDs).

Sen. (Prof) Kamar and I are also sponsoring the Special Needs Education Bill, 2021, while Sen. (Dr.) Milgo and I are sponsoring The Sign Language Interpreters Bill, 2021. All these Bills are aimed at fulfilling the various articles in the Constitution and ensuring that there are specific laws that promote an inclusive human rights approach in Sign Language awareness, which translate to a truly inclusive society.

As we join the global community in commemorating this day, I express my gratitude to all my colleagues for the support they have continuously shown in executing legislative matters that seek to improve the lives of PWDs.

Lastly, in marking this day, I will be donating Sign language books and materials to various national libraries to be stored in their Africana or references section for hearing people to access and learn Sign language.

Happy International Day of Sign Languages to every Kenyan and the entire world!

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Thank you. Proceed, Sen. Wario.

Sen. Wario: Asante Mhe. Spika, kwa kunipa nafasi. Lugha ishara ni muhimu katika dunia ya leo. Kwa kweli kuna wale ambao hawajabahatika kuweza kuongea ili waeleweke. Katika hali hiyo, lugha ishara inatumika dunia nzima.

Ninaunga mkono lugha hiyo wakati wanapoisherehekea kwa sababu tunaishi na watu hao; ni ndugu zetu na watu ambao lugha hii yao inafaa ipewe kipaumbele katika shule na vyuo vikuu ili ikuzwe.

Katika hali hiyo, dunia nzima inaposherehekea lugha ishara, sisi pia hatuna budi kuongezeka katika dunia hiyo kubwa ili tuinue lugha ishara. Hii ni kwa sababu kuna watu wengi wanaoishi na sisi ukiangalia dunia nzima.

Kwa vile kuna serikali mbili katika mfumo wa Kenya, serikali za Kaunti na Serikali ya Kitaifa, zote zinafaa ziendeleze lugha ishara na kuikuza ili tunge mkono dunia yote na tuongezeke.

Ninaunga mkono lugha ishara iweze kukuzwa katika shule zetu zote katika ngazi zote za serikali hapa Kenya na pia tujumuike na dunia nzima wanapoisherehekea. Hii ni kuwezesha wasiobahatika kuongea na kueleweka katika jamii wapate kipaumbele na wajihisi kama ni wananchi na watu wanaoishi katika dunia.

The Speaker (Hon. Lusaka): I can see other riders, but I will not allow. Remember, we have a very serious Motion before us this afternoon.

Sen. Kasanga, proceed with the next Statement.

JOINT OBSERVER MISSION OF PRESIDENTIAL, PARLIAMENTARY AND LOCAL
GOVERNMENT ELECTIONS IN ZAMBIA BY FP-ICGLR

Sen. Kasanga: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order 47 (1) to make a Statement on an issue of general topical concern, namely, the Joint Observation Mission of presidential, parliamentary and local government elections in Zambia by the Forum of Parliaments for Member States of the ICGLR.

Mr. Speaker, Sir, the FPICGLR had the privilege to participate in a Joint Election Observer Mission in Zambia between 5th and 16th August, 2021 alongside UN, AU, COMESA and other election monitoring groups.

The delegation from Kenya comprised Members of FPICGLR drawn from both Houses of Parliament and led by the Rt. Hon. Speaker of the Senate, who serves as the President of the FPICGLR.

The election observer mission entailed preparatory activities prior to the day of the voting exercise, such as training, mapping of the polling centres and the briefing sessions. Thereafter, the delegation engaged in observing the voting exercise, which included opening the polling stations, voting infrastructure and personnel, availability and management of voting material, tallying and announcement of the election results.

Mr. Speaker, Sir, Zambia has a robust legal framework on elections. All electoral seats are contested through the fast and the post system, with the exception of the President and Vice President who are elected by simple majority.

The winning presidential candidate and his or her running mate must receive more than 50 percent plus one of the valid votes cast. If no presidential candidate receives that, a second round of voting must be held within 37 days of the first election. Only the two candidates receiving the highest number of valid votes cast will be candidates in the second round election.

The right to vote is extended to prisoners and the electoral commissioners are accorded security of tenure. Additionally, campaigns run up to the night preceding the elections. With respect to affirmative action – unlike in the Constitution of Kenya – there are no reserved seats for women in the National Assembly. However, Article 69 of the Constitutional Amendment Act of 2016 allows the President to nominate up to eight persons to enhance gender representation. Article 45 states that the electoral system shall ensure gender equity in the National Assembly.

Mr. Speaker, Sir, the 2021 general election took place against a backdrop of heightened political tension in the country, which was compounded by a shrinking economy made worse by the global COVID-19 pandemic that has resulted in increased socioeconomic inequalities and social disenchantment by the citizens.

Evidence of the heightened political situation was seen through the pockets of violence reported in the Zambian capital of Lusaka as well as northern, southern and Michinga provinces, where supporters of the then governing Patriotic Front (PF) and the then opposition Party for National Development (UPND) clashed. Concerns over the increased spate of violence prompted the deployment of the military for the first time during an electoral process.

Mr. Speaker, Sir, elections in Zambia are held every five years on the second Thursday of August. Therefore, the elections took place on Thursday, 12th August, 2021. Sixteen candidates contested the presidential election, but the political landscape was dominated by two major political parties; the PF led by the then incumbent President Edgar Lungu and the UPND led by Hakainde Hichilema. This is the second time in a row the two candidates competed against each other for the presidency.

Eight hundred and ten candidates contested for 156 out of 167 seats of the National Assembly. At the local level, 420 candidates contested for mayoral seats and as municipal council chairpersons.

Elections were held for the 116 district councils and for councilors in over 1,600 wards. The voter turnout was at 70.6 per cent, translating to a total of 4,959,000 cast out of a total registered 7,023,000 votes, with the opposition leader and presidential candidate of the United Party for National Development (UPND), hon. Hakainde Hichilema, securing 2.8 million votes and the incumbent, President Edgar Lungu who secured 1.8 million votes.

Although the election infrastructure in Zambia is largely manual, the electoral process was found to be efficient. Most polling stations opened and closed on time. The fuse of Integrated Election Management System (IEMS) kits was witnessed in only one centre. The Electoral Commission of Zambia was well organized. The electoral process was generally managed in an orderly manner.

Mr. Speaker, Sir, some of the lessons that we can borrow from Zambia are such as: -

- (1) It is crucial to engage swift diplomatic interventions in enabling state power transfer and to unlock, shape and catalyze electoral democratization processes. Behind the scenes, Zambia's fourth President, hon. Ruphia Banda, former President of Sierra Leone, Ernest Bai Koroma, and the former President of Tanzania, Jakaya Kikwete, engaged President Edgar Lungu and Mr. Hichilema to facilitate a peaceful democratic transition. They did not wait for a formal Southern African Development Community (SADC) team once the former President Edgar Lungu and his team signaled their dissatisfaction with the results that were trickling in.
- (2) In Zambia, access to the voter register is made readily available to the election officials and party agents. Therefore, the verification process of voters upon entry into the polling stations is done thoroughly by all the parties, thus mitigating against incidences of rigging. Additionally, the voter register contains the registration details of the voter and photos of each voter.
- (3) It is important to invest in independent institutions that outlast political parties or formations. In the case of Zambia, the army did not engage in the political shenanigans that were taking place.

Mr. Speaker Sir, these are areas, as a country, we need to engage in. Allow me in conclusion, to take this opportunity to urge the Standing Committee on Justice, Legal Affairs and Human Rights to take this time to assess the status of preparedness of the Independent Electoral and Boundaries Commission (IEBC) in the upcoming elections in Kenya in 2022, and to table a report thereon, so that if gaps are observed, necessary interventions are made well ahead of time.

I thank you.

The Speaker (Hon. Lusaka): Thank you, Sen. Kasanga. I was part of that delegation to Zambia. I thank you for bringing the report on time.

The next Statement is by Sen. Millicent Omanga.

ALLEGED SHOOTING AND DEATH
OF MR. ALEX MACHARIA

Sen. Omanga is not in the House. The Statement is, therefore, deferred.

(Statement deferred)

Let us proceed to the next Statement by Sen. (Dr.) Musuruve.

STATE OF HEALTHCARE SERVICES TO CANCER
PATIENTS IN PUBLIC HEALTH FACILITIES

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, I rise pursuant to Standing Order 48(1) to seek a Statement from the Standing Committee on Health on the state of healthcare services to Cancer patients in public health facilities in counties.

In the Statement, the Committee should: -

- (i) provide per county statistics of Cancer prevalence, while indicating the capacity of the public healthcare facilities to deal with Cancer in each county;
- (ii) state the measures in place to ensure that patients with various types of Cancer are accorded quality healthcare according to the type of Cancer afflicting them;
- (iii) provide the list of oncologists employed in public health facilities in each county;
- (iv) state the targeted interventions to ensure that anesthetist, oncologists and other medical personnel in public health facilities in the counties are adequately facilitated in the provision of quality healthcare to respective types of Cancer patients; and,
- (v) state the amount of public funds utilized for capacity building of the professionals in the area of Cancer in the country in the last one year, highlighting the indicators of success.

I thank you, Mr. Speaker, Sir.

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

POINT OF ORDER

RECONSTITUTION OF STANDING COMMITTEES

Sen. (Dr.) Ali: Mr. Speaker, Sir, last Thursday, the Senate Minority Leader stopped the business of the change of Committee membership in the House. Some of the Committees of this House were suffering due to lack of enough membership.

Once it was stopped, it was agreed that a *Kamukunji* would be held, but nothing has since been communicated. We do not have information on what is supposed to happen. I am informed that some of the leadership in the House, including those in the Majority side of the House, do not want the *Kamukunji* to be held.

I, therefore, request the Speaker to give direction on when we can have a *Kamukunji*, so that we can discuss that matter.

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

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, it is true that I moved a Motion to defer the debate on the Motion for the establishment of the committees in terms of membership because it looked like there was disagreement. I, therefore, asked the House to give the leadership of the House time to consult, and thereafter, if possible, hold a *Kamukunji*. We have consulted and agreed.

At the meeting of the Senate Business Committee (SBC) yesterday, it was agreed that consultation was necessary. The Senate Minority side will hold a consultative meeting tomorrow. After the consultations tomorrow, I hope that we can meet with the Senate majority side.

The Senate Minority side will attend the consultative meeting tomorrow, so as to achieve consensus before the list is re-introduced in the Chamber. It was a resolution on the SBC yesterday that we need to consult and a *Kamukunji* is required. I know that the matter of constitution of Committees is urgent because some Committees do not have enough membership at the moment. However, it will be important to have consensus before the matter is formally re-introduced in the House.

The Speaker (Hon. Lusaka): That is well noted. I will be available tomorrow for that consultative meeting and direction. It is important that the Committees are reconstituted because I am aware that there are Members who are currently not in any Committees, yet they need to participate in what transpires in the Committees.

Next Order.

MOTION

CENSURE OF HON. JOHN K. MUNYES, CS FOR PETROLEUM AND
MINING AND HON. CHARLES KETER, CS FOR ENERGY

The Senate Minority Leader (Sen. Orengo): Mr. Speaker, Sir, I rise to move the following Motion: -

THAT AWARE that on 15th September, 2021, a statement was requested under Standing Order 48(1) regarding the recent increase of fuel prices by the Energy and Petroleum Regulatory Authority (EPRA);

AND WHEREAS the Speaker of the Senate directed the Standing Committee on Energy to invite the Cabinet Secretaries of the Ministries of Petroleum and Mining; and Energy to appear before the Committee on Tuesday, 21st September, 2021 to apprise the Committee and the entire Senate on the unprecedented escalation of fuel prices in the country;

AND WHEREAS the Standing Committee on Energy invited the two Cabinet Secretaries, pursuant to Article 153 (3) and (4) of the Constitution, to appear before the Committee on Tuesday, 21st September, 2021 at 11.00 am;

NOTING that the said Cabinet Secretaries failed to honour the invitation to attend the meeting of the Committee;

COGNIZANT of the fact that the sharp increase in fuel prices in the country has had a ripple adverse effect on the economy leading to a rise in the cost of living and the cost of doing business on an already overburdened citizenry grappling with the effects of the COVID-19 pandemic;

FURTHER AWARE that this increase in fuel prices has outraged a majority of Kenyans who bear the brunt of the effects of the increase such as high cost of transportation, high food prices, high cost of electricity among other adverse effects on most sectors of the economy;

NOW THEREFORE the Senate: -

1. Expresses its grave concern on the unprecedented increase in fuel and electricity costs and the adverse effects that these have had on the economy and livelihoods of the people of Kenya; and
2. Expresses its dissatisfaction with the conduct of the two Cabinet Secretaries, namely- Hon. John K. Munyes, Cabinet Secretary for Petroleum and Mining and Hon. Charles Keter, Cabinet Secretary for Energy in failing to appear before the Senate to address these urgent issues thereby abdicating their responsibilities as set out in Article 153 (3) and (4) of the Constitution.

Mr. Speaker, Sir, in moving this Motion, first of all, let me commend the Committee on Energy and its Chairman because it has grappled with this matter over time. Indeed, looking at the business of that Committee, and I had occasion to look at their deliberations during previous meetings before the escalation, it is a matter that has been appearing in the proceedings of the Committee for over a period of time. It appears that they knew this matter was going to come to its present status, where it has been escalated and compounded with factors such as the COVID-19 pandemic.

On several occasions, the Chairman has sought to bring to the attention of the House legislation on these matters generally as enacted by previous parliaments. When this issue arose beyond the capacities of the committee, questions were raised on the Floor of this House. I think it was by both the distinguished Senators for Nandi and the nominated Senator from Kisumu County. They desired that statements be made on this very important issue.

The Chairman responded, but it was the feeling of the House that this matter required the responsible Cabinet Secretaries to appear before the House in a Committee of the Whole, and not just in the Committee on Energy, to give an explanation on this very important matter that affects the lives of all our people. These are people in business and ordinary citizens going about their lives. It was not without significance that the Speaker ordered that the two Cabinet Secretaries appear before the Committee of the Whole.

Yesterday, the Committee of the Whole met, but the Cabinet Secretaries did not attend. Part of the information to the House was that there was non-compliance and contempt to the House for purposes of these particular proceedings on the rising cost of fuel and electricity. The appearance of various Cabinet Secretaries before various

committees had taken a bad turn because it was notorious due to non-observance by the Cabinet Secretaries, whether they were invited or summoned.

We have some Cabinet Secretaries who do not even respond officially to invitations. Some say that some matters are not part of their docket or the Senate does not have those responsibilities.

I think this is an occasion for us to send a message clearly to the Executive because this is something that does not apply just to individual Cabinet Secretaries, including the ones we wish to censure today, but to all other public officers who have a duty to appear when invited or summoned by Parliament, including the Senate.

It is also important to note the significance of a censure Motion. A censure Motion may be a little bit different from a Motion of no confidence, but I think the effect or impact on the individual Cabinet Secretary is more or less the same.

Under our present constitutional order, there must be an appropriate process for the removal of a Cabinet Secretary. However, that does not mean that this House cannot censure or express its lack of confidence in any individual Cabinet Secretary.

This issue is so serious. I want to remind the House and those who were there before, including the Attorney-General *emeritus*, that Motions of censure or Motions of no confidence on various Ministers - at that time they were called Ministers - have been moved in Parliament. The significance of moving those Motions was never lost, not just to Parliament, but to the Executive and individual Cabinet Secretaries who were subject to Motions of no confidence or Motions of censure.

In Kenya, at least there is one incident that I can demonstrate and elsewhere in the Commonwealth where they have pure presidential systems. When a censure Motion is moved by Parliament or any of the Houses of Parliament, willy-nilly, you will find the Cabinet Secretary or the Minister resigning even before the matter is discussed, or they will not defend themselves. They will hear what Parliament has to say and then resign.

If the Motion is against a leader of Government, not only would that leader resign, but the entire Cabinet would resign because of expression of no confidence in a leader of the Government. That is what happened on 27th April, 1989, when we had a Motion of no confidence.

I hope Sen. Wetangula will correct me if I am wrong. Under the old Constitution, there was provision for moving a Motion of no confidence in the Government of the Republic of Kenya, but there were no clear procedures for censuring or moving a Motion of no confidence against a Minister. Over the years, there were such Motions moved.

One of them, that was critical, was the Motion of no confidence moved on 27th April, 1989 against the then Vice President, Mr. Josephat Karanja, and he did not defend himself.

He resigned. I should quickly add that that Motion did not arise out of non-compliance with summons, failure to honour summons or failure to honour an invitation. What I am trying to say is that when Parliament expresses itself on a Motion like this, its significance is enormous.

The practice in the House of Commons - and I have been doing some little reading - is that even in presidential system like the United States of America, where on certain occasions the Congress would express its displeasure on the behaviour or conduct of Federal officials, once those Motions hit the floor of the House, the concerned parties at least would show seriousness. Many of them would, even before the Motion is moved,

try to purge the contempt. They would try to plead to the Speaker or reach out to the leader of the House, be it the Majority Leader or the Minority Leader, or use any of the Members of Parliament, to purge the contempt and even convince Parliament, the relevant committee or the relevant Member, not to proceed with the Motion because of its consequences. This according to the Constitution does not result in a removal, but it is so weighty that it cannot be taken lightly by the individual Cabinet Secretary.

In these instances, even from yesterday and the week before, when we have been engaged with this matter in the hope that they would try to purge the contempt or reach out to give some explanation, nothing of the sort has happened, at least to my knowledge, except on the part of the CS in charge of Energy, who through the Senator for Turkana, informed me that he was landing in Turkana with a delegation from South Sudan.

That being so, and that may be an exigency of duty, I have known that when a Motion of this nature is pending before Parliament, whatever the exigencies of duty are, the public official will defer to Parliament, first, before attending to those other duties.

However, in this instance, the way Parliament is being treated is that when you have some other business, whatever it is, then that business is more important than the invitation of summons by Parliament. I think this practice must stop. We must speak loudly on this occasion to remind those concerned that summons or invitation by the House of Parliament is an important instrument under the law, which requires those concerned parties to appear before either the National Assembly or the Senate.

I would commend the practice amongst the executive members in South Africa because for them, even the President appears when he is summoned; all of them appear. However, in our instance, particularly for the Senate, this is becoming a practice that continues to be done unabated, it is a malfunction that must be corrected.

Mr. Speaker, Sir, you will remember that in the old days when you received summons from a chief, under the Chiefs Act, and you failed to attend, it had consequences. Until that Act was amended, if you disobeyed an order by the chief, you could be prosecuted. Although under that Act, to be prosecuted, consent was required from the Attorney-General. I am glad that for the time the Attorney-General *emeritus* was Attorney-General, he never gave consent for a Member of Parliament to be prosecuted for disobeying an order from the chief. However, people tended to obey the orders.

Just to recapitulate what the law says, some people may think that we are just acting in vain and there is no legal basis for us to do these things. As contained in the body of the Motion, the appropriate Articles of the Constitution have been cited, that is, Article 153 (3). I think we have referred to this Article many times in this House. For what it is worth, because it has been read many times in this House, let me just read it again.

It states as follows: -

“A Cabinet Secretary shall attend before a committee of the National Assembly or the Senate when required by the committee and answer any question concerning a matter for which the CS is responsible.”

For purposes of the invitation regarding the two Cabinet Secretaries, we are talking about electricity and fuel. Obviously, there is no doubt that they are being called upon to answer on questions that relate to their responsibilities under their particular area of jurisdiction.

That is also in consonance with the oath of office that they took, the same oath of affirmation of due execution of office for Cabinet Secretaries. When they were appointed, and before they took responsibility, they had to subscribe to this oath as required under the Constitution. The Constitution says that you cannot take those responsibilities before you take the appropriate oath. That oath requires Cabinet Secretaries to obey, respect and uphold this Constitution of Kenya and other laws of the Republic of Kenya.

So far, I have dealt with the constitutional provisions, which require that they attend when they are required to do so. To leave the matter not in doubt, this oath says as much.

Then, there is the general power of Parliament, because this has been cited many times in this House in relation to the power of Parliament to call for evidence. Calling for evidence applies not only to the House itself, but also to committees.

Article 125(2) states as follows: -

(a) For the purposes of Clause 1, a House of Parliament and any of its committees has the same powers as a high court to enforce the attendance of witnesses and examine on oath, affirmation or otherwise.

(b) To compel the production of documents.

(c) To issue or commission a request to examine witnesses.

The Constitution talks about the power to call witnesses or to call for evidence or to summon any person. However, it says that if you do not attend or appear, then the Senate will have the powers of the High Court, not of the magistrates' court. Those of you who appear before a magistrate's court, if you disobey an order by a magistrate, the consequences are dire. The same applies when you are appropriately summoned by a police officer to appear before a police station.

Many of us here have been required to appear before a police station. In this respect, Parliament is given the powers of a superior court to enforce the attendance of witnesses. There are those who say that witnesses can only be ordinary mortals. Witnesses include anybody; a citizen or a non-citizen of Kenya. It is good to put these things in context.

The mother of them all is the Parliamentary Powers and Privileges Act. This has been cited before this House. However, for purposes of record, you will allow me to cite them. Section 18 of the Parliamentary Powers and Privileges Act is on summoning of witnesses. The heading is: "The invitation and summoning of witnesses."

It says-

"Parliament or its Committees may invite or summon any person to appear before it for the purpose of giving evidence or providing any information, paper, book, record or document in the possession or under the control of that person. In this respect, Parliament and its Committees shall have the same powers as the High Court as specified in Article 125 of the Constitution."

Mr. Speaker, Sir, this power under the Parliamentary Powers and Privileges Act is so important because it is a derivative of the Constitution. They flow from the Constitution itself. Section 19 deals with the procedure of when witnesses fail to appear. In this regard, the law tells us that if witnesses fail to appear, we are not a toothless bulldog. We are given these powers.

It says-

“Where a witness summoned does not appear or appears, but fails to satisfy the relevant House of Parliament or Committee, the relevant House or Committee may impose upon the witness a fine not exceeding Kshs500,000 and having regard to the witnesses’ condition in life and all the circumstances in the case.”

We are not talking about an ordinary mortal. The circumstances in this case is a Cabinet Secretary (CS) who has taken oath and has a public office. In the exercise of that public office, the law requires that they appear. For interest, there is another very important Section in the Parliamentary Powers and Privileges Act, which I think we should always bear in mind. It talks about public officers.

It says-

“No public officer shall refuse to produce before Parliament or its Committees any paper, book, record, document or give evidence before Parliament or a Committee relating to the correspondence of any national security organ.”

Mr. Speaker, Sir, even when it concerns national security, which would be the best excuse for any CS to give, this Act says that you cannot use national security as a basis of refusing to produce a document, give evidence or to appear. I think that this is very important in terms of giving context to this matter. We have these powers, not made by us, because they flow from this Constitution. They have a purpose.

I want to share with you and hope you will agree with me that for CSs to appear before Parliament, it serves a constitutional purpose as set out in Article 10 of the Constitution. For purposes of transparency, good governance, accountability and public participation when decisions are made, the people are the sovereign. When we require members of the Government to appear before us, we do so on behalf of the people. That flows from Article 1 (1) of the Constitution. There is a constitutional purpose and objective. It is not just a law made out of context; it is a law that serves a constitutional purpose.

Hon. Senators, my brothers and sisters, this is a matter which we have to comment on forcefully for purposes of not just this Senate, but for future Parliaments. People are crying out there about rising fuel and electricity costs. They want to know why from those who have been given the responsibility.

In the exercise of our duty as the elected representatives of people, we have summoned the people concerned to appear before Parliament to give that explanation, and they have failed to do so. If you ask me, this is a matter in which there is nothing that has been placed before the House that can demonstrate that the CSs had any justifiable reasons not to appear before the Senate. If they have sent any such explanation, none has been brought to my notice.

Mr. Speaker, Sir, there was a famous American jurist who said that the breakdown of law and order does not start by very serious breaches of the law. They start by little violations that end up polluting the public order and good governance. Therefore, this is not an idle matter. This is a constitutional violation.

There are consequences of this in terms of what is required of public officers. If you look at the Article in the Constitution that defines who a public officer is, CSs qualify because a state officer is a public officer. All these laws, therefore, apply to them.

Mr. Speaker, Sir, even in the old Parliament there were Committee systems, but they died. There was one time when the Public Accounts Committee, Public Investments Committee of the National Assembly and a joint Committee of National Security, Defence and Foreign Relations summoned the relevant ministers.

In respect of the Public Accounts Committee and Public Investments Committee, they required what were called the big five. Sen. Wako will remember that there was a time that the big five were required to appear before the PAIC. The Executive at the time was very happy with the big five going to the Public Accounts Committee, but not to any other Committee of the House.

The Ministers were summoned to the Committee on National Security, Defence and Foreign Relations. At that time, I think Koigi Wamwere was the chairperson. If I am not wrong, he was the Chairman of the Public Accounts Committee. The President at that time asked how Parliament could summon his Minister. He wondered how Parliament could summon his Minister. He said Parliament could not do such a thing. By that pronouncement, the Committee system died because by Executive fiat we were told that we could never summon a Minister.

If we continue like this, Cabinet Secretaries will begin to say that we have no powers to summon them and they can come when they want. In fact, they are already conducting themselves as if we do not have those powers. When we call them, they will say Senate does not have those powers.

The excuse they keep on repeating is that Senate has no responsibilities when it comes to the national Government. However, the Constitution is clear and does not make distinction between the powers of the National Assembly and Senate or their Committees to summon CSs.

It is not without a reason that specifically the powers to summon a CS are provided for in the Constitution. If it was something in the Standing Orders or the Powers and Privileges Act, probably we would not take it seriously but this is a matter that is provided for in the Constitution of Kenya.

If for any reason, we tell the public that we are unable to explain what has happened with regard to these increases in the cost of fuel and electricity or that the CSs failed to appear, then the authority of Parliament would collapse.

I, therefore, invite the House that on the first component of this Motion, we censure these two CSs. It has nothing to do with politics or religion. It is like being summoned by the court or investigative agencies. In the Committees of the House, we have Members of all shades. When summoned to appear as a CS that took the oath of office and knows his or her responsibilities under the Constitution and the law, your duty is to appear.

At least Kenya should be showing a good example to our neighbors. We should be leading from the front. We have just had a report here on the elections in Zambia. We are very happy about how Zambia had free and fair elections and access to the voter register without interference.

I have sat in South Africa where the President is summoned to appear before Parliament or its Committee and he does so. For example, the Zondo Commission that is looking into State capture. Ministers and former presidents also appear.

I do not see the special case for CSs in Kenya to choose to come to Parliament or not that we leave it to their discretion. We must tell them that this power that is given to

Parliament is derived from the Constitution. If we do not use that power so that there is transparency and accountability in the conduct of the business of Parliament, then the whole democratic constitutional structure would have no meaning.

On this second component, I invite you to agree with me that the conduct of the two CSs requires censure. We should not be in the business of trying to determine whether it was an invitation or a summons. This is because the law says that you can invite or summon. The Senate and Committees have been so kind. They invite, give you a certain number of days to appear and subsequently summon. The discretion is not to the CSs but of the Senate or its committees to decide how you are going to appear through an invitation or summons.

That invitation should not be read in its popular parlance as if one is being invited for a tea party. You are being invited to an important business of State, which you must perform.

On this second limb of the Motion, I invite all of us to censure these two CSs. Of course, for the consequences, since it was under the direction of the relevant Committee which was dealing with the matter, sanctions should be taken against the two CSs. It should not be just this resolution by the Senate in Plenary. I think there must be some sanctions. The punishment is set out as I have read in the Powers and Privileges Act.

Mr. Speaker, Sir, the problem with this matter is that the invitation was not just by the Chair but through the order of the Speaker. You are one of the very few State officials that when you are presiding over our deliberations, you wear a special dress of honour. In the order of things, in terms of protocol and seniority, you are so high up that when you speak, heaven and earth should move. The Speaker is very high both as a Member of this House and the Speaker of Parliament.

On the second one, I do not want to say much because the people out there are crying. Many Members have expressed themselves even yesterday during the debate on the cost of fuel and electricity. Every one of us has talked about the fact that this escalation in the cost of fuel and electricity is unbearable.

I had to look for all sorts of literature available from official sources and publications from all over the world up this morning. It demonstrates that the cost of fuel in Kenya in relation to other countries is extremely high. The communication made by EPRA itself, categorized our fuel as one of the most expensive on the continent.

I cannot believe why the cost of fuel in Kenya should be higher than Uganda. There must be some explanation for that. In fact, on this matter, all these publications agree--- The comparison leaves out oil producing countries, which are quite a number in Africa including Nigeria and Angola, whose fuel cost is lower in comparison to Kenya. I would not understand why the cost of fuel in a country such as Eswatini, Namibia, Mozambique, Democratic Republic of Congo (DRC) which is experiencing a lot of problems are better than those in Kenya.

I know DRC has a small enclave Cabinda, where there is oil. However, that oil enclave is perpetually in a state of insurrection. Tanzania, Zambia, Rwanda, Burkina Faso, Ivory Coast, Malawi, Uganda and Cameroon. Kenya stands at about number 30 from the list of African countries in terms of cost of fuel. That requires some kind of explanation. I am glad that the Cabinet Secretary in charge of petroleum in one of his interactions with Parliament, hon. Munyes, is quoted urging Parliament to review

taxation on petroleum as the best option of cushioning consumers from the rising cost of energy.

Hon. Munyes did not talk about the pandemic. He said that it is Parliament that has got that responsibility. Parliament does what it is always required to do under the law; it gives the Cabinet Secretary or the regulatory authority some discretion. However, the discretion must be applied in a manner that does not cause unhappiness or unnecessary burden on the people.

Why would the Energy and Petroleum Regulatory Authority (EPRA) in the current circumstance increase the cost of fuel? It is not because of legislation. The power they were given as a regulatory authority must be administered in a way that takes into consideration the condition of the ordinary Kenyans. I must say that I agree with the National Assembly this time round. Arising out of the proceeding yesterday, by the direction of the Speaker, the Committee on Finance of the National Assembly was tasked to come up with a legislation on how to deal with the rising cost of fuel. The last time that the question of petroleum levy and VAT was brought to the House, we made noise as a House. However, we did not have the tools with which to make an intervention.

I would like to conclude by stating that in the United States of America (USA), the powers of the Senate came over time. The kind of sibling rivalry between the two Houses was there in the United States of America (USA) as it is here now. Most of the powers, including budget making were with the House of Representatives. However, over time, they realized that if the Senate is included in some of these issues including the process of budget making, then you are better off than dealing with it as one Chamber.

If taxes are increased, it affects the counties without a doubt. I do not see any reason why the Senate should not be involved. Similarly, if taxes are reduced, the counties will be affected. When it comes to the national revenue where we have an entry point of determination of the share horizontally between the national Government and county governments that we have some role to play. The most important duty of any Parliament is the issue of taxation which I feel should be a shared responsibility in time. We will never stop making that case as observed by the Supreme Court.

Mr. Speaker, Sir, in conclusion, if you build a big house and have nothing inside it, you will not have resolved the problem. It is good that Kenya is working hard on its infrastructure because that is good for the economy and the people. However, if people's pockets are empty or if the standards of living are too high for the people, then some of the major capital expenditures that we are making may not benefit the people at the end. For the future, our Government should be very clear on the issue of debt and taxation.

As I said yesterday, the American revolution was based on the question of taxation. Somebody said that taxation without representation is like tyranny. However, I say that over taxation is slavery. If all that you are working for is consumed by tax, then your spirit for hard work will be eliminated. The authorities must always think that in as much as they want to do certain things for public good, they must always be conscious of the fact that people need to eat, have shelter good hospitals and medicine as well as clothing.

Mr. Speaker, Sir, there are people in this town who earn Kshs10,000 per month and Sen. Sakaja can confirm that. If you earn Kshs10,000 a month and the cost of boarding a matatu goes up by even three shillings, you suffer. The one who has to pay the extra cost of transport out of his Kshs10,000 salary suffers. An increase in fuel prices

leads to an increase in food tuffs, medicine, transport and housing. Fuel is a primary commodity. It does not only affect one sector. The cost of fuel and electricity are primary towards production. If you want people to generate more wealth, you have to be careful on how you increase the cost of fuel. I hope that we will have a resolution at the end of this. I hope that we will censure the two cabinet secretaries. I also urge the National Assembly to speed up the contemplated legislation to deal with this matter. I hope that the Senate can make a representation by way of a message that the legislation is required like yesterday.

Mr. Speaker, Sir, with those remarks, I beg to move and request Sen. Wetangula to second.

Sen. Wetangula: Mr. Speaker, Sir, when the moving of the Motion started, I was wondering where Sen. Cheruiyot was. There was once a committee to investigate land clashes and when it came to voting, half of the Members of the Committee disappeared.

I beg to second this Motion. I urge the great men and women who are before and behind me that this is a patriotic duty. It has nothing to do with your brother or political party. It has everything to do with the people of Kenya and what we are going through.

Mr. Speaker, Sir, as you had directed, yesterday in the Committee of the Whole chaired by the distinguished Senator for Nyeri, it turned out that the two Cabinet Secretaries who you had directed to be summoned but instead they were invited, did not show up in the committees. If the HANSARD was to be circulated, I think we have the speech by Sen. Wako, the Attorney-General *emeritus*, during the Committee of the Whole. He spoke his heart out on these issues.

Members of committees in this House know that when a Cabinet Secretary is unable to appear before a committee on invitation or summons, the least they can do is to send their Principal Secretaries (PSs) or any other senior officers to come and tender apologies and explanation to the committee.

We all understand that sometimes you may not be available for this and that reason. However, during yesterday's meeting, and my good friend the Chair is here, there was no single representation from any of these two Ministries, not even a press officer from the Cabinet Secretaries' offices to tell us that they are sorry because they are not available. There was nothing!

I said that in a crisis moment like this, wherever the Cabinet Secretary for Petroleum and Mining was, he would have cut short his trip and come back to the country to address this issue but nothing has happened. I join Sen. Orengo in also opining that I do not think we have received any explanation even from yesterday's proceedings that were aired live from any of these Ministries about what happened.

Mr. Speaker, Sir, I heard the Cabinet Secretary for Energy saying that what he was invited for does not concern him. That is an assault on the dignity and authority of the Speaker of this House.

On the day when we canvassed this matter, and the HANSARD is there to bear you out as our Speaker, the distinguished Senator from Kisumu, Rose Nyamunga, said and I quote: "Yesterday I was shocked when I got a bill of Kshs53,000 in electricity consumption, yet I have been paying around Kshs18,000 or Kshs19,000. Anytime you complain, they come to read your meter then they tell you that is what they found. What is going on in this country? It should not continue like this. Something should be done.

There is a big problem in that Ministry. We know what the problem is but we are not solving it.” Then she went on.

At the end of the submissions on the Floor, I requested you, Mr. Speaker, Sir, that following what Sen. Nyamunga had said and the country is bleeding and hurting because of high electricity bills and now fuel, kindly order the initiation of the two twin Cabinet Secretaries to come before the House and you did order.

To vindicate the Office of the Clerk, we were told that the letters of the invitation carried the HANSARD of the day, so that each Cabinet Secretary knows what they were coming to be questioned about. So, Hon. Keter should not be allowed to say that what was on the Floor of the House and before the committee does not concern him because it squarely concerns him.

Sen. Orenge has quoted repeatedly Article 153 of the Constitution. It provides that when a House of Parliament or its committees summon a Cabinet Secretary, it does not matter on what matter. All this House needs to do is to invite or summon a Cabinet Secretary and they are duty-bound to even miss Cabinet meetings and come to Parliament to answer to the representatives of the people of Kenya.

When every Cabinet Secretary takes the Oath of Office, they say in Kiswahili: “*Nitahifadhi, nitailinda na kuitetea Katiba ya Kenya.*” By doing so, you are adhering to studiously to every single provision in the Constitution, including but not limited to being required to go to Parliament to answer questions because that is what the Government must do and that is the responsibility of the Government.

However, we have no responses. That is why this House must stand up in unison. Our censure may not lead to these Cabinet Secretaries leaving office but it is a blot on their character and career that they were given the responsibility. That should become a matter of future reference on them that they snubbed Parliament, abdicated responsibility, were unresponsive to the plight of Kenyans and were uncaring in the discharge of their duties and responsibilities. That is what it is.

In comparable jurisdictions, the Attorney-General of Northern Ireland, who was a counterpart of Amos Wako--- The police were looking for a suspect of the equivalent of the Insurance Regulatory Authority (IRA) and they found him hiding in the servant quarters of the Attorney-General. It was proven that the Attorney-General did not even know that that fellow was in his quarters. He promptly resigned and went home.

In Tanzania, during the time of President Magufuli, when a friend of mine who was a Minister failed to go to Parliament to answer questions, President Magufuli promptly dismissed him and he left the Cabinet. That has happened in many places.

There is something that has been doing rounds on social media. There is a Minister who arrived late in Parliament to answer questions and the Speaker censured him. He promptly resigned and left the Cabinet. He did not fail to arrive but he arrived late.

These ones do not even arrive, explain or say anything. They are now behaving and talking the language of Simon and Garfunkel known as the Sound of Silence. We want to tell them that the sound of silence is louder than spoken words.

We need the President to tell his Cabinet Secretaries that they have a duty to him as they have a duty to Parliament because this is the House of representatives. Anything that touches and affects the people must be dealt with in this House.

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

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

Over the weekend, Madam Deputy Speaker, I was in Busia County which is represented by Sen. Wako. There was a queue of vehicles belonging to Kenyans crossing into Uganda to buy fuel. Fuel to Rwanda, Burundi and Eastern Congo is imported through Mombasa and passes through Kenya. How come fuel in Goma, Buni and Butembo in Congo is cheaper than fuel in Kenya? It does not make any economic sense.

It is time this House relooked at a Bill that was drafted by the leadership of Sen. Murkomen that was brought here to amend the Constitution to give authority to this House as a House of reference on all Bills from the National Assembly.

In its advisory, the Supreme Court told the country and this House that the judges did not envisage any situation under the sun where any legislation did not concern counties. Whether you talk of the police, the theatre of security is in the counties. When you talk of taxation, the affected people are in the counties.

As we move to the future, we must demystify the definition of the so called “Money Bills” in Article 114 and especially taxation. The Members of the National Assembly tell us that when a Bill comes to the House, they are allowed to speak for a maximum of two minutes each. What can you speak on taxation for two minutes?

You turn progressively a House of Parliament into a voting machine. In fact, it now becomes an extension of the Executive. People sit in the Treasury. They do not interact with ordinary people. They do not know if ordinary people are hurting. They simply believe, tax the Kenyan as much as you can to solve your problems.

Madam Deputy Speaker, I do not believe the explanation being given out and I listened to the proceedings in the National Assembly. Unfortunately, many Members in the National Assembly were behaving like apologists of the Treasury.

I heard one Member saying that this extremely high, punitive and oppressive taxation is because of our debts. Sen. Mutula Kilonzo Jnr. and I sit in the Committee of Finance which is chaired by the Senator for Mandera. The CS for Finance appeared before us and said that he is raising the debt ceiling so that he can opt to take concessional borrowing and retire expensive debts. To date, there is not a single expensive debt that has been retired and the borrowing has hit the ceiling.

In fact, I would not be surprised if a new Motion is brought to this House to expand the debt ceiling. When that is done, we must ask the CS, Finance, which expensive debts did you retire?

To date, as we grapple with this, China is owed Kshs1 trillion by Kenya. It is even a threat to our national security because if China decides to turn on Kenya and take us to the Paris Club, and do all manner of things that creditors do to borrowers, we will be in a very sorry state.

When I see everybody today, it means we are all committed. I hope we have not come here to defend sectarian interests. We must speak as a House. There is no sectarian interests to defend here.

Eighty percent of Kenyans rely on kerosene for lighting and cooking. A hundred percent of our economy relies on fuel. I cannot remember any time in the recent past

when fuel prices went up to the extent that we saw recently. Kerosene went up by Kshs12. As this is happening here, the price of crude oil worldwide is coming down.

There is a lady in one of the TV stations called Okwara. I saw her analyzing the price increases on TV and she said that the culprit is taxation. Who taxes Kenyans? It is not the Executive. It is Parliament.

We cannot blame President Uhuru for levying taxes on Kenyans. He brings proposals; it is Parliament that taxes Kenyans. The Parliament that is taxing Kenyans is the same one standing up to apologize for taxing Kenyans. I even see some of them standing in funerals and decrying about the high cost of fuel when they know they are the ones who have imposed on every litre of fuel that we are paying taxes up to Kshs72.

That is why landlocked countries that have got nothing, a country like Swaziland, a little island in the middle of South Africa, their fuel costs are cheaper than Kenya; with all the bounty we have. Fuel moves from Mombasa for 2,000 kilometres to Butembo in Congo and it is cheaper there than here.

To add insult to injury, we summoned the CS responsible to come and explain to the House but the CS did not show up; he gave no explanation; he does not care. That is what we are facing.

Today, I would want to urge the chairperson of the Committee on Energy that he does not even need a resolution of this House. He lives in Kenya. The KPLC, a monopoly with unprecedented authority over the people of Kenya is bankrupt. How can a monopoly of an essential service be bankrupt? How can you explain that the KPLC whom we depend for our electricity and when you do not pay your bill, they come and disconnect your power and go away, is bankrupt?

Some of us have suffered in the hands of the KPLC. In my own residence where I have been paying bills amounting to Kshs24,000, last month they gave me a bill of Kshs88,000 as if I run a factory.

This is true of everybody else. Big factories like Bamburi have now switched from KPLC to solar power. By doing so, they are denying them revenue and as a result Kenyans are going to lose jobs.

Instead of the CS, Energy coming here to answer those questions, he is busy averting a strike of the workers of KPLC. That strike would avert itself if the KPLC was working. They would not need any Cabinet Secretary to go and talk with the workers of the KPLC. The KPLC has a board of directors, management, they do not need a CS to go there to stop a strike.

In any case, if it was a competition between going to stop a strike and coming to Parliament, which takes precedent? The answer is obvious. He must come before this House.

I know that the chairperson ordered that summons be issued but the issuance of summons to the two Cabinet Secretary does not purge their contempt of Parliament. They remain in contempt.

Madam Deputy Speaker, I want to urge as I finish that the chairperson should be obligated to deliver the proceedings of this Motion today to the Executive so that they can see the outrage of the representatives of the people of Kenya over the conduct of our Cabinet Secretaries.

What is shocking is that the two Ministers are our former colleagues in this Parliament. One was sitting where Sen. Linturi is sitting while the other was sitting where

Sen. (Dr.) Musuruve sits. They are not strangers to Parliament. They have served in both the National Assembly and with us in this House. They should be the last persons we would expect to defy an invitation or summons to this House more so on a matter that has captured the outrage of the Nation.

Everywhere people are talking about their inability to survive because when you touch fuel, you have hit public transport, manufacturing, lighting and virtually everything. Even this piece of paper will now cost more because of the escalating prices of fuel. The management of security services will be compromised because budgets have been set, they may not even have money to fuel vehicles to go to Laikipia and stop what is going on there. That is what we are facing.

Therefore, I urge the House to find that the two offending Cabinet Secretaries stand censured and the censure has the effect of having a blot on their curriculum vitae, character, career or their future.

This country must be run by responsive people; men and women who will deny themselves for the greater good of society. When a Cabinet Secretary (CS) takes a plane to go out of the country when his docket is on fire, that cannot be condoned by any reasonable Member of this House.

Madam Deputy Speaker, I beg to second this Motion. Once again, I urge Members, as Sen. Orengo said, this is not about parties, one's community, one's people or where one come's from. This is about the people you represent in this House. It is high time that the Committee on Finance and Budget, chaired by the Senator for Kirinyaga, carried out a public inquiry on taxation in this country.

We are talking of taxation in Nairobi, at the national level. We had a case from Mombasa, where Sen. Faki comes from, where the Governor levied taxes on a lorry carrying soda, the crate of soda, the bottle of soda and the contents of the bottle of soda. Those are four different taxes on one product. How can you do that?

Kenyans have been so obedient to authority that we just sit complaining that life is too harsh and things are not adding up. From there, everybody puts their hands in the pockets and walks home. As we, the representatives of the people speak today, let the country hear us.

Madam Deputy Speaker, I beg to second.

(Question proposed)

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, this is not a Motion that we would like to reduce numbers on. Currently, we have 16 Members. I was going to beg for your indulgence as far a time is concerned. Whether time was set, it was not handed over to me. Do we decrease the time, and are we going to set a limitation of time?

(Loud consultations)

You say 10 minutes? If we give everybody 10 minutes, two Members will not participate at the end of the sitting.

(Loud consultations)

We will extend until the end? That is okay.

Sen. (Prof.) Kindiki.

Sen. (Prof.) Kindiki: Thank you, Madam Deputy Speaker. I congratulate Sen. Orengo, who is the *de jure* Senate Minority Leader and the *de facto* Senate Majority Leader, for bringing this Motion. I also congratulate Sen. Wetangula, the greatest Senate Minority Leader of all time, for seconding this Motion.

The Senate Minority Leader (Sen. Orengo): On a point of order, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): There is a point of order from Sen. Orengo.

Sen. (Prof.) Kindiki: Hold my time because I just stated the obvious.

(Laughter)

The Senate Minority Leader (Sen. Orengo): Madam Deputy Speaker, he is already mitigating what he has said. Is it correct for the distinguished Senator to refer to me as the *de facto* Senate Majority Leader? I wish that he withdraws and apologizes because that sends the wrong signal to the country and to my responsibilities.

The Deputy Speaker (Sen. (Prof.) Kamar): I actually missed that. I was talking to the Attorney-General *emeritus*.

Sen. (Prof.) Kindiki, who is the Senate Majority Leader?

Sen. (Prof.) Kindiki: Madam Deputy Speaker, I stand by my words, and I am entitled to my opinion. According to me, Sen. Orengo is the *de jure* Senate Minority Leader and the *de facto* Senate Majority Leader.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. (Prof.) Kindiki, remember you used to sit in the Chair and had a position as far as the Standing Orders of the House are concerned. Please, do not break them because you have left this Chair.

(Loud consultations)

Just go on. Let us continue because there is no time to waste, but just avoid that.

Sen. (Prof.) Kindiki: Thank you, Madam Deputy Speaker. I plead with the Senate Majority side to call the Senate Majority Leader to the House because this Motion is so critical that I do not think that he should be concentrating on anything else in this world, when we are debating this Motion.

(Loud consultations)

It is very unfortunate that the two Cabinet Secretaries who are being censured this afternoon are former Members of this House. Hon. John Munyes, the CS for Petroleum and Mining, is the former Senator for Turkana and Hon. Charles Keter is the former Senator for Kericho and the former Deputy Senate Majority Leader. It is very unfortunate.

In fact, I was shell shocked to see my former Deputy, Sen. Keter, contemptuously referring the Senate to some Executive Order which is an alien document to this House. We do not work with Executive Orders but Standing Orders.

I saw him saying there was an executive order that says what he should be doing and those kinds of things. The Executive Order applies in the Executive. In any case he should have come here to say those things not to contemptuously ask Senators to refer to some document and explaining why he should not come.

I wish to speak to my friend former Sen. Keter and Sen. Munyes wherever you are in this world. You must come before this House and purge this contempt before it is too late.

Madam Deputy Speaker, the price of fuel in Kenya today has reached a level it has never reached in the history of this country. When Jubilee Government took over in 2013, fuel was retailing at Ksh64 to Ksh65 a litre. Today it is Ksh134 in Nairobi and Ksh143 in Lokitaung where Sen. Munyes comes from.

Other than the fuel problem, we have unemployment and a debt problem. There is nothing to cheer or celebrate in this country. We must place the blame where it falls. I have heard my learned senior, Sen. Wetangula, trying to excuse the President and the Executive and saying that it is Parliament that taxes people but we know better.

On this, again, I must agree with Sen. Orenge on what he said yesterday that this is perhaps the weakest and most helpless Parliament in the history of our country. As much as it is true to say it is Parliament that taxes, true, it is also true that this Parliament is helpless and unable to do anything because of the fear of the Executive. It has abandoned the people we represent to its own schemes and devices.

Therefore, let no one tell you that this Parliament can do anything. If they can, let them do now. We need to see what they can do.

The President must take responsibility. He is the one who introduces all these proposals from the Executive office. We are not against the President when we say so. In any case, he is retiring.

We have no business criticizing the President because he is going home but since the politics of the “handshake” came to this country, the Opposition, Parliament and everything died and the Executive has been left ravaging and marauding this county and doing whatever it wants. There is nobody to talk on behalf of the people of Kenya.

I commend Sen. Orenge for the courage of sponsoring this Motion because we expect the Leader of Majority to be the one bringing this Motion on behalf of this House. He could not and nobody from his side could get this courage. I thank Sen. Orenge for defying the dynamics of the “handshake” politics and standing with the people of Kenya when it matters. I hope the people of Kenya are listening and watching the moves from Sen. Orenge.

Madam Deputy Speaker, this House must put its foot down and demand Sen. Keter and Sen. Munyes to come here and explain themselves even after this censure in the shortest time possible. Failure to that, we will invoke the law. The relevant Committee will fine him. Above the fine, we shall use the Director of Public Prosecutions (DPP) to cause the arrest of the two CSs and the production of the same before this august House.

Allow me to say that the causes of these fuel prices are first over taxation. There are eight taxes on fuel which are all very significant. It is not just the Value Added Tax

(VAT). There is the VAT, excise duty, anti-adulteration of fuel levy, railway maintenance levy and all manner of taxes which have been imposed of fuel. Eighty to eighty-one Kenya shillings out of Ksh134 is going to taxes. We must bring this down.

Secondly, certain policy interventions have caused this fuel hike. It is important for the Committee on Energy to conduct an inquiry to find out what policy interventions other than the tax are causing this fuel hike. This is because the Finance Act of 2018, Section 13 which is the contentious one has been in place since 2013. How come the recent hikes have come even many months and several years after this Section 13 has been put in in place?

Thirdly, although I heard my senior, Sen. Wetangula, again trying to deny that the issue of debt is responsible for this taxation. This is because for every Ksh100, Ksh68 to Ksh70 is going to pay debt. Today, I am informed that the Government is now trying to use the money borrowed from IMF to pay off the Chinese loans. That is how desperate the situation has got.

I support the censure of CS Charles Keter of Energy and CS for Mining and Petroleum, Sen. John K. Munyes and that the duo be condemned to all the attendant consequences that go with the censure. If they think we are joking, let them try to play hard ball. Some of us have a little freedom and a little time to do some national duty.

They must come here. It is no longer a request but mandatory. Let them go easy on this House.

I know the current crop of the Executive have been taught and tutored on the language of arrogance and pride. I warn them that they can take their pride and arrogance to the streets of Nairobi, Kisumu, Tharaka Nithi or Meru but not to this House. We will deal with them. We will not entertain that kind of rudeness and indecency because the institutions like Parliament are the only hope Kenyans have in rescuing this country.

We will be very firm with them. They are my friends but when duty calls, we have no option but to call them out.

I support.

(Applause)

The Deputy Speaker (Sen. (Prof.) Kamar): Thank you, Senator Professor. That was well said.

(Loud consultations)

The learned friends have their own order.

Sen. Wako: Thank you, very much Madam Deputy Speaker for giving me this opportunity. I am glad I am speaking after three Senators have spoken particularly on the issue of the censure. I support entirely and do not want to repeat what Sen. Orengo, Sen. Wetangula and Sen. (Prof.) Kindiki, the former Leader of Majority have said. I agree with the term that Sen. (Prof.) Kindiki used to refer to Sen. Orengo, *de facto* and *de jure*. The only thing that he forgot to mention is that Sen. Orengo is his senior. I would like to acknowledge that Sen. (Prof.) Kindiki is the only person in this House with whom I talk to on issues of international law.

Madam Deputy Speaker, hon. Keter, the CS in charge of Energy mentioned on television yesterday that the letter that was sent to him by the Senate did not clearly touch

on his matters of his Ministry. However, had he read that letter carefully, he would have seen that we wrote other things came up following the deliberations. I am assured by the Clerk of the Senate that Hon. Keter received the HANSARD report of the entire proceedings on that matter.

He should have realized that the issues which fall within his docket such as the issue on electricity bills are going to be talked about. He should have also realized that the Kenya Power (KP), which falls under his docket had already given notice to the public that electricity bills were going to go up as a result of the increase in the charges. He should have known that the entire Senate cannot be wrong in saying that he should appear before a Committee of the House rather than dismissing the invitation to appear.

When a High Court issues summons, you cannot send back a letter to say that although you have summoned me, the matters you want answered touch on another person. You do not even write a letter back to the High Court in the first place. If you are summoned, you have to appear and explain. Sen. Keter should have appeared before the relevant Committee of the House to explain if he was in doubt about that and it would have been explained to him.

On the issue of Hon. Munyes, we were informed at the Committee of the Whole yesterday that he does not always honour summons by the Committee on Energy. It has become a habit for him to ignore summons by the Committee.

I would like to remind him on an incident that took place in the United Kingdom about 10 days ago. The Minister for Foreign Affairs was removed from that Ministry because he did not cut short his holiday when the issue of fate of the British Soldiers in Afghanistan came into play as the United States of America (USA) was withdrawing its soldiers. It was argued that he ought to have cut short his holiday and come back to the office to ensure that the British soldiers are safe by ensuring that adequate arrangement is made for them to fly back.

I would have expected Hon. Munyes, on hearing of this, to have flown back from wherever he has gone to come and address the Committee on that matter. The one thing that concerns me on this issue is that there has been a public outcry on this matter throughout the country from the Members of Parliament and everybody else yet I have not heard that an emergency meeting of the Cabinet has been summoned to deal with the issue. The Government of Kenya ought to take this issue seriously and effect immediate remedial measures to alleviate the situation.

Madam Deputy Speaker, it does appear to me that although we invited only two CSs, we overlooked the invitation of the Cabinet Secretary in charge of the National Treasury. Going forward, as we censure the two CSs, the Cabinet Secretary, National Treasury should also be invited if we have to deal with this issue comprehensively.

I agree with the Mover of the Motion that part of the reason for the escalation in fuel prices was the removal of the fuel subsidy scheme and the removal of the petroleum development levy fund which. Those reasons have also been recognized by the International Monetary Fund as the main reason for the escalation in fuel prices. The CS, National Treasury has to come and explain to this House why those two were removed.

Madam Deputy Speaker, as the Senators who have spoken ahead of me have stated, the issue of taxes and levies is more than 100 per cent of the landed cost of fuel at Mombasa. That explains why fuel is cheaper in other countries like Uganda. The Senator for Bungoma County was telling me that when he visited my county, he found very many

motorists going to Uganda to buy fuel and then crossing back to Kenya. I am quite sure that is what is happening in all the border points because the fuel prices are cheaper in the neighbouring countries. I believe the fuel is cheaper in neighbouring countries because their taxes and levies are not as high as they are in Kenya.

What is more painful is that the amount raised from fuel will not necessarily help the Government because we are told that 70 per cent of it goes to payment of the external debt. That means that for every Kshs100 collected by the Kenya Revenue Authority (KRA), Kshs70 will be used to pay external debt. We are also told that one third of the Kshs30 that is left, goes to corruption. That means that in the end, only Kshs20 goes to funding the Government. The amount that has been paid towards the external debt in the last two months is far much more than the amount that has been allocated by the Government to its functions such as Ministries, agencies, co-operations and so on.

The Deputy Speaker (Sen. (Prof.) Kamar): Senator, your time is up. You have gone beyond 10 minutes. Let us listen to Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Deputy Speaker, for the opportunity. I rise to support this Motion to censure the two CSs. I will not repeat what Sen. (Prof.) Kindiki has said. It is unfortunate that the two CSs and particularly Hon. Keter decided to address us from a press conference or gallery somewhere, which compounds the contempt they have for the Senate.

I miss the previous Senate whose chairpersons had teeth. The chairpersons of Committees were not ignored. The current chairpersons are ignored constantly by CSs. I recall a CS calling me a lobbyist in the middle of a Committee meeting because the chairperson could not even tell them to behave themselves.

We must admit that the sin of omission is partly because of the Committees of the Senate. I am going to put it on record. I say so because the information I have is that the Petroleum Development Levy Fund (PDLF) was supposed to cushion Kenyans from fuel price fluctuations. The Statement I raised in March was floated by the Committee.

That is what happens when we treat CSs with kid gloves. You will find the person you have summoned taking a chopper and going to their county and they do not care. I can tell you for free that it is possible these CSs have crossed their legs and are watching us because it is like we are acting Mexican soap operas.

Sen. (Prof.) Kindiki is right. They know we cannot do anything. This started the day we were supposed to censure a CS, but we walked out of this Chamber. We left because it was politically-correct at that time. Now, it is affecting the people who elected us. Some of the CSs think that by becoming bigheaded, they are going to be elected governors. Some even want to be become president, but of which country?

It is unfortunate that the persons who are supposed to check the Government are grieving with the people in Government. The public is confused with the Members of the Senate.

When police officers barricaded Parliament Road when we were discussing a contentious matter here, we adjourned and the Speaker ordered them to leave and they left. When the Speaker orders CSs to come here, they do not. It is possible that some of them even call the Office. A very senior officer called to ask why I raised questions on the appointment of judges. That is unfortunate, but we must accept the blame.

If Sen. Murkomen took the fight in 2015 where we had drafted a law to change some of the framework in the Constitution, we would have made some progress.

However, politics has changed and everybody is not talking about the right thing because we are talking about our political sides.

I have been in this Senate when CSs have said they are busy. I have been in this Senate when CSs have sent their Chief Administrative Secretaries (CASs). I have been in this Senate when CSs do not issue responses. I have not seen where they do not send anybody. In fact, this was the worst.

I do not know whether it is the fault of the Committee on Energy. Normally, CSs sent people to snoop or take photographs. They send all sorts of people. In this case, there was nobody. What is even worse is that other CSs bother to respond in writing.

The CS for the National Treasury gives us little problems when we ask about the cash register. However, occasionally he sends us a paper that does not make sense or add value to keep us busy. Those two CSs did not even bother to draft a response. That is why the censure is important, so that it goes on record that these CSs are not fit to hold public office. When there is contempt of Parliament, it is contempt of the people of Kenya. It is contempt against the people of Makueni, Tharaka Nithi and other counties. Who is going to tell the king that he is naked? It is unfortunate.

The slogans that are all over the place have confused people. A famous person said that the buck stops at my desk.

(An hon. Senator spoke off record)

Thank you for reminding me. The buck stops at the desk of the President of the Republic of Kenya. If your employees behave like this, you should deal with them.

Madam Deputy Speaker, we are calling upon the President to respond to the people of Kenya because his CSs have failed in their duties. Strictly speaking, the two people took the Oath at Moi International Sports Centre Kasarani to protect the people of Kenya. One was the President and the second one was the Deputy President. As they say in Galatians 4:4, in the fullness of time, they shall answer to that Oath of Office to the people of Kenya. We must put it on record because this is where we must say these things.

I was in this Parliament when we voted to increase the debt. I was in this Parliament when we did many more things that are harming Kenyans. Trust me, the debt is the precursor of all this.

Sen. Orenge and Sen. Wetangula were right. How can you have a monopoly which is bankrupt and overcharging Kenyans? How can we have a monopoly that does not allow us to use alternative sources of energy because we cannot afford electricity? Eventually, they will tax all sources of energy.

Somebody sent me a list of taxes we are paying for fuel and it is ridiculous. This must be the only country where we are paying such. Uganda gets its fuel through our pipeline which cost Kshs52 billion and their fuel is cheaper. Who is going to speak for Kenyans when everybody is silent? We are all singing like we are in a choir. Kenyans are wondering who is going to help them.

Sanctions are not enough. Our Committees must do better. You must do better because we count on you to put these CSs to task. They do not fear you and there must be a reason. That is why they call or send *WhatsApp* messages.

Dear chairpersons, we call upon you to help this House regain its lost glory. That is the only way we will earn our respect that we used to have when we---

Sen. Cheruiyot: On a point of order, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): He was about to finish his time.

Sen. Cheruiyot: Madam Deputy Speaker, it is just a question that you need to guide this House on. Apologies to my colleague, Sen. Mutula Kilonzo Jnr., I did not intend to interrupt his beautiful soliloquy and presentation before the House. However, the thoughts we are sharing are for the Committee to action.

That is what we agreed on yesterday. I cannot see the Committee chairperson or vice-chairperson here. I cannot see the Senate Majority Leader, the Deputy Majority Leader. I cannot see the Whips.

Some Hon. Members: The Members are here!

Sen. Cheruiyot: Which Member? No, no. We expect the leadership of the Committee to be here. I am sure Mutula Kilonzo Jnr. would wish to later on question the chairperson and say: "I gave you points to question the CS. Did you do it?"

The Deputy Speaker (Sen. (Prof.) Kamar): I have seen Sen. Were is on a point of order.

Sen. Were: Madam Deputy Speaker, I just want to inform the Senator that the Members of the Committee are here. We are fully taking notes. In addition, we do not have a vice-chairperson of the Committee yet; our Vice-Chairperson was the late Sen. Prengei. However, the whole membership is here. The chairperson, Sen. (Eng.) Maina has walked out shortly and he informed the Members.

Sen. Halake: On a point of order, Madam Deputy Speaker. I do not know whether the Members are in order to insinuate that the Committee is not doing its job even the Committee of the Whole House was snubbed. Is it that the Ministers called the House as well? It is not fair to say that they were called when the Committee of the Whole was not honoured at all.

Having said that, we are here as the Committee Members and we attest to the fact that we have done our very best and the fact that the Committee of the Whole was snubbed should tell you that it has nothing to do with our Committee.

Sen. (Dr.) Langat: Madam Deputy Speaker, I just want to say that I am also surprised that the Senate Majority Leader and the chairperson of Committee on Energy are not here at this particular moment when we are discussing a crisis facing our country. Even if I am a Member, those two people should be here at this crucial moment---

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators the point has been made and the Members of the Committee have responded. I do not expect, even when a chairperson of a Committee is in Dubai or the USA that the Committee will function. Already the Members of the Committee have said they are here and they are taking notes. When we rule that they come back we will expect them to---

*(Senators applauded as Sen. (Eng.)
Maina walked into the Chamber)*

The chairperson has arrived.

Thank you, chairperson.

Sen. (Dr.) Ali: Madam Deputy Speaker, it is good that---

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. (Eng.) Maina, that reminds you that the Chair was following you very closely, wherever you were.

Sen. (Dr.) Ali: Madam Deputy Speaker, the issue of the Committee has been dealt with. What surprises me---

Sen. (Eng.) Maina: (*Inaudible*).

The Deputy Speaker (Sen. (Prof.) Kamar: Chairperson we cannot go back. They have clapped for you; they have welcomed you.

Proceed, Sen. (Dr. Ali).

Sen. (Dr.) Ali: Madam Deputy Speaker, I support the censure Motion fully without fear because these two gentlemen have failed this country. What shocks me in this country is that when we are here as Senators or Members of the National Assembly, we claim we are representing our constituents. Who do these CS represent? That is the whole problem. These people do not care about who you represent. They represent the authority that appointed them.

What shocks me is that these two have been in Parliament for that long. We have been with hon. Keter and Munyes all along. They have even been in the Senate; they have been in the National Assembly. They know what really happens in Parliament. How come they decided not to come to Parliament? They could have even said at the sidelines: "We have no authority", but they come here and say what they need to say in front of everybody else.

I think this is not right. This is very unfair. This is very wrong for this country. As many have said here, the President of the Republic of Kenya has to act on these two CSs unless there is something else we are not aware of.

Some 15 years ago, I raised a Motion in the National Assembly where I wanted that we be allowed to create small power generation companies in our localities or where, if you can get a generator or an appliance for solar energy in your house you can distribute power to the people around you. However, that Motion was thrown out at that time. I think it was in 2005.

This monopoly has been continuing and we have always been told that this is a cash cow. Now it has stopped being a cash cow; it is dead. It is debt ridden. The Executive should change the board today.

If KP cannot perform, if they have failed all along, what is the use of having it in place? It should be disbanded. Let KenGen take over those functions because I am aware that at least KenGen has some money. The KP has become debt-ridden like KQ which is pumped with money every other time. We should not waste our money on KP; it should be dissolved. It has been mentioned that this is a sensitive issue; what is sensitive about it?

In my simple house where I live, I pay Kshs30,000 per month for electricity. I live in my house with five individuals and we do not even use many electrical appliances. The hot water from the shower is from solar energy. This is crazy. Something is wrong in this country and something should be done.

Hon. Members have talked about power generating companies. Somebody has a big boat somewhere and wants to supply power to KenGen. Why? They do not do anything; you give them unnecessary money. This should be stopped and if we have to do it, we should then create solar or wind energy in northern Kenya.

Build the roads for us so that this power can easily be transported. We have no power in Wajir. I have been complaining here for the last three years. The people of Wajir are suffering every day because they are sending us power engines which are 30 years old. You have to repair them every time because they keep breaking down.

People are suffering. They are losing their livelihoods. Freezers break down every day and there is no compensation; and yet they are charged excessively every day. How are people going to be transported to those far flung areas which are over 3,000 kilometres away and fuel prices are increased every other day? How do we survive in this country if this is the way we want to continue? *Tumefinywa kupita kiasi.*

The leadership, including us here, we have to take the blame. It is said in my religion that if you feel something is bad and you can do something about it, you should stand up and say this will not happen. If you cannot do anything about it, you should talk about it and mention the wrongs which are there. You should say, this is wrong. I do not appreciate this. I do not agree with this. As the representative of the people of Wajir and Kenyans at large, I do not agree with this increment of fuel prices even if I can do nothing about it. I should say it so that people can hear it.

The other issue is that we have a problem of leadership, especially on this side of the House. Our leadership has failed. There is nothing to hide; we will say it. Where is the Leader of Majority? Fail. Where is the Chief Whip? Fail? Deputy Majority Leader? Fail. Even my sister who is very active has run away right now. She was the only one who was here. All the others decided not to appear, so why should she be here? She has also left. This is a very sad thing. I do not think this is the way to go.

Madam Deputy Speaker, the other issue is that Committees might have a problem, but Committees work. As we agreed earlier, because of what we do, let us support this censure Motion and support the Senate because if you do not respond to the Senate summons---

(Loud consultations)

Madam Deputy Speaker, can you protect me?

The Deputy Speaker (Sen. (Prof.) Kamar): Order, Members!

Sen. (Dr.) Ali: These *tangatanga* people should---

The Deputy Speaker (Sen. (Prof.) Kamar): Order, Members! Allow him to speak. Senator, you have one last minute.

Sen. (Dr.) Ali: There is no need for people to make noise here because they know where we all came from. We are all part and parcel of these problems. From the first day that people were appointed, we were told that it was these ones. The second time, we were told that it was these ones. We have to follow the orders.

(Loud consultations)

You have no authority. Thank you, but no.

Madam Deputy Speaker, as has been mentioned by many people, this fuel increase affects all sectors. Next time, we might not be able to travel as Members of Parliament (MPs), forget about the public. We cannot travel. When I go to Wajir, I use over Kshs20,000 or 30,000. Now it will go to Kshs40,000 or Kshs50,000 for one only one way.

Thank you, Madam Deputy Speaker.

The Deputy Speaker (Sen. (Prof.) Kamar): (Sen. (Dr.) Musuruve.

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker, for giving me this opportunity to support the Motion by Sen. Orenge. It is really unthinkable and painful that the two CSs are implying that Senate is a toothless bulldog. It only barks, but cannot bite because it has no teeth. Their actions are contemptuous and have demeaned the Senate. It is unfortunate that they just decided not to appear. They did not even care to send representatives. It is unfortunate that they also defied the Constitution, which they are supposed to defend and uphold.

Madam Deputy Speaker, the President needs to know that the two CSs have let him down. We, as leaders, must defend the Constitution. Sen. Orenge took us through the Articles that are very pertinent when it comes to the role of the CSs. Article 153 states very clearly that they are supposed to periodically report to the Senate happenings within their jurisdictions.

Article 125 of the Constitution gives Senate power that can be equated to that of a Supreme Court. The Senate can summon anyone to appear before it.

(Loud consultations)

Madam Deputy Speaker, kindly protect me.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, please talk in low tones so that we can hear the Member.

Sen. (Dr.) Musuruve: Thank you, Madam Deputy Speaker. This Motion is very important because Articles of the Constitution are being flouted and there is nothing that we, as a Senate, are doing. There is need for the Senate to assert itself because Parliament has power to summon anyone to appear before it.

I am not sure whether we have a law that can compel these CSs who flout Articles of the Constitution to appear before this honourable House. Articles 125 and 153 obligate CSs to appear before the Senate and periodically report of what is happening within their jurisdictions. Therefore, when they are summoned by Parliament, they must appear because they are holding those positions on behalf of Kenyans. Kenyans must know what is going on within their jurisdictions.

Madam Deputy Speaker, we saw some Kenyans on Thika Super Highway demonstrating because of high fuel prices. They barricaded the road. They were sending message to Parliament to do something about the skyrocketing prices of fuel in this country.

There is need for the Senate to compel these CSs to appear before us. If they do not appear, I do not know whether we can sanction them. If there is no sanction, this means there is a lacuna in implementing some of these Articles of the Constitution. I hope we enact a law that can ensure CSs who abdicate their roles and refuse to appear before the Senate. If we have such a law in place, CSs cannot fail to appear before us. They will be compelled to appear before the Senate and National Assembly and answer these pertinent questions. They are purpose to ensure service delivery to Kenyans.

When President appointed them to the Cabinet, he expected them to help him serve Kenyans effectively. If they are not doing so, then they are letting him down.

Madam Deputy Speaker, I support this Motion and hope that the CSs will appear before the Senate. It should be a precedent to other CSs. Sometimes when you ask questions about the people we represent, some CSs just do a desk response. We do not need desk responses. We need investigations and empirical evidence brought to this House, so that whatever Statements we seek see the light of day. Kenyans are not happy with these high prices of fuel. We will continue representing Kenyans effectively.

Thank you for the opportunity.

The Deputy Speaker (Sen. (Prof.) Kamar): Sen. Sakaja.

Sen. Sakaja: Thank you, Madam Deputy Speaker. If you look at the wording of this Motion, the action that is required by the Senate is in two steps. The first one is the focus on the increase of fuel prices which have gone up inordinately high. The second one focuses on the CSs who failed to appear the Senate. I will make my remarks in that order.

I think that the first issue has been overstated. As I said yesterday, our work was not to join Kenyans in lamenting the increase. Kenyans know that the prices are inordinately high. The people I represent are suffering. That is the same with people that all of you represent. They are really suffering.

For us in Nairobi, it is even worse. Of late, we have a terrible approach to our traders and businesspeople. I do not want to call it overzealous. The Kenya Revenue Authority (KRA) is now collecting taxes in Nairobi City County. Some of the women and *mama mbogas* I talk to are bundled into city council vehicles because of not being able to pay Kshs50.

I have said this before. It is as if there is a war with the people. It is a terrible situation. Yesterday, when we were talking about the Disaster Risk Management Bill, I told you about how businesses are being closed because people have not paid for a fire licence of Kshs4,500, yet when you pay for it, all you are given is a document, not even the fire extinguisher. It is as if that certificate will help you prevent a fire.

Madam Deputy Speaker, there is a terrible approach towards the collection of levies and taxes to our people. It is as if there is a target that is not being met elsewhere. Historically, this fuel is at the highest level and what Kenyans expect from us is solutions. We must provide solutions and leadership. I believe that the Senate should be a bit creative on how it addresses this issue.

We have seen the National Assembly and the directions given yesterday. They have a Committee that is supposed to report within 14 days.

Our Committee on Energy should have been working in concert with the Committee of the National Assembly on this matter.

Standing Orders provide for Joint Sittings because there are some ideas that can come from the Senate that would be useful in this discussion. I heard Sen. Mutula Kilonzo Jnr. asking how many levies there are. The problem is that there are almost seven levies and two taxes on our fuel. On top of that, the one levy where there is leeway to cushion Kenyans is the Petroleum Development Levy.

That is where the answer on this question is. Between July 2020 and July 2021, Kshs14.6 billion has been collected. In July 14, 2021, there was supposed to be an increase by EPRA, but they did not do it. It was supposed to go from US\$ 0.7 to US\$1.2, but they cushioned because they said they could have used that fund.

We just need to amend that pricing formula and do two things: one, we need to do a thorough audit of that Petroleum Development Levy. The people I have spoken to suspect there is a hole in that levy and money that is not accounted for. This is because by now they should be able to come and tell our Committee how much has been collected since its introduction. Remember it was Kenya cents 40 and now it is Kshs5.40. In that period, I suspect close to Kshs40 to Kshs50 billion has been collected. That is the amount of money that would cushion.

We had something simple in the formula. We are known for dealing with formulas in this House. That the formula applies. However, if the cost goes above Kshs105 or Kshs110, then the Government subsidizes. It is as simple as that. That can be done because the amount is there.

Let them come and explain to us how much they have collected where it is and what it has been used for. I shudder at the thought that difference is, probably, being used for other things which is where the real investigation should be.

I do not know what else the Committee on Energy should be looking at while the law has provided for that. I can see Sen. Olekina is in agreement. Yes, it is the National Assembly that passed all those taxes, but even if we remove the component of the tax, that Kshs5.40 per litre by now should be able to cushion. We just add one rider to that formula that if and only if the total cost does not go above Kshs105 so that no matter what happens or how the cost of crude oil changes, if it goes above Kshs105, that levy cushions Kenyans and fuel will never go above Kshs105 or Kshs110.

I can see time has gone and I wanted to speak more on that. The second issue is on censure. It is disappointing. Sen. Orenge, I wish when you brought this Motion some of us on this side were willing to second so that it did not seem as if it was a minority Motion.

CSs must realize that when you come to this House, you are not coming to listen to Sen. Olekina and his issues but the people of Narok County, Siaya and Kenya. I am disappointed because as Chairperson of Committee we have had interaction and sat with the national Government Coordinating Committee. We agreed with them that when one is being called for various reasons, we can coordinate, but he must come. We will give you adequate notice so that we conduct our oversight.

These days it is like asking them to come to this House is asking for a favour. They look for a day when they are free. It is not a coffee date, but oversight according to the Constitution. If you are invited you must attend.

Many of them use the excuse that they had been called to State House. Before I came to this House, I worked at the National Treasury with the President. I remember that any time he was called to Parliament even if he was in State House, his boss former President Kibaki would tell him to first attend to Parliament because that is the priority. That is what these CSs should know and be doing and because they are answering to us. There is disdain and contempt of Parliament. I do not know whether it is being encouraged from where they sit, but we must put our foot down.

Today, I was having a very serious issue about former councilors, that all of you are concerned about. I told those CSs that some of us are having a hard time trying to defend them because we are in the party that forms the Government, but we cannot do it anymore. Finally, CS Chelugui and CS Wamalwa showed up, but CS Yatani was unable to show up again.

We have issued summons to the CS for National Treasury and Planning and he must appear in a week's time. If not, then those provisions of the Parliamentary Powers and Privileges Act shall apply. They must understand that we are not calling them because we are idle or have our own issues to address. It is on behalf of Kenyans whose sovereign power is exercised through us.

If it is not in your docket, you come to Parliament and say: "It is not in my docket, but this is the lead agency on that issue." You do not just decide to ignore and not show up when you have been invited to the Senate. I think that is wrong and they must be reprimanded.

This behaviour is not by all the CSs. In as much as we are mentioning the two, in my Committee - for those who have been Members - we have had a good time with a number of the CSs. Some of them always honour our invitation. For example, CSs Amb. Amina Mohamed, Joe Mucheru, Chelugui and Wamalwa. Even the Chief Administrative Secretaries (CASs) who are performing well from Tutu, Gaichuhie to Obure have been Members of Parliament. Those we must commend at the same time as we reprimand and express our disaffection and disappointment at the behaviour of the two.

I support.

Sen. Nyamunga: Thank you, Madam Deputy Speaker, for giving me this opportunity. First, I support this Motion which has been brought by Senate Minority Leader, Sen. Orengo. He has moved it and given us what it takes for us to deliberate on it.

All the Members of this House who have spoken have spoken to the real issues that concern the Motion, which is about the rogue CSs and secondly about the runaway cost of fuel and power.

We are living at a very difficult time where we deal with Members of Parliament who do not care about their people and do not know why they are in this House. We are in a blame game trying to blame each other instead of facing the problems that are facing this country.

We have a set of rogue CSs and some whom I hear are good. Last time I was talking to a CS who I do not want to name. I raised an issue with him, but the way he reacted was so irritating that I did not know what to do. Yet, it was a matter that was concerning the good of the people of Kenya.

If we do not work on the level of arrogance and pride that we display in this country, outside and inside Parliament, we are taking Kenyans for a ride. I think the problem is with Kenyans because they keep giving themselves wrong people. We cannot sit here and try to blame Government and you are part of it. We know very well that if you do not like a marriage you get out get another husband and work with him.

You cannot sit here to discredit and keep discrediting and blame- gaming and yet do nothing about it. From here you get into your vehicle, go to a petrol station and fill your vehicle without a problem. You then get into your house and pay your Bills without a problem. Yet, you go to the women and ask them for their vote and you know you are cheating them.

Madam Deputy Speaker, my "reggae" has been stopped by these two CSs. I had a very good project of distributing gas cookers to the women of Kisumu. It was a wonderful project because it was helping their health and that of children. It was also helping in preservation of our forests. At this time, it was giving these poor women a proper way of cooking and putting food before their children.

Every time I worked on this project, the increment was done every day until my “reggae” came to a stop.

When I went to the Ministry of Petroleum and Mining, I talked to the Principal Secretary (PS). At first, they had refused to allow me to see the PS because I did not have an appointment. I visited the PS five good times and made good drama there. I told them that I was not going there for a favour. I was going there to serve the people of Kisumu. Secondly, I had a very good project on poultry farming. Growing up, every woman had kept poultry. My mother never went to the market to buy chicken. It was given that every woman had chicken.

When my father took me to school, he told me that he was taking me to school so that I could have a better future. However, my future is not better if the future of the women in the village is not better. The ‘reggae’ of my project on poultry farming was brought to a stop because of the irregular supply of electricity. All machinery broke down due to high cost and irregularity on the supply of electricity.

Madam Deputy Speaker, as the leaders, we are misleading this country. We are riding on the energy of our poor people. I was at home over the weekend and had an opportunity to visit a very good friend of mine. On my way to visit my friend, I witnessed a woman struggle to deliver a child by the roadside. I had to cut my journey short and take the woman to the hospital. I accompanied her to the hospital and ensued that I accompanied her back to her home in Muhoroni.

When I took her back to her home, I was surprised to find that she had nothing in her house. She had three other children besides the one that she had just given birth to. Her husband is a sugarcane cutter and had not been paid for months. There was no food in the house for her who had delivered to eat. The poverty in that home painted the disparity of poverty that we have in this county. It is unfortunate that we continue to mislead our people and tell them that we are leading them. If that is the kind of poverty that many Kenyans face, we should not tell people that we are going to make their lives better when we contest for political positions.

When I joined politics, my intention was to make the lives of my people better; to better the lives of the women and youth. I want to ensure that their tomorrow would be better. However, that is not what I am seeing. We continue to mislead our people because the two CSs have displayed a high sense of impunity. We continue to see that kind of impunity all over this country; it is not only with the two CSs. The CSs learn from observing what their seniors do. If their seniors are abusing each other in streets, what would a CS do?

Madam Deputy Speaker, we are giving Kenyans a raw deal. What is happening in this country is wrong. We should be serious with the affairs of the people of Kenya.

I beg to support the Motion.

The Deputy Speaker (Sen. (Prof.) Kamar): Hon. Senators, I am informed that Sen. Murkmen’s card failed twice. I will, therefore, allow him to contribute from the Dispatch Box.

Sen. Murkomen: Madam Deputy Speaker, I thank you for giving me this opportunity. First, I thank Sen. Orengo for the boldness with which he moved this Motion. It takes the boldness of such a person to do so, especially in the ‘Handshake Government’ of the last four years. People have not been as bold as they used to be when there was an Opposition side in the country.

We are dealing with a very serious issue. This Motion has two parts. Part one of the Motion deals with the problem facing the country at the moment, the hike in fuel prices. The economy is struggling; the country is facing challenges of unemployment and high cost of living. Every time that the prices of fuel are increased, it not only affects the price of the fuel that we use directly but also indirectly affects all parts of the economy because the cost of transport for goods goes up. The cost of fuel has an impact on the cost of electricity. When we discuss the issue of increase in fuel prices, the problem with this sector is that it affects all the sectors of the economy.

Madam Deputy Speaker, we have come here to discuss and blame the CSs of the line Ministries. However, we must remember that this problem is not domained only in the Ministries of Petroleum and Mining and that of Energy. This is a problem that is in every part and sector of the Executive. It is a problem that should have been discussed by a Cabinet which has not been meeting for over eight months now.

This is a problem that should have made the President of the Republic of Kenya to call more than four Cabinet meetings in a week. Sen. Mutula Kilonzo Jnr. quoted President Harry Truman of the United States of America (USA) who used to have a plaque on his table which was written on one side, 'I come from Missouri' and on the other side of that plate, it was written, 'the buck stops here'. That plaque was a gift from a friend. When President Harry Truman was retiring, in this farewell speech to the people of America, he said, 'The President, whoever he is, has to decide. He cannot pass the buck to anybody. No one else can do the deciding for him because that is his job'

Madam Deputy Speaker, it is unfortunate that the Senate is passing the buck to CSs will then come here and pass the buck to Parliament; the National Assembly or the Senate. However, the problem starts and stops with the Office of the President. What is the position of Government? What is the position of the Executive on the issue of fuel prices?

It is not rocket science. Neither is it hidden in this country that the National Treasury, where the resources are domained or situated, has a responsibility on the question of fuel prices and not CSs, hon. Keter and hon. Munyes. As a matter of fact, Sen. Sakaja has captured it so well. There is a stabilization fund which is established under the Petroleum Development Levy which is collected from the taxes that come from fuel. That information is in the public domain. It is the responsibility of the Chairperson of the Committee to bring that information to the fore and table a report in this House.

It is surprising that a total of Kshs35 billion from the stabilization fund cannot be traced because the Government of Kenya led by the President and his Cabinet have diverted the money which would have been used to stabilize the prices of fuel to other sectors. The money has been used to fund monuments in terms of projects that are supposed to be a signature for personal pride and ego

Madam Deputy Speaker, for the last four years, there have been projects that have been implemented in Kenya which have not gone through any procurement process. Our procurement processes have been shortchanged by using the military so that the projects are run at night. The President goes out to even supervise the projects at night. There are too many concrete buildings across the country at the expense of the economy of this country. That is the real discussion that we should be having as the people of Kenya.

[The Deputy Speaker (Sen. (Prof.) Kamar) left the Chair]

[The Temporary Speaker (Sen. (Dr.) Lelegwe) in the Chair]

We must ask ourselves what the position of the President is on the question of fuel prices. We cannot ask Hon. Keter or Hon. Munyes about the increase in price of fuel because those are small people. The problem is bigger than that. We have an economy and a country that is being run like a *Jua Kali*. How do you explain that a nation has never had a Cabinet meeting for over eight months? What kind of a country is that? Since the beginning of the year, the Cabinet of Kenya has never met to decide or pass anything.

Mr. Temporary Speaker, Sir, Sen. Wako was the Attorney-General of Kenya in the days of Moi. Although it is said that President Moi was a dictator, nothing like that has ever happened; where the Cabinet does not meet. Sen. Sakaja has told us that President Uhuru, who was a Minister in the Kibaki Government, always narrated how President Kibaki would instruct his ministers to go and answer questions in Parliament first before they go to see him in State House. How come President Uhuru did not learn something from President Mwai Kibaki? Why is President Uhuru not sending his CSs to this House to answer questions? Why does he not want to send his Cabinet Secretaries to this House to answer questions?

It is a pity because Hon. Keter and Hon. Munyes were in this House. They should know that when this House invites you, you should come without waiting for summons. They should know that they have a responsibility under Article 153 of the Constitution to appear before this House.

Be it as it may, I will not say that they are the worst of the sinners. The Cabinet Secretary for Interior and Coordination of National Government has never come here. We have invited him on the matter of people being killed but he has never come. Cabinet Secretary, Hon. Mucheru, has been invited by this House on ICT matters but he has never come.

The contempt with which the Executive treats this House is not a matter of one or two Cabinet Secretaries. It is a collective decision of the Executive. Therefore, we need to ensure that this House takes the Government to task. We should know where the Kshs35 billion went and the decision of the President.

I am not going to listen to a Cabinet Secretary who perhaps has never met the President for the past six or seven months. I want to know the position of the President and the Government of Kenya on the question of fuel prices. That is what we want this House to deliver on.

The last thing I want to talk about is that if we want to move forward as a House, we should not be debating such an important matter when the Senate Majority Leader is not here while the Deputy Senate Majority Leader has run away. The Majority Whip is ever absent and his deputy has also run away. The Chairperson of the Committee has also run away because they cannot stand any phone calls. The Speaker who knows there is contempt against him must also do something.

We decided to auction this House long time ago when we put people like Sen. Olekina under pressure. We also removed other people from being chairpersons of committees in this House. We thought that there would be serious oversight if some of the chairpersons came from the minority side.

Sen. Outa ran away. He cannot even call the Cabinet Secretary for Interior and Coordination of National Government. His counterpart from Kisumu, who is Sen. Nyamunga, is also complaining. She is forgetting that they are now part of the Executive.

There is a problem in this country because of the whole governance model that we adopted since we had the “Handshake”. If we funded projects using, for example, billions of shillings that were set aside for the futile Building Bridges Initiative (BBI) exercise and if the actions of Government were strict---

I hope the former Prime Minister does not think that we will forget that he mobilised his Members of Parliament (MPs) to go and pass the Bill that required people to pay high taxes. He held a Parliamentary Group (PG) meeting to make sure that his MPs pay high taxes. We know that it was Hon. Gladys Wanga who was in the Finance Committee in the National Assembly. Therefore, we will not listen to anybody from the minority side passing the buck.

We also do not want anybody to start blaming us. You were here when Sen. (Prof.) Kindiki was being removed. You were here cheering when we were being removed from office. So, do not say that the buck stops with those in the United Democratic Alliance (UDA) or whatever party. You should carry your cross. The “Handshake” government must be accountable to the people of Kenya for the things they have been doing for the past four years.

I support.

Sen. Olekina: Mr. Temporary Speaker, Sir, I rise to support this Motion on the two people that have been named. I will try to be very brief.

I will begin by following the trajectory of the Senate Minority Leader, Sen. Orenge. I will begin by giving Kenyans a history of how many Cabinet Secretaries or Ministers have been censured in this country.

In the history of this country since Independence, we have had nine censure Motions. Two were against the President and seven against Cabinet Secretaries or Ministers. Two of them successfully resulted in resignation. One was way back in 1966 when the then Minister for Cooperatives, Paul Ngei, was censured and he resigned. He remained outside office until sometime in 1966 when the President pardoned him.

The second one is the current Majority Leader in the National Assembly who was censured and was forced out even after he resisted for a very long time because of questionable transactions involving the Grand Regency Hotel.

This House must begin using the tool of censuring. Even though censure does not necessarily mean resignation, I want to remind Cabinet Secretaries who turned to be fugitives of accountability that this will remain in their records forever. As a House, we need to begin sabotaging the work of the two Cabinet Secretaries.

Yesterday when I heard the Cabinet Secretary for Energy saying that he was invited on a matter that does not relate to him, I wondered if they have ever gone to school. The two Acts they fought so hard to pass will haunt this nation forever. They are the Energy Act and the Petroleum Act.

The Energy Act provides for the Energy and Petroleum Regulatory Authority (EPRA). It states the composition of the membership of the EPRA Board. Hon. Keter fought so hard to take away the EPRA from the Ministry of Petroleum and Mining. The second function of the authority is importation, refining, exportation, transportation, storage and sale of petroleum and petroleum products with the exception of crude oil.

When you go further and look at the composition of the Board of the EPRA, the Cabinet Secretary for Energy is represented. It is provided that on 14th of every month, the Authority will publish new prices of petroleum and he is the one who supervises it. That is in the Act. I would like to invite this fugitive of accountability to read the law.

The character of the two individuals makes me surprised. There was a time we had very powerful Ministers like James Orenge who sat in Parliament and were accountable to the people because they used to be asked questions. I long for that time. I hoped that when I became a Senator or leader in this country, Cabinet Secretaries would be here to account to the people.

Cabinet Secretaries must subscribe to the code or convention of accountability. When a Cabinet Secretary is invited to Parliament, they are not only accounting to the MPs here but also to the public. Cabinet Secretaries have made it so difficult not only for the public but also MPs to access their offices. In fact, they run those offices as if they are small kingdoms.

Mr. Temporary Speaker, Sir, I said very clearly and I want to repeat that these two characters are fugitives of accountability and embodiment of Executive arrogance and this must come to an end. I want to remind them that we have seen very powerful people coming down. When you are up there, you have to be very careful not to allow pride to bring you down.

I would like to move to another issue because my time is ending.

We have a very serious problem and this is a problem that we are being invited as a House to look at. Why do we have this problem in the first place? We are in this problem because of greed. That is issue number one.

This Government now subscribes to the open tender system when it comes to the importation of petroleum products into this country. This is why we need to investigate because the big players like Total Petroleum and Shell have not imported any petroleum products into this country in the last two years. What normally happens is this: In every two months, all oil marketers put in their focus demand. Two, is the Ministry of Petroleum. When all of this is added up together, they are invited by the Supply Coordination Desk to bid.

There is a standard just like when you go to a bank to borrow a loan, where there is the Central Bank rate. There is something called the Plat rate. Most of these businesses that are now importing petroleum products into this country normally bid Plat plus either \$1 or \$2 assuming it is \$600 to be able to import a barrel. So they say \$600 that is the Plat rate which is internationally accepted, then they add \$1 on top.

What has been happening is that, because of corruption and interest, there is no one who can be able to supply 400 metric tonnes of into this country. It is divided into what they call K1 and K2.

In the last two years, the oil marketers who have been importing petroleum are small players. Very small people. This was the ingenuity of the corrupt people in the Ministry of Petroleum and Mining to deny the National Oil Corporation (NOC) an opportunity to import oil. The NOC was going out there to negotiate either in Qatar, Libya or Saudi Arabia and they would be able to bring it for a Plat less, maybe even \$2 less, which would help this country.

Mr. Temporary Speaker, Sir, what is happening right now is that since NOC was denied the opportunity to import any oil, which was guaranteed by Legal Notice 96 that

allowed them to reserve 30 percent of all the petroleum imports into this country into NOC. Since it was going to be more accountable than these small businesses and the people in the Ministry of Petroleum and Mining would not get an opportunity to get kickbacks, they are making it very difficult such that now these small players are the ones who are importing 100 percent of all the petroleum, which is coming into this country.

Sometimes it is very embarrassing because even though you have all this information, the more you ask questions the more you are messing with big people in this country.

I hope that our committee will look into this so that we can stop this nonsense where we are destroying this economy. What we need to do is to remember that as leaders we should not be here if we cannot be able to defend the people on the ground.

These two fugitives of accountability should know that Article 226(5) of the Constitution of Kenya will go after you. When they look for an opportunity, they will never be elected. Kenyans---

The Temporary Speaker (Sen. Lelegwe): Your time is up.

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

I want to congratulate Sen. Orenge for bringing this Motion at this particular time. He has fulfilled what the Bible says in the book of James Chapter 4 Verse 17 and I want to quote:

“If anyone then knows the good they ought to do and does not do it, it is a sin before God.”

You have known the wrong that is going round in our country and you have tried your best to bring it forth to all of us.

I support this Motion greatly though I have some reservations concerning a few things that I want to mention. First, I want to say that the silence of the Executive and particularly the silence of the President and his: “Handshake” partner is so loud in this matter.

Perhaps we are pinning down some few fellows as sacrificial lambs. Why are they silent at this particular moment when in the midst of COVID-19, the price of fuel is skyrocketing? People are suffering.

This will lead to the worst crisis we have ever had. Eventually the prices of food will go up. The President and his handshake partner are so silent. Their silence is so loud.

They are so insensitive and I want to equate it to the time of the French Revolution when Queen Marie Antoinette was so insensitive to the feelings of the people to the point that she was suggesting that they should eat cakes that were more expensive than bread, which was lacking.

Why is the Executive so silent to the suffering hustlers? Why is the President so silent? The President should come out so loudly and save Kenyans. He is aware of the problem but he is quiet in State House when people are suffering. There are so many Kenyans at this point in time who cannot travel in search of their daily bread or take their children to school.

There is another problem in the Ministry of Education. The CBC is becoming so expensive and very difficult to handle. I want to say that the President should come loud on this. He should say something about the suffering of Kenyans. Why is the Executive,

particularly the President, and his “Handshake” partner so silent when Kenyans are suffering?

I support this Motion.

Sen. (Eng.) Mahamud: Mr. Temporary Speaker, Sir, let me also join my colleagues in thanking our colleague from Siaya for bringing this very important censure Motion.

The issue before us is very serious and is affecting Kenyans of all walks of life. The two Cabinet Secretaries were rightfully invited by a House of Parliament according to Article 153 of the Constitution. There is no reason why they should not honor that invitation.

The two Cabinet Secretaries being former Members of Parliament, both in the National Assembly and the Senate, should have known better, more than anybody else.

Cabinet Secretaries have a lot of contempt for Parliament but they will actually invite themselves to Parliament when they so wish. A case in point is when the CS for Interior and Coordination of National Government invited himself to the Committee on Security in the National Assembly to discuss the withdrawal of security agents for the Deputy President. He invited himself to the committee so that he could answer questions that he had framed.

Therefore, when they want to come to Parliament, they come; when they do not want, they do not come. It is serious that Kenyans today are bleeding because of bad policies. First, we have got the problem of COVID-19 which is actually ravaging this country. COVID-19 has been badly managed because the way things are going, to date, less than 3 percent of Kenyans have been vaccinated. Funds meant for COVID-19 were stolen.

Mr. Temporary Speaker, Sir, in fact, we have been hearing that it is something that has been exacerbated by the people who are in power. Today we have the fuel crisis. We also have the crisis of bad governance in the sense that Government is not coordinated.

The Executive is not able to respond to the needs of the people who are represented by parliamentarians. The Executive is also involved in very bad politics. This is confusing Kenyans who are really suffering. There is no way Parliament should sit back and watch.

Mr. Temporary Speaker, Sir, tomorrow, we are going to have another Committee of the Whole. I think that the Cabinet Secretary (CS) will not be here on the issue of Laikipia. This is going to be the same thing for us. It is time we acted with the full force of the Constitution that we have.

This censure is a significant Motion in the history of this Senate. Of course, other censure Motions have taken place before in the preceding parliaments. However, this particular one in this Senate is the first one. We should take it further that the Executive must be brought to account to the people represented by the Houses of Parliament.

Mr. Temporary Speaker, Sir, the Houses of Parliament have been captured by the Executive. It is where we have kept ourselves. It is time we woke up so that issues affecting Kenyans are dealt with properly.

With regard to fuel pricing, as mentioned by a colleague earlier, the open tender system itself is a big cartel. Having worked in that Ministry at one time as the Assistant Minister, I know that the system of importing fuel is actually managed by cartels. The

pricing system itself is very shoddy. The reason the Energy and Petroleum Regulatory Authority (EPRA) is doing what it is doing, is to manipulate the system so that people benefit from it.

Mr. Temporary Speaker, Sir, today, there are more oil marketers than the big companies that are there. Every other Kenyan is an oil marketer. Small briefcase careers are marketers. In fact, much as Kenyans should go into businesses, I think it is affecting the way this business is being handled. Our Committee on Energy must deal with this matter, so that we know the root cause.

For the time being, there is no reason for fuel prices to increase locally while internationally, they have not increased. There must be a stoppage to the implementation of what was done last week in the fuel price increase. We should do whatever we can so that it can be suspended.

Mr. Temporary Speaker, Sir, the two CSs are actually doing the same as the others who were there. A few of them are good. This contempt must stop, so that the CSs respond to the people's representatives.

This Senate will be what it is, the way it takes to what it does for itself. If we do not put our feet down and become serious, people will not take us seriously. Parliament has been overtaken by the Executive and we must resist. The hue and cry by Kenyans - even some have gone to court - is about fuel prices. Kenyans are not being heard by the Executive. The Executive must also come out and say what they feel about this.

Mr. Temporary Speaker, Sir, with those many remarks, I support. It must be an example, so that it can be a deterrent to others who are going to behave the same. The CSs should take notice that they must comply with summons and invitations by Parliament, so that these matters are dealt with.

With those remarks, I beg to support.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Cheruiyot, proceed.

Sen. Cheruiyot: Thank you, Mr. Temporary Speaker, Sir, for giving me this chance to add my voice to this important Motion brought by the Senate Minority Leader, Sen. Orengo. With a lot of respect and admiration, this son of Kericho, but now serving the people of Siaya as their Senator, has done us proud one more time as he has done many times throughout his career in Parliament.

It is not just a simple act of courage. I know the season we are in; we are officially in the silly season, where even to do the right thing sometimes requires to be assessed through the political lenses in this country. Therefore, on such an occasion, it would have been easy for him to sit easy and say, 'does it appear like it will offend so and so.'

Mr. Temporary Speaker, Sir, that is forgetting that primarily the reason we are in this House is because millions of poor people woke up very early in the morning to go and queue and send us to this House as their representatives. That is so that anytime when they have challenges such as this issue, we can rise up and speak on their behalf. No other consideration should be put or made before deciding on that very sacred duty.

Therefore, it is an act of courage and honour by colleagues, who have decided to take up this challenge and speak up to this issue. It is a dicey matter and something that has irked the heart and soul of this Republic. As the representatives of the people, we will be remiss if we just allowed it to pass under the carpet and say that we will invite the CS to come before our Committee and do the following.

Mr. Temporary Speaker, Sir, this Motion is in two parts. First, it focuses on the two CSs that were invited before this House. I do not want to spend a lot of time on them. I only had very few questions for these CSs. When I was told that the CS for the Ministry and Petroleum was coming, the first question that I wanted to ask our former colleague, Sen. Munyes, is: What is the price of petrol?

Chances are high that because these people drive fuel guzzlers that are fuelled by the people of Kenya, they have even lost touch with reality to know. I would not be shocked if CS, Hon. Munyes, does not know how much Kenyans are complaining about. This is because when he goes home to Turkana, chances are there will be a Government of Kenya vehicle waiting for him at the airport if he comes back to Nairobi. I see those cars at Wilson Airport every now and then, until people lose touch with reality. They forget that there are Kenyans, who any change on the price of their monthly budget---

There are people who earn Kshs5,000 or Kshs10,000. Therefore, any increase even of Kshs200 on their livelihoods or monthly overheads in the house, means that either they have to skip a meal, negotiate with their landlords or walk to work. Then you invite people and they just have the luxury to tell you, 'I am out of the country on official duty.' What duty is more official than coming to Parliament to respond to the people of Kenya when they ask you what you are doing about this? Therefore, I support this move wholeheartedly.

However, the bigger challenge and question that we need to be asking this afternoon is because the people of Kenya will turn back to us and say, 'yes, we may have heard of Hon. Munyes and we know Hon. Keter, but those are not the people that we elected. The person that we elected to take care of this Republic is President Uhuru Kenyatta.'

As a time such as this when the whole nation is up in arms speaking about this issue of fuel, he knows very well that the economy is being ravaged by the effects of Coronavirus disease (COVID-19) and general mismanagement of this economy under his leadership. He should at least have spoken. Say something and assure people that your Government is reviewing downwards because, first, it is within his power.

Mr. Temporary Speaker, Sir, secondly, even we, as Parliament, and I have listened about this whole debate either we are guilty or not so guilty about it--- However, the truth of the matter is that we need to get deep down of this issue once we have settled the issue of CSs appearing before this House.

Many of our colleagues have spoken about something, and I wish Sen. Sakaja was here. He mentioned the Petroleum Development Levy (PDL), but the figures he gave are not accurate. I have it on firm authority that PDL for the last ten months alone is Kshs35 billion. That money for the last two months has not been released to EPRA for them to stabilise the price of petrol, as was the true intention when we passed that legislation.

Mr. Temporary Speaker, Sir, we need, and I agree with Sen. Wako when he spoke--- I hope that Members of this Committee, who are here--- When the two CSs come, you must still invite the CS for Finance Hon. Ukur Yatani and question him about the PDL. Why has it not been released to EPRA? If that money has been used to pay debt, like every other money that is available right now, let it be known.

The truth of the matter is that when we came up with all these forms of levies, we expected that a responsible administration will take that amount of money and use it for the intention that it was meant for.

Unfortunately, you know the sad thing that we have come to realise about this administration is that when it comes to handling money, they are worse than a teenager addicted to gambling. They cannot spare it for more than a day. It is unfortunate, it is shameful, but we must say it as it is. I appreciate the work that we are doing.

Mr. Temporary Speaker, Sir, I spoke here yesterday and said we must address the cost of power. It is not just about power, my colleague, Senators. This is about the livelihoods of Kenyans. The minute you increase power, it means you increase virtually every cost of the basic goods that are available to the citizens. It means even the cost of power itself and true to itself Kenya Power and Lighting Company (KPLC) has already issued a notice. They are always quick issuing these notices.

This speaks to the issue of unemployment. The reason why businesses can no longer set up in Kenya is because it is extremely impossible to set up any industry in this republic as compared to the rest of the countries in the region. It is simply because of the cost of power. That is why when we spoke on that day, the reason why we are also looking for the Cabinet Secretary (CS) for the Ministry of Energy and Petroleum to come and answer is because of the cost of power.

Mr. Temporary Speaker, Sir, it has hit the roofs. Many people who used to pay bills of even Kshs1,000 are now paying it in tens of thousands. How do you expect ordinary citizens to adapt to these things? We are told despite paying all these bills that KPLC is in the red. The last financial year they made a pre-tax loss of Kshs7 billion. Who is he that is munching this amount of money? The KPLC is Government-owned. Of course, there are private shareholders but we must get down to the detail.

In fact, I want to propose that when Members of the Committee on Energy have a session to interview people from KPLC, let them bring to the public the power purchase agreements that have been signed. This is so that Kenyans know who these people who are overcharging us for their power are.

Mr. Temporary Speaker, Sir, the law of contract is simple. It cannot force you to be in contract with someone who is not meeting their end of the bargain. If you find the cost of power according to these power purchase agreements from the independent power producers are extremely expensive, I believe as a people, we are at luxury to terminate them. Therefore, let them be brought before us. We know and Members of this Committee know.

I say this because I used to serve in the Committee on Energy. We had asked these questions and pushed KPLC to a point where they were almost divulging this information. However, since I left that Committee I have not seen that matter being brought to light. Kenyans deserve to know who these independent power producers are.

Mr. Temporary Speaker, Sir, why are they are so special that even when we have geothermal generated power that is cheaper, cleaner and lean, we are not supposed to purchase before we first complete purchases from these independent power producers? We need to know who these people are and how powerful they are. We need to look at them. Those documents need to be tabled before the people of the Republic of Kenya through their representatives in this House.

Therefore, I agree with my colleagues that have said let us not lose sight of the reason why we are here. The reason why we are here is to first, express our displeasure at the conduct of these two CSs. Most importantly is to address this issue on the cost of power and fuel.

Mr. Temporary Speaker, Sir, I hope our colleagues and I think this is something that maybe we should have included in the Motion, that within the next 14 days or even less, our Committee on Energy should come back to this House with their findings. This is so that we support them and ensure that eventually we bring down the cost of fuel and power in this country to levels that are bearable for citizens.

Thank you.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Faki, proceed.

Sen. Faki: Asante, Bw. Spika wa Muda, kwa kunipa fursa hii kuchangia Hoja hii wa lalama dhidi ya Waziri wa Kawi Mhe. Keter na Waziri wa Mafuta Mhe. Munyes. Kwanza nampongeza kiongozi wangu wa wachache katika Bunge hili kwa kuweza kuleta Hoja hii katika Seneti. Hoja hii ingeletwa na Seneta yeyote katika Bunge hili lakini Sen. Orenge kwa imani yake kwa Bunge hili na kwa wananchi wa Kenya waliomchagua, aliona kwamba alete Hoja hii ili kuweka wazi kuwa sisi bado tuko na jukumu letu la kutekeleza kama wachache katika Bunge hili.

Wengi waliotangulia wamejaribu kulaumu mapatano baina ya Rais Uhuru Kenyatta na Mhe. Raila Odinga. Lakini Hoja kama hii hausiani na majukumu ya waliowengi na waliowachahe katika Bunge hili. Mbunge ama Seneta yeyote alikuwa na uwezo na fursa ya kuleta Hoja hii katika Seneti na ingejadiliwa vilivyo.

Bw. Spika wa Muda, mengi yamezungumzwa kuhusiana na utovu wa nidhamu wa Mawaziri hao kwa kupuuzwa kikao cha Bunge ambacho kilikuwa kimeitwa rasmi na mwongozo wa Spika ambao aliutoa wiki iliyopita. Yamezungumzwa kwamba ipo haja ya mawaziri hawa kulaumiwa kwa kukosa kuja katika kikao cha Bunge ambacho kilikuwa kimeitwa hususan kujadili kuongezeka kwa bei ya kawi ya mafuta ya petroli, taa na dizeli katika nchi yetu ya Kenya.

Nimejaribu kuangalia zile kanuni ambazo zinaipa Energy and Petroleum Regulatory Authority (EPRA) uwezo wa kuamua kuongeza bei ya mafuta kila tarehe 15 ya mwezi. Nimeona kwamba kanuni hizo za kwanza zilichapishwa mnamo tarehe tatu mwezi wa kumi na mbili, 2010. Kulingana na sheria ya Statutory Instruments Act kanuni zinafaa kuwa na muhula wa miaka kumi. Inapofika miaka kumi kanuni zile huwa zinekuwa zimepitwa na wakati na haziwezi kutumika tena kama sheria katika nchi yetu.

Bw. Spika wa Muda, kwa hivyo ipo haja ya Waziri atakapokuwa ameitwa rasmi kuja kueleza ni lini mara ya mwisho walipoweza kufanya ukarabati wa kanuni hizi ili ziwe zinaambatana na sheria.

Jambo la pili ni kuwa KPLC imekuwa ikiritimba kwa muda wa zaidi ya nusu karne. Kwa sababu uhuru ikipatikana tulikuwa tuna shikira la East African Power and Lighting Company (EAPLC). Baadaye EAPLC ilipoondolewa tulipotoka katika Jumuiya ya Afrika Mashariki ikaja KPLC. Kwa muda mrefu, shirika hili lilikuwa linapata faida kubwa kwa kuuza kawi katika Kenya. Vile vile lilikuwa liko katika soko la hisa la Nairobi Securities Exchange (NSE).

Bw. Spika wa Muda, ni masikitiko kuwa pesa za wale wanaostaafu katika mashirika tofauti zilikuwa pia zimewekezwa katika shirika hili. Iwapo shirika litaanguka hivyo basi wengi watapoteza rasilimali zao ambazo walikuwa wametarajia kutumia wakati wa kustaafu.

Kuhusiana na swala la KPLC, ipo haja ya kuwekwa kwa tume ya uchunguzi ili kuweza kuchunguza ni kwa nini shirika hili ambalo miaka michache ya nyuma ilikuwa linapata faida kubwa kwa sasa linakuwa katika hali mahututi. Haliwezi kulipa madeni na

wafanyikazi wanakataa kufanya kazi na wanafanya mgomo. Ni hali ambayo ni shirika ambalo halina mpinzani katika uuzaji wa kawi katika nchi yetu ya Kenya.

Bw. Spika wa Muda, tunapoangalia swala la kuongezeka kwa bei ya kawi, lazima tuangalie utendakazi wa KPLC shirika la umeme nchini. Vile vile tume ya uchunguzi iwezekupewa fursa kuangalia ni vipi ilitokea kwamba shirika ambalo halina mpinzani katika biashara, lilikuwa linapata faida kubwa kwa muda wa miaka michache limeweza kuanguka na liwe haina faida yeyote linapatikana.

Kwa kumalizia, hizi kanuni ambazo zinatayarishwa na EPRA yanafaa kuwa ni mwongozo wa zile bei. Mara kwa mara lazima Waziri ashauriane na EPRA ili kuweza kuamua ni bei gani ambazo zinafaa kulipishwa wananchi. Kama ilivyotambulika ni kuwa sheria yote ama kanuni zozote ambazo zinatungwa katika nchi yetu lazina zipitie ile tunaita ushiriki wa umma ama mashauriano ya wadau.

Bw. Spika wa Muda, swali la kuuliza ni je Waziri wanapotangaza hizi nyongeza kila tarehe 15, wameweza kufanya ushauriano na wananchi ama mashirika yale ambayo yanahusika na bei za petroli katika nchi yetu ya Kenya na matumizi ya petroli hiyo?

Naunga mkono Mswada huu. Hili liwe funzo kwa Mawaziri ambao wanapuza mwito wa Seneti. Ni lazima hatua kali lichukuliwe. Asante kwa kunipa fursa hii.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Gona, proceed.

Sen. Zawadi: Asante, Bw. Spika wa Muda kwa kunipa nafasi hii. Pia nimesimama kuunga mkono Hoja hii ya kuwashtumu Mawaziri wawili ambao ni Waziri wa Kawi na mwezake Waziri wa Madini na Mafuta.

Sen. Orenge akizumguza alitaja vifungu vingi vya Katiba lakini kuna kimoja ambacho nataka kuzungumza juu yake. Kuna kifungu ambacho kinaipa Bunge mamlaka sawa na Mahakama Kuu. Kwa hivyo, Bunge lina nguvu sawia na Mahakama Kuu. Lakini najiuliza akilini kama ni kweli Bunge ni sawa na Mahakama Kuu. Kama Bunge lingekuwa na nguvu na mamlaka sawa na Mahakama Kuu, basi wale Mawaziri wawili wangukuja jana hapa. Lakini mbona hawakuja? Ni kwa sababu kuna hitilafu ama kasoro fulani ambayo iko katika Bunge letu. Kuna baadhi ya mambo ambayo yangefanywa ile Bunge letu liwe na mamlaka na nguvu sawa na Mahakama Kuu.

Sen. Wetangula amezungumzia akasema iweje bandari tuko nayo sisi hapa Mombasa kama Wakenya lakini Sudan na Uganda wawe wanapata mafuta kwa bei ya chini na sisi tununue kwa bei ghali. Utashangaa kujua bei ya mafuta Nairobi ni afadhali kuliko Mombasa. Kwa nini basi? Kuna vitu ambazo zinafanyika ambayo sisi kama Wabunge hatuvijui.

Bw. Spika wa Muda, juzi nimekuwa mazishini na watu waliniuliza kama Seneta niwaambie mbona bei ya mafuta yamepanda. Mimi sikuwa na jibu ila wale Mawaziri waje hapa watujibu maswali haya? Mimi siwezi nikamuita Mhe. Rais hapa nimuulize maswali haya. Amewateua Mawaziri ambao wanaweza kujibu maswali haya ambayo yanaambatana na maisha ya kila siku.

Mafuta yanaguza mwananchi moja kwa moja. Hapo nyuma tulizungumzia masuala ya Waziri wa Kilimo, Mifugo na Uvuvi wakati wa nzige. Alitupeleka huku na kule bila suluhisho lolote.

Vile vile Waziri ya Afya ambaye Wizara yake inahuzu maisha yetu. Tukasumbuka sana wakati ugonjwa huu wa korona ulipoanza kuingia tukapata shida sana na huyo Waziri. Tukaanza kumsikia sana kwa vyombo vya habari wakati ugonjwa huo

uliendelea kuenea. Je, kinga na tiba afadhali nini? Hayo yote yanafanyika na Bunge bado liko hapa hapa. Bado tunasema tukisema na sisi tunabweka tu lakini hatuwezi kuuma.

Jambo hili la mafuta linamguza mwananchi moja kwa moja. Hivi sasa kama alikuwa akipanda bodaboda kwenda mwendo wa shilingi hamsini, imekuwa mia au mia na hamsini ama hata mia mbili. Huyu ni yule mchochole wa chini kabisa ambaye hana kitu. Kama ni kupanda gari matatu, mahali ambapo ulikuwa ukienda kwa shilingi ishirini ama thelathini imepanda imekuwa bei ya juu.

Je, tunamsaidia mwananchi ama tunamdidimiza? Hawa viongozi tuliwaeka ili waangalie mwananchi anapata afueni ama tuliwaweka wachukue lile tone la damu lilibakia walifinyange walimalize? Sasa mimi kama kama Seneta sina majibu lakini hawa Mawaziri wanamajibu ya maswali haya. Wananchi wanajua hakuchagua Waziri. Mwananchi amechagua Maseneta, Wabunge na Mhe. Rais. Sisi ndio yule mwananchi anatuuliza maswali. Yale maswali sasa hatuwezi kuyajibu mpaka hawa mabwana.

Sasa mimi pendekezo langu maanake sitakuwa mwingi wa maneno mengi yamezungumziwa, lakini nataka kugusia jambo moja. Tulizungumzia hapo nyuma tukasema misitu isikatwe maanake inaharibu maingira. Hilo nakubaliana nalo. Lakini kwa kufanya vile, tulitoa njia mwafaka nyingine kwamba wanaweza kutumia gesi, mafuta au umeme.

Je, wakati huu umeme na gesi zimepanda, huyu mwananchi wa kawaida tulikuwa tumepanga apike na nini? Kama makaa kupatikana ni shida tulisema ikatizwe. Labda ile ya kutengeneza yako ghali. Saa hii ukipata mkebe mmoja wa makaa, nyinyi ni vile hampiki na makaa, mngekuwa mashahidi wangu. Makaa yako ghali sana. Watu sasa wameona njia ambayo wanawezaitumia ni njia ya kuweka umeme ili watumie gesi. Haya gesi yatumika.

Watu wa umeme wenyewe wanashida. Ikiwa moto yenyewe kuipata ilikuwa wengine wanapimiwa hewa. Yaani masaa matatu mwafunguliwa na masaa mengine mshazimiwa. Kama unabiashara, una jokofu na samaki kama kule kweti wanamalizika kuoza. Hayo hayakutosha. Wapewa bili ambayo hujui ilitoka wapi. Unalipa kila mwezi---

The Temporary Speaker (Sen. (Dr.) Lelegwe): What is it, Sen. Sakaja?

Sen. Sakaja: Asante sana, Bw. Spika wa Muda. Ningependa kumuarifu Sen. Gona na sijafurahia kwa sababu nimemkatiza. Alikuwa anaenda vizuri sana kwa mwendo wa asteaste. Lakini ningependa kumjulisha kwa sababu amesema labda hatujui bei ya makaa na labda gesi imepanda. Kweli gesi ilipanda na Kshs350. Ndio maana tunakubaliana kwamba akina mama ndio wanapika wanaumia sana. Ni ile kumfamisha kwamba bei ya gesi imepanda kwa Kshs350. Pia makaa imepanda kwa sababu kukata miti ilipigwa marufuku. Kila mbinu ya kupika imepanda.

Sen. Zawadi: Asante kwa kukubaliana na mimi. Kweli bei ya vitu vimepanda na kama mna ufahamu huo nashukuru.

Hawa mabwana tunawazungumzia hapa, wao mafuta hununuliwa hata hawajui inauzwa bei gani. Sisi ndio tunapiga kelele tunasema mafuta imepanda lakini wao hawajui. Hivi ving'ora sisi Wabunge ambao tunawakilisha wananchi haturuhusiwi kwenda na kusindikizwa na askari. Lakini huyu ambaye hakuchaguliwa anakibendera akipeperusha. Anapeperushia nani bendera hii barabarani na hana jukumu lolote na mwananchi. Mamlaka yote wamepewa wao.

Juzi tumeenda Mombasa na Kamati ya Barabara na Ujenzi. Tukifika kule tumesubiri Waziri na ujue tumetumia pesa za Serikali kutufikisha sisi kule. Tumefika,

hakutuma mtu yeyote na hakuna barua wala lolote. Yeye mwenyewe hakuja na ni mawaziri hao.

Bw. Spika wa Muda, sasa sisi hatuna mamlaka ya kuwatoa makazini lakini Bunge la Kitaifa liko na mamlaka hayo. Jamani kama umemuoa mwanamke na hazai, wakati wa kuzaa unang'ang'ana na anazaa mtoto wa kufa maanake hataki kusikia uchungu. Maanake uchungu wa kuzaa ukiambiwa usukume ama "push" kwa Kiingereza, hiyo kusukuma sio rahisi. Hasa kuna wengine huwa waoga kusukuma hawasukumi. Wanangoja mtoto akufe ndio azaliwe. Sasa hana faida mwanamke huyo.

Na Biblia husema tawi lisilozaa likatwe. Basi Bunge la Kitaifa hawa watu mmewaweka na hawana maana na nyinyi ndio mnawahoji. Wakati umefika wa kung'ata. Tusiwe maumbwa ambao hawana meno. Sasa tuwe mbwa ambao wana meno. Tung'ate ili tumsaidie Mhe.Rais.

Bw. Spika wa Muda, kama wengine walivyo zungumza hapa wamesema itawezakuwa hawa mabwana hawana makosa. Kama hawana makosa na viatu walivyo vivaa vina wafinya kupita kiasi, wavivue. Waziache hizo nafasi wachukue wengine waingie. Lakini yale ambayo yanaendelea mpaka sasa mimi namwonea huruma Mkenya jamani kwa sababu Serikali ikipandisha mafuta kila kitu kinakuwa ghali.

Unga wa sima umepanda na kila kitu kimepanda. Kile cha mwananchi yule wa chini kabisa hakuna cha rahisi. Maanake kila kitu kinatumia mafuta aidha kisagwe ama kitengenezwe. Wananchi wa chini wako na afueni gani? Hakuna. Basi na wasihi tu. Kwanza nawashtumu sana hawa mabwana. Mimi ni vile sina uwezo lakini leo mngetoka maofisini maanake hamfai hata peni.

Bw. Spika wa Muda, lakini kwa sababu sina uwezo, wale wenye uwezo huo basi watekeleze ili wahakikishe. Hawa wakitolewa kama hawawezi ofisi zao wakienda, itakuwa ni mfano kwa wengine ili yale ambayo tunazungumza hapa sio maneno matupu bali yawe na maana ndani yake.

Kwa hayo mengi ninaunga mkono Hoja hii.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Were, proceed.

Sen. Were: Thank you, Mr. Temporary Speaker, Sir. I was being tempted to go into Kiswahili since we know limitations.

I also rise to support the Motion to censure the Hon. John Munyes, the CS for the Ministry of Petroleum and Mining and Hon. Charles Keter, CS for the Ministry of Energy. I also want to disclose that I am also a Member of the Committee on Energy and that we have dealt with this matter as it had been previously stated at length. In fact, most of this year we have been handling the rising cost of power and fuel.

Mr. Temporary Speaker, Sir, I am surprised at CS Hon. Keter who is normally quite cooperative. The response in his letter said that the matter was not in his docket as much as he was given the HANSARD and he had seen that Members had expressed issued that also touched on energy. For him to say that it was not part of his mandate, I found it quite out of his character. He has been quite cooperative in our Committee.

The notorious one however is CS Hon. Munyes. We summoned him several times. We have even fined him where the law allows us to fine him Kshs500,000. He does not come. When he appears, he appears tired and unprepared. He has officers who can answer questions. He will not delegate yet he will not answer questions to the satisfaction of the Committee.

Mr. Temporary Speaker, Sir, for me, I would cut some slack for the Cabinet Secretary (CS) Hon. Keter but for CS Hon. Munyes, I would not cut any slack for him. He needs to be accountable to this House. He was formerly the Senator of Turkana County where we have discovered oil as a country. I do not know whether in his mind he thinks he has oil in his home and, therefore he is okay and it is only the rest of Kenyans who feel the pinch of the high cost of fuel.

It is also disheartening that these are former Senators of this House. I am informed that they were even once Members of the Committee on Energy. They know the issues that we are raising and the importance of fuel to this country.

Mr. Temporary Speaker, Sir, an increase in the price of fuel is the one thing that automatically guarantees the increase in the cost of living for Kenyans across board both at the low and higher levels. Therefore, when you increase the price of fuel without thinking, haphazardly and irregularly the way it is done then you are putting Kenyan's lives in an uncertain manner. We are living in uncertain times. If I do not know what will happen to me tomorrow, how will I secure my children as a mother or father?

Having said that, it is important to note that the landing price of fuel at the coast of Kenya in Mombasa is around Kshs47. How it reaches Nairobi and it goes to over Kshs140 which is almost 100 per cent increase means that there are levies and taxes on this fuel that are bringing the price to this level. Even as we summon the CS for the Ministry of Energy and the CS for the Ministry of Petroleum and Mining, we need to also summon the CS for National Treasury. This is so that we deal with this matter on taxes that are levied on fuel.

Mr. Temporary Speaker, Sir, every time the government is broke, the easiest way to collect money is to tax fuel. We also need to change the law because initially the National Oil Corporation of Kenya (NOCK), the law allowed them to import 30 per cent of fuel. This 30 per cent should be used to stabilise prices and ensure that Kenyans are not adversely affected when fuel goes up.

Since the law changed and the market was liberalised, NOCK is not able to import this 30 per cent to stabilise prices. The National Assembly need to change the law to bring back the clause that allowed or mandated NOCK to import 30 per cent of the fuel.

As this matter is going on, I wish that we would investigate Kenya Power and Lighting Company (KPLC). If a commission of inquiry cannot be set up to investigate how a monopoly fell to bankruptcy. How a monopoly that provides a very essential product for Kenya has gone into bankruptcy. We need a commission of inquiry to give us the facts.

If that is not possible, because a commission of inquiry has to get the goodwill of the executive, let us form an *ad-hoc* committee in this Senate that will investigate the issues that are associated with KPLC and its collapse. Even after they have tried to tax alternative energy that is safe that is solar to cushion KPLC. I ask that if a commission of inquiry is far-fetched for us then we form an *ad-hoc* committee in this House.

Mr. Temporary Speaker, Sir, finally, as a lesson, if we summon these CSs and they do not come, let us go to the level of having them arrested for contempt of Parliament who are the true representatives of the people.

Thank you and I support the Motion.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. (Prof.) Ekal, proceed.

Sen. (Prof.) Ekal: Mr. Temporary Speaker, Sir, thank you for giving me the chance to also support the Motion to censure the two CSs. It is so deplorable that the two CSs could not come when we call them. This shows clear disdain of the Senate. That cannot be tolerated. We have spoken over this for a long time.

So many Members have said so much and we need to take action. We need to do something that is going to show those CSs that this is equivalent of the High Court of Kenya. When you are called to come, you come.

I am not going to say much about the high prices of our electricity. The people that I represent do not have electricity. The people in the town of Lodwar including myself suffered through the prices of the generator that is being run by the KPLC. That is a small minority of the population of Turkana County.

Mr. Temporary Speaker, Sir, what I want to talk about is the pain that the high prices of petroleum have caused on our people. You know that for people who live in dry areas, everything they eat must be imported from somewhere else. It might come from Kitale, Uganda, Eldoret and other places. This is because these people do not grow their own food.

It is so sad that the prices of petroleum have gone up for people who live in arable areas, people who can grow their food like *Sukuma wiki* and other things like that. It is easy for them to get *Sukuma wiki* or maize out of their farms. However, for Turkana people who do not grow anything and with the dry conditions of the county today, it is very hard to get and buy food especially because of the high prices, which are caused by the high fuel prices.

Mr. Temporary Speaker, Sir, Sen. Nyamunga talked about the poor state of some Kenyan in Kisumu County. Such a Kenyan cannot be compared with a Kenyan that is living in Turkana. A Kenyan in Kisumu has got Lake Victoria right there. She can always get some *omena*, which she can use to make *ugali*. She can get some *mboga* because Kisumu County is a lot more arable than any place in Turkana County.

When you talk about the deserts of Turkana County, people live there in a deplorable state. That is why the other day I asked the Government of Kenya and the county government to release food for those folks. Those folks have no other way to get food.

When you raise prices, it becomes impossible to bring food to a county like Turkana so that people can buy food at low prices. In the first place, those people do not have enough money to buy food that is sold at very high prices. That puts them in a very difficult situation. People cannot afford food.

Mr. Temporary Speaker, Sir, I also want to talk about the high prices that affect those who bring food. Those who bring food must fuel their vehicles even if they are travelling from Kitale. To get food to Lodwar or Turkana becomes highly expensive. When Sen. (Prof.) Kindiki said that prices of petroleum in Lokichar are going at Kshs142 a gallon, imagine the price of petroleum for people who live at Kibish, which is the far end of Kenya next to Ethiopia. How much is petroleum selling over there?

Imagine a situation where somebody wants to take food that far, how expensive will that food be? Will the people of Kibish afford to buy food especially when they do not have jobs and any way of getting money? It is really affecting places like Turkana very much in a very bad way.

Mr. Temporary Speaker, Sir, also talk about the *boda boda*. Our young turks use *boda boda* to travel and ferry food and to do a lot of things. Many businesses like that that depend on those *boda boda* and people to bring food are going to fail.

Thank you very much. Even if time is gone, I have made my point.

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, it is now 6.30 p.m., time to adjourn the House. The Senate therefore stands adjourned until Thursday, 23rd September, 2021 at 2.30 p.m.

The Senate rose at 6.30 p.m.