

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 29<sup>th</sup> March 2018

The House met at 2.30 p.m.

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

PRAYERS

QUORUM

**Hon. Speaker:** Ring the Quorum Bell. There is no quorum.

*(The Quorum Bell was rung)*

Very well. We now quorate.

Hon. Members, if the other House finishes some certain business, there is a possibility that there could be a message from there which might be important for this House to know. We will wait until they complete and send it.

### PAPERS LAID

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

Agreement Establishing the African Continental Free Trade Area (ACFTA) and the Explanatory Memorandum.

Agreement Establishing a Tripartite Free Trade Area among the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern African Development Community (SADC) and the Explanatory Memorandum.

Performance Audit Report on the Management of Development Funds for Technical Institutions by the Ministry of Education, Science and Technology.

Report of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2017 and the certificate therein:

- (a) Kenya Copyright Board;
- (b) Kenya Plant Health Inspectorate Service;
- (c) Petroleum Development Levy Fund;
- (d) National Sports Fund;
- (e) Kenya Film Corporation;
- (f) Council for Legal Education;
- (g) Kenya Law Reform Commission;
- (h) National Council for Persons with Disabilities;
- (i) Wiper Democratic Movement; and,
- (j) The Orange Democratic Movement.

**Hon. Speaker:** Given the unique nature of the first agreement establishing the African Continental Free Trade Area and the Explanatory Memorandum, it requires input of several Members. I direct that the Departmental Committee on Defence and Foreign Relations takes the lead jointly with the Departmental Committee on Finance and National Planning because of the peculiar nature of that Agreement. The other one goes to the Committee on Regional Integration.

Let us move to the next Order. Sorry, let us have the Chairperson of the Departmental Committee on Health.

**Hon. (Ms.) Chege:** Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Delegation to the Meeting of the Global Parliamentary TB Caucus, held in New York, USA, on 29<sup>th</sup> January to 3<sup>rd</sup> February, 2018.

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

## STATEMENTS

### BUSINESS FOR WEEK COMMENCING 10<sup>TH</sup> APRIL TO 12<sup>TH</sup> APRIL, 2018

**Hon. A.B. Duale:** Hon. Speaker, pursuant to the provisions of Standing Order No.44(2) (a), I rise to give Statement on behalf of the House Business Committee (HBC).

The Committee met this week at the rise of the House to give priority to business that will be considered. Without anticipating debate, I wish to note that the House is scheduled to proceed on a short recess, commencing tomorrow, in accordance with the Calendar of the House. As a result of this, the HBC has not scheduled any business for next week.

After the recess, we will consider the Second Reading of the Computer and Cybercrimes Bill, 2017, should we not conclude it today. We will also consider the Irrigation Bill, 2017, the Kenya Coastguard Service Bill, 2017 and the Energy Bill, 2017. We will also consider, in the Committee of the whole House, the Kenya Roads Bill, 2017 and the Copyright (Amendment) Bill, 2017. I urge the relevant Chairs of the committees that are dealing with these Bills to make sure that during this 10-day recess, they conclude the reports of their various committees on the said Bills. I urge all the Chairs of the departmental committees to expedite consideration of the Bills and table the reports when we resume. In addition, I encourage all the Members with amendments to the Bills to submit the same to the Office of the Clerk for consideration before the Bills are scheduled for the Committee of the whole House when we resume. Also, to be scheduled is the Report of the Departmental Committee on Justice and Legal Affairs on the vetting of nominee for appointment to the Judicial Service Commission (JSC) and many other pending committee reports.

On questions before committees, the following Cabinet secretaries are scheduled to appear before committees on Tuesday, 10<sup>th</sup> April 2018:

(1) The Cabinet Secretary for Health before the Departmental Committee on Health to answer questions from Hon. Beatrice Nkatha and Hon. David Gikaria. That will be done at the Main Chamber, County Hall at 10 a.m.;

(2) The Cabinet Secretary for Education, Science and Technology will also take questions from Hon. Peter Kaluma, in the Mini Chamber, County Hall, at 11 a.m.

(3) The Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development at 10 O'clock before the Departmental Committee on Transport, Public Works and Housing to

answer questions from Hon. John Muchiri Nyaga and Hon. David Gikaria in the Main Chamber at 11 a.m.

The Chair of the Departmental Committee on Health, Hon. Sabina Chege; the Chair of Departmental Committee on Education and Research, Hon. Melly, and the Chair of Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing, are also notified that the Cabinet Secretaries will appear before them. The Cabinet Secretaries already have the questions and are ready. I have talked with all the three and they have confirmed their availability on Tuesday, 10<sup>th</sup> April, 2018. I ask the Members to be there to ask their questions.

The HBC will reconvene on Tuesday, 10<sup>th</sup> April 2018 at the rise of the House to consider the business for the following week.

I now wish to lay this Statement on the Table of the House.

*(Hon. A. B. Duale laid the Document on the Table)*

**Hon. Speaker:** Hon. Members, just to give some guidance, we are in the process of trying to improve the Question Time. The respective Chairs of committees are encouraged to ensure that when a Cabinet Secretary appears and reads out an answer to a question that has been asked in the normal way, the first shot for a supplementary question should be granted to the questioner; the Member who filed the question. As you remember, the Cabinet Secretary will be giving a written answer which is expected to first have been given to the Member who filed the question. It, therefore, means that that Member has already prepared, either notes or in their minds, the kind of supplementary questions he or she would want to follow up. After that, the general membership is at liberty to also ask the Cabinet Secretary questions. The moderation must be such that we stick to the timelines that we have been given so that we do not overshoot.

Following the tradition established during Question Time in previous parliaments, the last question on a question that has been filed should again be given to the questioner. At all times, try to make the question and the supplementary questions appear national. Do not make it a village matter. Merely because the Member that filed the question is from Starehe Constituency should not make it a Nairobi affair. Other Members from other parts of the country might have legitimate and valid questions that they may wish to ask the Cabinet Secretary. That is the guidance that I wanted to give. However, in due course, we will be trying to make some suggestions on improvement of that period. The House must at all times be seen to reflect the wishes of various Members from all corners of the country.

Hon. Gikaria, the Chairman of the Departmental Committee on Energy, you had put in some request.

**Hon. Gikaria:** Sorry, Hon. Speaker. We had sought your indulgence to table two Bills, namely, for energy and petroleum. We were meant to have tabled them today, but we have stopped, now with the recess. We were requesting... The Leader of the Majority Party has made it very clear that over the recess, we are retreating for three days and the report will be tabled on Tuesday, 10<sup>th</sup> April. So, we were seeking a further extension of one day.

Thank you, Hon. Speaker

**Hon. Speaker:** How many more days since you are saying by 10<sup>th</sup>? You will table the report on Tuesday, 10<sup>th</sup>?

**Hon. Gikaria:** Yes. Tuesday 10<sup>th</sup> April 2018.

**Hon. Speaker:** Sorry, I see an intervention. Member for Nyando.

**Hon. Okelo:** Thank you, Hon. Speaker for your indulgence. Mine is regarding a letter that I sent to your office this morning pertaining to a quest to adjourn the House and delve into a matter of great national importance which is about disobedience to court orders by certain Government agencies together with illegal deportation of my constituent, Dr. Miguna Miguna. I seek your guidance to this subject. That is why I have interjected to get clarification because I cannot see it in the Order Paper. Thank you.

**Hon. Speaker:** Hon. Members, this is a very straightforward matter and is not complicated at all. I did receive a general letter, not quoting any Standing Order on which it was meant. It was a letter just like any other that could come from every villager. There are very many such like letters that come to my office. Kenyans write requesting all manner of things, but obviously, they cannot, unless they do so by way of a petition see the light of day. We just reply to them advising them to give those concerns to their respective Members of Parliament who would in turn raise it on the Floor of the House.

With respect to your letter, because it is just a letter and not a Motion, the staff tried to look for you to give you my comments concerning what I could make out of the letter. It was just a letter written based not on anything and then the staff kindly came to the office and told me: “If you are looking for the Member to give him this communication, if you watched on television, that is the Member, he is in court. So, he wants to deal with the matter both in Parliament and in court.”

Obviously, you chose to go and deal with the matter there. Which is a clear indication that, indeed, debate on that matter would obviously be infringing on the rule of *sub-judice* since indeed, dressed in the manner that you were, I was able to identify that this is Hon. Okelo participating in there. So, nobody could communicate with you because the intention was, if there are any aspects of that matter which could not infringe on the *sub-judice* rule, then we would advise you to reframe that request and make it an application under Standing Order 33. But then you were not available because you were busy also prosecuting it in the other forum. So, you see, you chose that forum in place of this one.

The staff were going to advise you on how you would navigate it without... We wanted to discuss with you and see whether there is a way that you could reframe your request under Standing Order 33, without offending the *sub-judice* rule. Since you were not there and it is not my business to try and know what is on your mind, whether what you were going to say was going to offend the rule of *sub-judice* because the matter is obviously active and alive in court, nobody made a decision safe to say: return to sender (RTS) in the manner that it was brought to me.

So, that is the long and short. We make nothing out of it, again, if you look at that Standing Order... The reason why the staff were looking for you is to try and bring you within the hours because a request under Standing Order 33 would require that you bring the matter two hours before, but unfortunately, we were seeing you enjoying prosecuting the matter elsewhere. The matter now stands ‘RTS’. So we make nothing out of it.

There is nothing to debate. There is nothing out of order out of my communication. The rules of this place are different from those of the other place.

*(Laughter)*

It is true, and looking at the Standing Orders, I would have looked for a way. That is why we were looking for you with the staff. Are you able to raise the matter without offending the

ongoing case? Since you were not there and we do not know what could be going on in your head at that time and even now, what you wrote to me does not qualify. It was a request which just came just like other requests that many Kenyans write.

We do not deal with it that way. However, because you are a Member, that is why we had asked the staff to look for you so that they could tell you that if you wanted it under Standing Order 33, they could have advised you on the way you could have framed it, but you were not there. If you know the rules about equity, we are unlikely to help the indolent. If you chose to go and do a matter elsewhere, remember Hon. Okelo, even what you are doing there perfectly fits within your functions under Article 95; representing the people, including that constituent. You decided to represent the constituent there, which is okay. Perhaps, that may make you be re-elected. Had you come here, we could have perhaps discussed the matter to find out how best to help you to ventilate on the matter. Now, unfortunately, you were not there. So, the matter just dies at that point.

Never mind, you can still raise it when we resume on 10<sup>th</sup>.

*(Laughter)*

**Hon. Okelo:** *(Inaudible)*

**Hon. Speaker:** No. It will not.

Hon. Okello did not participate a lot during the orientation week. Perhaps, that is why he may have overlooked that particular aspect. I am sure, he is better informed now.

Next Order.

## BILLS

### THE PUBLIC TRUSTEE (AMENDMENT) BILL

**Hon. Speaker:** Order Members, including the Member for Vihiga! If you look at the Order Paper, you will know what is about to happen. Hon. Members just come in and sit for a few minutes and then they start trotting out.

Hon. Members, debate on this Bill was concluded in the morning sitting and what remains is for the Question to be put.

*(Question put and agreed to)*

## THIRD READING

### THE PUBLIC TRUSTEE (AMENDMENT) BILL

**Hon. Speaker:** Mover.

**Hon. A.B. Duale:** Hon. Speaker, I beg to move that the Public Trustee (Amendment) Bill (National Assembly Bill No.32 of 2017) be now read the Third Time. I request, Hon. Pukose, the Member for Endebess, to second.

**Hon. (Dr.) Pukose:** Hon. Speaker, I second the Report on the Public Trustee (Amendment) Bill (National Assembly Bill No.32 of 2017).

*(Question proposed)*

*(Question put and agreed to)*

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

**Hon. Speaker:** Next Order!

THE STATUTE LAW (MISCELLANEOUS AMENDMENT) (NO.3) BILL

**Hon. Speaker:** Again, Hon. Members, debate on this Bill was concluded and what remains is for me to put the Question on the agreement.

*(Question put and agreed to)*

**THIRD READING**

THE STATUTE LAW (MISCELLANEOUS AMENDMENT) (NO.3 BILL)

**Hon. Speaker:** Mover.

**Hon. A.B. Duale:** Hon. Speaker, I beg to move that the Statute Law (Miscellaneous Amendment) (No.3) Bill (National Assembly Bill No.44 of 2017) be now read the Third Time. I request, Hon. Gikaria the Member for Nakuru Town to second.

**Hon. Gikaria:** Hon. Speaker, I second.

**Hon. Speaker:** No! Member for Vihiga, do not squat.

*(Question proposed)*

**Hon. Speaker:** Member for Seme.

**Hon. (Dr.) Nyikal:** Thank you, Hon. Speaker, for giving me an opportunity to contribute to the Third Reading of this Bill. The Statute Law (Miscellaneous Amendment) Bill is important, but its purpose is to correct minor errors. However, in this particular one, there was a major amendment proposed in the Pharmacy and Poisons Act.

Unfortunately, the Departmental Committee on Health looked at it and made a recommendation that was accepted. In future, I propose that, in the area of Health, when it comes to the Statute Law (Miscellaneous Amendments) Bill, it is important to look at the Health Act. I have noticed that many of those amendments are taken care of in the amended Health Act.

I support the Third Reading.

**Hon. Speaker:** Hon. Members, there being no other request for contribution. I will put the Question having confirmed that the House quorates.

*(Question put and agreed to)*

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

NOTIFICATION OF RECESS (30<sup>TH</sup> MARCH - 9<sup>TH</sup> APRIL 2018)

**Hon. Speaker:** Hon. Members, before we go to the next Order, I wish to notify the House that, pursuant to the provisions of Standing Order No.28(3) relating to the Calendar of the Assembly, upon the rise of the House today at the appointed time, regular sittings will resume on Tuesday, 10<sup>th</sup> April 2018 at 2.30 p.m.

*Second Reading*

THE COMPUTER AND CYBERCRIMES BILL

*(By Hon. A.B. Duale on 21.3.2018)*

*(Resumption of Debate interrupted on 21.3.2018)*

**Hon. Speaker:** Hon. Members, I can see some not very legible notes showing the Members who had contributed. Sorry! Hon. Members, I have noticed that we have a number of Members who have not familiarised themselves with procedure.

It is important for me to indicate which Members have contributed, so that they do not speak again, when I am not in the Chair. Hon. Aden Duale and Hon. Kipsang Kipkemoi. Hon. Musimba rose on a point of order, therefore, that is not a contribution. Hon. Paul Koinange, Hon. John Mbadi, Hon. Kipyegon arap Ngeno, Hon. Dr. Otiende Amollo, Hon. Sabina Chege, Hon. Daniel Maanzo, Hon. Wambugu Ngunjiri, Hon. Robert Mbui, Hon. Ali Rasso, Hon. Gathoni Wamuchomba, Hon. Gideon Keter, Hon. Kibiwott Melly, Hon. Mutinda Mule, Hon. Jennifer Shamalla, Hon. Sylvanus Maritim, Hon. Mwangi Mburu, Hon. Nzioka Kivasu, Hon. Tuitoek Kamuren, Hon. Wachira Kabinga, Hon. Mishra Ranjan, Hon. Cheruiyot Jesire, Hon. Mohammed Sheikh and Hon. Naomi Shaban contributed.

Those Members have all contributed to debate on this Motion and they may not lawfully contribute again during this debate. The record shows that Hon. Patrick Musimba was on the Floor and had only spoken for one minute. On the regular basis, you have a balance of nine minutes. So, get the first shot.

**Hon. Musimba:** I thank you, Hon. Speaker. Just for housekeeping, when I rose, and it was an exchange between us and the Chair, and indeed, your office, by the time you left the Chair on the particular day, you had actually given an indication that I could speak for between 20 to 30 minutes when the Mover had moved and the Seconder, who was the Chair of the Departmental Committee on Communication, Information and Innovation, had spoken. You had said it was adequate that I speak now that I was not given a chance to present to the Committee itself. So, I just need your guidance because you are indicating that I only have a balance of nine minutes and I had substantial material to present before the House.

**Hon. Speaker:** Hon. Musimba, you may have noticed my choice of words. I spoke about nine minutes of the regular time. Because I am fully cognisant of the fact that you had indicated that you needed to speak for slightly longer than the normal period allocated, which was

obviously after you exhaust the nine minutes, we will see how much more time we can add you. We want you to enrich the Bill given your expertise in this field.

**Hon. Musimba:** I thank you, Hon. Speaker, for that indulgence. This is, indeed, a timely Bill to have been brought before the House. It is momentous that Members familiarise themselves with what cyber space is. It is very easy to get terminologies especially in the Information Technology (IT) world and wonder where the space in society is. Most people were recently referring to information being stored up there in the cloud. The cloud refers to a system of servers. It is nothing different from what you have before you in your own computer or indeed, even within this House – the HANSARD – what is being stored up at the office. Once you start establishing what cyber space is, it means it is a system of connected devices which speak to each other. Currently, in Kenya, we are standing at beyond 41 million connected devices and around the world we are globally, through them, connected to over a billion devices. As such, the necessity of this particular Bill in terms of protection and ranking, you will have to rank the threats which come as a result of what is cyber security.

So, when you look at issues, for instance, the advent of a nuclear war or potentially one of our neighbours threatening Kenya's sovereignty by launching bombs into it, this is the space where a cyber threat sits because in the click of a button, Kenya can be alienated instantaneously. This is what I was raising at the beginning when with your guidance, you referred to the committee that I can make substantial presentation as to where this particular Bill should sit. This Bill, in my humble submission, should sit under the security organs. I looked at the provisions of Article 240 of the Constitution, which guide the President and, indeed, the National Security Council, to be the ones who have an overall charge of security matters. In the recent times when the Cabinet Secretary, Mr. Mucheru, was called before the Senate to explain part of their actions as regards national security, he ably, on record on the HANSARD in the Senate, said that: "Please, refer these issues to the National Security Council ably chaired by the President himself." This is a multilateral effort to secure our borders. It requires much more than one particular department of the Government. In this particular instance, a cyber attack can be from within the country and outside of the country. For instance, someone from Tanzania or Uganda, God forbid, would want to undermine the sovereignty of Kenya and cause serious havoc and damage to our critical systems. How do you respond to that? By the time you count one, two, three, four, five, that damage has already affected us. We have experienced this in recent times when our entire network of mobile money transfer was hindered for well over eight hours, which caused serious anxiety in the country. Until today, nothing has come on record as to what the reason was. These are the sort of threats which bedevil a country like ours and within the cyber space.

With the growth of IT and, indeed, the information age, you can see that we are uploading things to do with identity. Before the advent of the internet in the 90s, the best you would reach out to someone was through calling someone to become a pen pal of yours by way of writing letters such that data was largely manual and archived within libraries. However, in the modern age through the social media, you are able to reach billions and billions of people through social platforms like *Facebook*, *Twitter* handles and so forth. As such, your identities are well residing on the internet. I can erase your own existence. So long as somebody has access to a registration portal, he can enter into it and erase your very existence. When you go and present yourself and say, "My name is Patrick Musimba," I will be asked: "How are you Patrick Musimba? How else would you identify yourself?" You say: "I have a birth certificate." They say: "Oh, your birth certificate is fraudulent because you are entering into our systems and it is

indicating a completely different person altogether from you.” This is the seriousness of the information which we have. It goes as far as getting into your bank accounts. Your entire identity being threatened means your life is irreparably destroyed. There are no curative measures that will come back to you because by the time we have already moved to an e-government platform or taken our things to databases, if we do not have the right security measures, you can suffer irreparably. This is because anywhere you go, authentication is not there.

Hon. Speaker, within this House, you ably guided us that the process of making our Bills ends up in printing that Bill on a goatskin because it will not be erased from record. It cannot be manipulated. It envisions that this Bill can go into an electronic version and something can happen to it, the way we key into our computers law reports, which is our quick reference to what the law says. This can be subject to manipulation if somebody attacks and infringes into the system.

It was important for me to lay that groundwork in terms of understanding where the place of cyber and computer crimes is so that we can understand that as we move on to make the amendments which we want to propose, we can see it from that light. We need to know that an attack from the cyber space can be from a person to person or person to business. This is where individuals attack products and recently you saw even on social media a commodity as precious as chocolate was being attacked. They were saying somebody has infected chocolate with the Human Immunodeficiency Virus (HIV). That would devastate a company because what Public Relations campaign will you run to show that your processes are, indeed, safe and that the candy or milk that you are going to consume is safe? There is business to person. Businesses can, indeed, attack individuals. This is the space of innovation. If we do not understand the innovation space, it is easy for a business to say how it is possible for a young guy to invent say, a helicopter. They question the expertise you have and they are able to enter into the records and prove that the intellectual property rights that are as a result of that particular innovation belong to those companies. Through the social media platforms or, indeed, the information age, they can make this person even face serious charges in court. The other aspect is business to Government. Businesses can injure governments. They can undermine their very regulations that they stand on. This is all through the usage of computers. We have seen very successful campaigns being launched in a very emotive way that undermines the government in place.

There is also government to government cyberspace attack. Governments rise against each other. You have seen these attacks between Russia and North Korea, North Korea and Pakistan, and Pakistan and India. This is the biggest concern. Even right now in the last one week, you saw a flurry of activities within the diplomatic channels of people who expelled each other. This is as a result of cyber-related crimes that nations are facing.

**Hon. Speaker:** Hon. Musimba, you were just laying the foundation for your presentation. Proceed.

**Hon. Musimba:** Hon. Speaker, we need to look at the space of cyber security. That is how the fundamental things are affected.

When you scrutinise the Bill and the Committee’s Report, you find that even from the way we have worded the Memorandum of Objects of the Bill, it makes it look like we are protecting each other from taking one computer to another. The title of the Bill needs to change. We need to look at jurisdiction and Memorandum of Objects in the Bill. We need to define critical information infrastructure which is in the arena of things like e-health. Our medical records are all online today. When you go to the triage at the Kenyatta National Hospital (KNH) or the Nairobi Hospital, the nurses key in your information in a computer to retrieve your file’s

information. In this particular year, there was an attack in Latvia on their e-health records. We discussed the KNH Report adequately and that was just at a fundamental level. The manipulation of e-health records can affect an entire individual's health capability or how he will be healed.

We want to create and establish a body under Article 240 of the Constitution which establishes the National Security Council. We will co-opt people and institutions like the Attorney-General, the Director of Public Prosecutions (DPP), National Treasury, National Police Service and the Kenya Defence Forces (KDF) of the Republic of Kenya because they are adequately charged with security matters. In fact, the same article of the Constitution charges the President with the responsibility of presenting the state of our security address to this august House on an annual basis. You cannot ignore this common place. Today, through IT systems, we transmit... I will give you a synopsis. The entire banking sector combined transacts only Kshs2.4 trillion. It raises Kshs80 billion income a year and yet through our mobile money, it gets an income of Kshs55 billion a year against Kshs6.9 trillion in turnovers. This means that we are more on the digital front which can affect 45 million people in an instant. This is our entire banking sector which is regulated by the Central Bank of Kenya (CBK). So, any impact into this particular place is of great concern to every Member of this House. Indeed, the auditing of their systems has a far-reaching effect. That is why I will propose the establishment of a body which has a proper audit mechanism towards our critical infrastructure and think about the emerging threats like the internet of things.

Today, we all have connected devices. When I am seated here, it is possible to issue a command on my mobile phone to my house to say: "Turn on the lights because I will be late; turn on the water heater" and it will move." This is a reality. We are moving to another age which is a reality of autonomous systems. The modern day of warfare has ceased. We started with drones, where previously you would have to invest billions of shillings to buy aircraft, but now you do not have to do that. We have drones which are deployed to attack people. They are autonomous systems. With facial recognition devices which use thumbing biometrics, it is possible to deploy one of those autonomous systems. They come into a place and obliterate everybody who is there. So, any danger that we pose in terms of being able to break into our databases, ought to be treated with great concern.

There is the issue of oversight. How much are we deploying into the cyber space? In relation to our GDP right now, it is negligible. I really want to thank His Excellency the President because the other day, he woke up and directed the Communications Authority of Kenya (CAK) to give Kshs1 billion to the DCI to boost his ability to combat cybercrimes. It just shows you some few tips. Countries like the United Kingdom (UK) invest in excess of British Pounds £1.9 billion every year to combat cybercrimes. The United States of America (USA), which has a large GDP, recognises the place of these things. It exceedingly puts in excess of US\$19 billion a year to guard its critical infrastructure. I will show you the level of devastation. We had Westgate and Mandera attacks. How were these people able to attack us? It was about access to data, knowing the patterns of people who visit the places and the maximum damage they can do at whatever time. So, these systems had already been penetrated for them to have an effective attack that would take us hours to try and resolve. So, cybercrime needs to be treated with that sort of mentality because we are at war with the *Al Shabaab* today. In fact, anyone who stands and says that he wants to challenge the security of this nation through weakening this Bill should know that it amounts to treason because we are already at a warfront with the *Al Shabaab* in Somalia. We are looking at nifty ways. We have guarded our borders. So far, the security apparatus has done a real commendable job, but where we stand is the next frontier. Attacks

occur everyday. I want to tell Members today to dial the mobile number of the Member who is seated next to them. It will take you an average of between five to 10 seconds for that phone call to connect. What does it mean? It means that we have penetrative systems within a digital frame. That is why we are going into 4 or 5 G technologies. By the time you dial the last number, the phone ought to be ringing on the other end.

The CAK has been grappling year in, year out trying to enforce quality of service parameters. This is where we were before the elections. If you recall, I brought an amendment in the last Parliament which said that we had to try and look at the quality of service parameters in every area of Kenya because that would be a major turning point. That particular amendment was withdrawn by the Leader of the Majority Party in the last House. That particular amendment cost us the last election. It cost Kenya over Kshs30 billion and numerous losses in terms of people's livelihoods and anxieties because we were not able to respond. The Supreme Court charged us with only one thing. It said that there was an issue with transmission of election results. At the time when we were creating the laws, it looked like a minor thing. So, somebody jammed the systems. We did not have the mechanisms or the enabling law to see whether we were under a cyber attack.

Last year again, we saw attacks on the banking system through cyber-related concerted campaigns where nearly almost 10 banks closed in a row. The Ministry of Interior and Coordination of National Government said, without any enabling law, that anyone who would post anything against any bank would be arrested and charged. That threat reversed what was already happening. There were panic withdrawals and two banks already closed. We witnessed attacks on many serious institutions like the National Bank which were all driven through the social media. Authorities had no control over it. Even if you went for a blogger, he went to court, was charged and given a fine or bond and told that they would prosecute the case later. The technical expertise that is required needs us to have an agency which would have close collaboration with our institutions such as universities. We should have things like bounties to encourage the young people in this country who are IT versed. We must all accept that we are experts at a point in time, but when that time passes, you have to give way to other people.

There are issues of child pornography. The Committee's recommendations say that we should refer this to the Sexual Offences Act, 2016 which does not provide for electronic offences. So, Clause 44 in the same Bill covers us in respect of any gaps where the Committee said we delete. It says that to the extent that any other law contravenes this one, this particular Bill will carry the sway in terms of its veracity. I really wanted to prosecute this matter much longer.

With your indulgence, I will continue.

Hon. Speaker, the whole essence of cyber security is about business continuity. In every accounting year, we always sign off by saying that we believe that it will be a growing concern in the next financial year. As such, it is given an unqualified opinion. Today as Kenya, can we look at each other in the face and say this Bill...

**Hon. Speaker:** Prepare to wind up. As you give those examples, I hope you will also take time to propose amendments addressing both the technical and criminal aspects of the Bill. The House would want to benefit from your knowledge.

Proceed, but try to wind up.

**Hon. Musimba:** Thank you, Hon. Speaker, for your indulgence. I have already presented my amendments. Because of the monumental nature of this Bill, I happily encourage the Committee to walk with me in this. There are many areas of consensus. When we started, the

Memorandum of Objects said it was creating a Bill to introduce offences. Kenyans are largely law-abiding. We should say that we are introducing a new Bill to cover or secure Kenya's borders for posterity, to conduct our businesses and be in the community of nations. Today in the cyber age, if we are locked out and they conclude that there is a problem in Kenya and that they do not believe our systems are integral, any attack to other countries will emanate from Kenya. It will be of grave danger.

Let me move to the arena of blockchain technology. If we do not have an enabling law, blockchain technology has the capacity of bankrupting our nation flat. We saw such examples in the 11<sup>th</sup> Parliament when we debated the betting laws. We slapped hefty taxes on them. The money in blockchain technology in Kenya will be earned in Kenyan shillings, but the people who invest in such an industry live abroad. So, what do they do when they are appropriating money out of this country? It leaves at a click of a button in foreign currency, which we only earn as a nation through exports, and that is limited. It is the same thing with the rise of blockchain technologies. We have to be careful because it converts our entire monetary system to run on a parallel level at a magnitude which is three or four times our capacity. What will it do to our money supply systems? It will endanger the valuation our nation sits on. So, we must be careful.

I urge the House that, as we go through the Committee of the whole House of this Bill, we all need to be here because it is not about us as individuals. It is about the security of the nation and about our entire posterity. It relies on this because this is our next frontier for this country and its competitiveness.

Hon. Speaker, I thank you for your indulgence.

**Hon. Speaker:** Members will obviously appreciate the proposals you will be making to enrich the Bill and make the country safer. Thank you very much Hon. Musimba.

Hon. Members before we proceed, I would like to recognize the presence, in the Public Gallery, of students and pupils from the following institutions: Mulot Girls Secondary School from Bomet East Constituency, Bomet County.

**Hon. Members:** They have left.

**Hon. Speaker:** They have left! They brought this list when Hon. Musimba was making his contribution. It is not the nature of the Chair to interrupt a Member who is contributing to do the mundane matters of introducing students. Whoever wants to look at the HANSARD of the House to follow through what Hon. Musimba said will do so without necessarily talking about Mulot Girls Secondary School, Kiambiti Winners Academy and the rest. If they have left, the Members who brought them sat on their rights. I encourage Members that when you have visitors who you would like to be recognized by the House, please, approach the Clerk-at-the-Table in good time and let them know. I am sure the visitors feel honoured when they are recognized. Those who are from Bomet East and North Imenti may assume that their Member of Parliament is asleep or their Members of Parliament have absconded duty for not ensuring they are recognized when they were in the House. So, Hon. Members, do it in good time. As a House, we owe it to Kenyans to let students and pupils from our areas of representation to understand what the House does. It is very important. If you speak to them much later, you will be surprised how much they enjoy when we have the normal altercation which has been called discipline. It is very good discipline. They enjoy it.

The next Member on the log is the Member for Kimilili, Hon. Mutua Barasa.

**Hon. Didmus Mutua:** Ahsante sana, Mhe. Spika kwa kunipatia nafasi hii ili nichangie na kuunga mkono Mswada huu muhimu sana kwa usalama wa kitaifa. Vile vile, Mswada huu

umeletwa kwa wakati unaofaa sana kwa sababu kumekua na hali ambayo ilikua inazuia vyombo vya usalama kuhakikisha kwamba Wakenya wanaishi kwa usalama. Mswada huu ukipita, utawapa nguvu vyombo vya usalama kuwakamata majangili ambao wanatumia mitandao kuwahangaisha Wakenya ambao hawana hatia.

Kenya imekuwa nyuma katika hali ya kiteknolojia. Sasa tutakuwa na mwamko mpya na polisi watakuwa na uwezo wakuwafuata wahalifu wanaotumia mitandao. Naomba kuwa tunapopitisha sheria hii lazima polisi pia wawajibike kwa sababu mara nyingi wamekuwa na mazoea ya kusema kwamba hawawezi kutekeleza sheria kwa kuwakamata wahalifu. Wanasema kwamba hakuna sheria ambayo inawaruhusu ama labda wakipeleka ushahidi hautoshi kwa sababu sheria hairuhusu ule ushahidi kutumika. Sasa lazima polisi wawajibike. Wakenya hawatavumilia tena visingizio ambavyo si vya muhimu sana. Hii sheria ikipitishwa watampambana na majangili.

Pia ni jambo muhimu kwa Mkuu wa Polisi, Inspekta Generali mwenyewe ajitahidi kuhakikisha ya kwamba maafisa wa usalama wanapelekwa kwa mafundisho yatakaowapatia ujuzi wa kupambana na uhalifu wa teknolojia.

Kama Bunge la Kitaifa, tunapojiandaa na kujitahidi kupitisha huu Mswada, lazima polisi waanze kujipanga katika mafunzo na kwa kujua teknolojia za kisasa ili tupatie nafasi nzuri sheria hii. Nawarai Wabunge wenzangu tuiptishe kwa sababu ni sheria muhimu sana ambayo itahakikisha polisi na majasusi wetu wanatumia mbinu za kimataifa za kupambana na uhalifu wa teknolojia ambao umekua ukiongezeka kila wakati.

Vile vile, naomba washikadau kwamba tunapopitisha hii sheria, lazima pia wawe wakitafuta mafunzo kutoka nchi ambazo zimeendelea kama Malaysia na Marekani ili kujua jinsi tekinolojia imewasaidia. Hiyo itatusaidia kupunguza uhalifu hapa nchini.

Vile vile, ningependa kuchukua nafasi hii kuwaambia Wakenya ambao wamekuwa na mazoea ya kutumia teknolojia kwa njia ambayo haifai kwamba nafasi yao katika jela imefunguliwa. Sasa polisi watakuwa na nguvu ya kuwakamata. Wale ambao wanatukana wengine kupitia mitandao ya kijamii, wasifikirie kwamba hawawezi kukamatwa. Ninawaambia kwamba sheria hii ikipitishwa wajipange. Waache mazoea ya kutumia mitandao ya kijamii kwa minajili ya kutukana na kuwahangaisha wenzao. Sisi kama Wabunge tungependa jela zipunguzwe ili wahalifu wawe wachache. Hii ndio sababu ninatoa onyo kwa wakenya kwamba wajiepushe na mazoea ya kutumia mitandao ya kijamii kwa sababu hii sheria ikipitishwa, polisi watakuwa na ujuzi na nguvu ya kuwafuata na kuwakamata.

Kwa hayo machache, naunga mkono. Ahsante.

**Hon. Speaker:** Nominated Member, Geoffrey Osotsi.

**Hon. Osotsi:** Thank you, Hon. Speaker, for giving me this opportunity to contribute to this very important Bill. I am member of this Committee. I am also an ICT expert in this area of cybercrime. As a Committee, we have tried our best to make some improvement to the initial Bill. We have already submitted our Report to the House. We have proposed a number of amendments which I am sure our Chairman will present to the House. We have just returned from an international summit –The World Summit on Information Society. This is a summit that brings together Government officials, Parliamentarians, IT experts, the UN and many other important players in the area of ICT. While we were there, we were exposed to new knowledge and experiences in the area of the fight against cybercrime. As a Committee, we will be making further improvement to this Bill so that we bring more amendments at the Committee stage.

I want to emphasize some of the things that my colleague, Hon. Musimba, has said. This is a very important Bill. In fact, it is long overdue because cybercrime is a very serious global

problem. As we are speaking, statistics indicate that globally, we lose about US\$600 billion every year as a result of cybercrime. This is like 50 times the national revenue of Kenya. That alone explains to you how important the fight against cybercrime is. This Bill must be aligned to international best practice in the area of cybercrime. The International Telecommunication Union (ITU) where we visited recently with my three colleagues has identified five important benchmarks for having a good law in the area of cyber-security and cybercrime. The first benchmark is the legal measures in place. I am happy that, as a country, we are now developing the cybercrime law. In addition to that, it will also be important to come up with specific regulations so that the issues that have been identified in the Bill can be actualized through regulation.

The second benchmark is the technical measures. As a Committee, we will be required to make more improvements to the Bill in the area of how to manage the technical aspects. I am happy my professional colleague, Hon. Musimba, has mentioned that this Bill must talk about the critical infrastructure information system. The critical infrastructure information system is a key aspect of any cybercrime law. For example, right now, it is very easy to get hold of public data. If you want data of Safaricom subscribers, about 28 million records, you will get it. If you want data from the banks or Integrated Financial Management Information System (IFMIS), you will get it. We need to have clear laws around this. For us to make this Bill aligned to international best practice, we will have to talk about the critical infrastructure information system. How do we designate systems as critical? How do we audit those systems? How do we protect the system from illegal activities? We will be presenting some of the amendments around that to improve this Bill.

The third key benchmark is organization. I support what Hon. Musimba has said. This Bill, without clear administrative and enforcement mechanisms, will just be a piece of paper. We need to put in place mechanisms to administer and enforce this Bill. One way that that can be done is to be very clear on who is responsible for the enforcement of this Bill. Mr. Musimba has suggested that the security system will be better placed. I want to differ with him on that. The approach is to go for a multi-agency enforcement mechanism. My suggestion is to have a cybercrime advisory council. This council will have representatives from key stakeholder organizations like the Attorney General's (A-G) office, the National Treasury, Foreign Affairs because it has an element of foreign relations, the National Police Service (NPS), the Department of Immigration and Registration of Persons, the Communications Authority (CA) and representation from the telecommunication service providers. With that, it will be easy to enforce the provisions in this Bill. As it is now, the Bill only talks about the police or authorized officers. As we know, our police officers are not empowered enough to enforce technical matters contained in this Bill.

In addition to talking about benchmarking on organizations, it will be important to also look at mechanisms in which we can have a multi-agency set up or organ to look into this. But you know that introduces a money effect. This is where we need your guidance on this matter now that the Bill is in the Second Reading and we have amendments which are going to have a money effect. How do we proceed? For us to have a Bill that will make sense, a Bill that will be useful to this country, we will need to set up an organizational mechanism by having a multi-agency organ to administer and enforce the provisions of this Bill.

The fourth important benchmark is capacity building. This Bill does not talk about how to empower people who are involved in enforcing aspects of this Bill. We need to have a

mechanism on capacity building. That can be handled through the multi-agency organ that I have referred to.

The fifth important benchmark is co-operation. This Bill talks about co-operation at the international level. We also have co-operation of the private sector and public partnership. That is one area over which we will be making recommendations for amendments. That is to make this Bill more enforceable. We have prepared a set of additional amendments which will be tabled.

**Hon. Speaker:** Hon. Osotsi, you also claimed to be an expert. People usually wait for their expertise to be recognised. But, since you claim to be an expert, I will give you an extra five minutes so that you can exhibit that expertise.

*(Applause)*

**Hon. Osotsi:** Thank you, Hon. Speaker for that appreciation. Together with my colleagues whom we travelled with to Geneva, we will introduce further amendments to improve this Bill. As I said, one important improvement is how to enforce and administer this Bill. Our suggestion is to have a multi-agency organ that will help us to do that.

If you look at Standing Order No. 181, it talks about delegated powers. This Bill seems to be putting all the powers on the Cabinet Secretary, Ministry of Information, Communication and Technology (ICT). Standing Order No.181 says the delegation of these powers must be very specific – the purpose and limit of authority, the scope and the principles. This is one area we will be proposing amendments so that the CS of the relevant ministry will be giving direction on the issue of legislation. Again, to make this Bill more useful to this country and enforceable, it will have to trigger other legislations. I am aware we have the Information, Communication, Technology Practitioners Bill that lapsed in the last Parliament. Because of this Bill talking about things that IT professionals must do and not do, it will be very important to reconsider this Bill so that we can offer practical suggestions on how to regulate the IT industry. As it is, without proper regulation of the industry, it will be impossible to regulate some of the things that are contained in this Bill.

This Bill may trigger the need to have a law on electronic transactions. This Bill has not talked about banking fraud; the fraud that happens in Automatic Teller Machines (ATMs); the fraud that happens through electronic siphoning of money. It will be important to consider legislation around electronic transaction to enforce some of the provisions that are contained in this Bill. We have also received reports that the Head of State has ordered the Communications Authority of Kenya to provide funds for dealing with matters of cybercrime from the Universal Service Fund that is managed by CAK. I request that, that be done. But it can only be done efficiently if we have a multi-agency organ, as I have mentioned earlier, to regulate and ensure that, that is done.

In ending my contribution, I suggest that there is also need to clearly specify in the Bill the responsibility of the Office of the Attorney General; the responsibility of the law enforcement agencies, the national security and the responsibility of the CS in charge of ICT. We will be providing those recommendations as additional amendments through the Committee.

For all that long contribution, I support this Bill. Thank you, Hon. Speaker.

**Hon. Speaker:** Very well. Member for Igembe Central.

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

Let me thank my immediate two colleagues who have already put in a lot of expertise in this. Once it is enacted, I strongly believe it will go a long way in trying to bring cybercrime to its low levels, especially in this country and also make us use these devices and the new technology with ease.

Technology is here with us. It is here to stay. It has much dynamism. Therefore, we should be prepared at all cost, knowing very well there are those who are out there taking advantage of these new technologies and innovations, to make a kill on ignorant people or those who have not managed to get information on this.

More so, I support the Bill because it is going to give teeth to the law enforcement officers so that they can prosecute cybercrime with precision and give penalties which are punitive enough to deter those people who are bent on doing those crimes.

Cybercrimes range from simple pornographic postage of materials, defamatory statements and many others. We have more complicated issues which can affect a whole economy. They can affect a big business and bring it down all at once or even bring down a Government. It is because the way information is relayed through this technology is so fast that something becomes viral within a very short spell. The damage which is done, if not checked, can be very hard to address and difficult. By the time you go to address it, something serious will have already taken route.

Criminals also have know-how on how to take advantage of even those who are prosecuting those cases. We need trained personnel. The personnel or officers who will be dealing with prosecuting or investigating this should be well versed. They should be well trained to get access to the root of the problem and make a follow-up so that they do not get lost on the way.

As I was listening to the Member who has just spoken, there are so many nitty-gritty's that need to be done by the experts, so that we can close all the possible loopholes that might make this great Bill not to be effective enough. Once all the loopholes are closed and the Bill is watertight, it will be very effective that we might not come back to do further amendments. When we go to the Committee of the whole House and deal with the other nitty-gritty's, the Bill will be a good one.

People who have mastered that crime have infiltrated this Parliament, the very important persons (VIP) and many other people. They are using this new technology to con, coerce and even threaten people. Some people get sleepless nights having received weird messages or threats from those people. Others purport to be in danger and ask for assistance. They ask to be rescued whereas they are just waylaying somebody to go and attack or commit a crime. All these things put together need to be brought to an end. Even in politics, people are taking advantage of social media to threaten politicians or plan evil things or extort. As I was reading the Bill, the penalties are punitive enough. If this Bill is properly executed and one is convicted, it will be a deterrent method of keeping others in check so that they do not continue committing those crimes.

I support this Bill.

**Hon. Speaker:** Member for Turkana Central.

**Hon. Nakara:** Thank you, Hon. Speaker. I rise to support this Bill. As my fellow Members have spoken, we want this Bill to recognize copyright of individual discoveries. There are people who take the knowledge of other people from the internet, copy and make it their own. We want this Bill to protect that kind of infiltration so that one can benefit from their own innovation. Secondly, we want this Bill to extend its...

**Hon. Speaker:** One second, Hon. Nakara. Who is the Chair of the Committee responsible for this Bill?

**Hon. Members:** Hon. Kisang.

**Hon. Speaker:** Who is the vice chair?

**Hon. Members:** (*off record*)

**Hon. Speaker:** Hon. Members, we are going to be naming and shaming because it is not for nothing that those labels are put. We want to see which chairs are taking seriously the contributions from Members because it is increasingly becoming difficult that when a Bill goes to the Committee of the whole House that is when Members want to begin debate. This is the time that the Chairs responsible for Bills should be in the House to take note of what the Members are saying, so that if there is something that needs to be put in the amendments, they will be considered. I am glad that Hon. Osotsi, who is a member of the Committee, is here. Hon. Osotsi, I hope you are taking note of what the Members are saying so that you can see what you can incorporate. Hon. Musimba explained that it is important to enrich this Bill. I am surprised that the Chair, the Vice Chair and most of the Members have decided to take an early recess. It is not right. We will give you extra two minutes Hon. Lodepe.

**Hon. Nakara:** Thank you, Hon. Speaker for that comment. We want this Bill to protect the common *mwananchi*. The service providers steal without violence. When you use a mobile, it takes long to connect and it consumes your money. We want this Bill to protect the common *mwananchi* who does not know how to read or use bundles. Sometimes you connect to the internet and spend a lot of money. So, we want this Bill to protect people who are using the internet so that they can benefit. If you are told that you have spend a lot of money on internet and you are not connecting, that service provider, whether Safaricom or Airtel, should compensate you. We want this Bill to help us.

Another issue that I want to bring out is on protection of security information. We have some information that when exposed to the public, it can cause harm to the country. That is why we are saying that this Bill should protect some information, especially on security matters. When a blogger posts on security issues, everybody reads and that exposes the country to danger. We need to have penalty for those people who are exposing the country to danger.

The other issue is about personal character assassination. The social media is being used to assassinate characters of people in this country. Once you quarrel with your opponent in politics, they use the social media to incite the youth and expose your character or your private issues to the public. It is the right time for us to make a law that anybody who assassinates the character of another person must meet the law. Misusing the social media is not something that we can tolerate at this age. Our children, in-laws and everybody is exposed to social media. So, we need to protect senior citizens in this country.

The President is a symbol of unity and holds a respected office. But, sometimes, bloggers give negative information about the Office of the President and that particular person goes without any charge. We need to protect senior citizens, the unity of this country, the President and other people because my child can read the social media. The President and institutions like Parliament must be respected.

Finally, there is the issue of reputation. Whether you are my opponent or I am your opponent, we must protect the dignity of the family. Sometimes, your opponent goes to the social media to tarnish the name of your community and your family just because of political differences. This law must protect the dignity of the family, the office and the person's character.

With those few remarks, I support the Bill. But, at the Committee of the whole House, we need to introduce amendments. We need the Committee to take our consideration so that we can make this Bill good for all of us. Thank you.

**Hon. Speaker:** Member for Nakuru Town East.

**Hon. Gikaria:** Thank you, Hon. Speaker, for giving me this opportunity. Yesterday, in our Liaison Committee meeting - and we want to thank your deputy because he has really revived the Committee - we were discussing the chairman's manual. No chair will be deciding what to do in a committee. There will be a manual to direct you on how to conduct your meetings and all issues. He is a very aggressive chairperson and he is doing great. Yesterday, it was brought to our attention that most Members who are chairs are no longer seated here. The advice that we were given is that, even if you are not there, you can ask your Vice-Chair or any other Member to stand in for you. I totally agree with your sentiments that we need to be responsible chairs. If you know you are not available, make sure that somebody is standing in for you so that they can take note of any matter that arises.

Secondly, I am an amateur in this field. But I take this opportunity to thank Hon. Osotsi and Hon. Musimba for the professional way in which they have looked at the Bill. When I got it, I just read the memorandum. So, when I was listening to Hon. Musimba, I realized how shallow my contributions are going to be on this Bill based on what the experts have said about it. It is important they have brought up some very pertinent issues regarding this matter. I was just thinking it is about people abusing others on social media or somebody saying a certain issue on incitement. But I have come to realize how critical this Bill is. Just the other day at the Kenyatta National Hospital, where there was a mix-up of patients, you can be diagnosed and be treated for a different disease that you are not suffering from just because somebody has interfered with your medical record on a computer. So, this is a huge Bill that we need to give a lot of concentration and thought because of the magnitude of the issues. The financial loss, for example, that Hon. Musimba was talking about... Just with a stroke of a button, billions of shillings in a year can be lost. So, this is a very serious Bill, not only about our personal issues, and we really need to look at it with a lot of concentration.

On matters of election, it is now that I realize about the servers during the August 8 elections. Somebody somewhere having or not having interfered with the process of a computer took us back to another election that may not have been there if the system had been allowed to run. And, maybe, the results would have been better than the way they came out. This is something that we really need to look at in this Bill.

On matters to do with government to government, it is very true that governments might be able to interfere. Just the other day after the US elections, Russia was accused of having manipulated the computer system of the US elections. This calls for depth in terms of the way we look at this Bill. International co-operation is very important especially when we are fighting cybercrime. Sometimes, this could be coming from beyond our borders and, therefore, we need international co-operation as indicated in the Bill for us to be able to address some of the crimes that are committed.

At the same time, this Bill should not exonerate even the few shillings that are being stolen from a consumer of a service. These days, even if you want to buy tokens for water or electricity at home, it is online. This Bill should not exonerate those people who will be stealing, say, Kshs5 or 10 from a transaction. Of course, such transactions run into millions of transactions and when you compute that, then ordinary Kenyans are losing so much through cybercrime just because somebody has sat somewhere and tried to manipulate the systems.

The Bill talks about hefty fines and jail terms meant for serious crimes. But we are forgetting that continuity of stealing a few shillings from a common person ends up being more than a very huge one-off crime committed by a person. Let me call them short-time thieves who steal a few shillings. That crime also needs to be taken into consideration.

Cybercrime is not a simple crime. It requires intelligent people in that field. If we leave ordinary police officers or authorized persons who have not been trained and have no capacity or knowledge at all for them to be able to address this kind of crime, then we will be missing the point. The intention here should be that, as we recruit, training should be part and parcel of this Bill to an extent that people who will be handling any cybercrime issue must have the capacity, knowledge and the professionalism of addressing those kinds of issues. So, training and recruitment of officers to handle those kinds of crimes is very crucial.

It is true that if, indeed, somebody has benefitted from the proceeds of this crime, then as the Bill indicates... Whether it is the monies or property in whatever form, they should be confiscated so that they do not benefit the person. Whatever you receive from the proceeds of cybercrime should be taken away from you. Clause 20 talks about compensation. An ordinary person would have lost so much money. By fining or jailing the offender and/or recovery has been done, as it has been indicated, compensation to that person who might have lost from this kind of action is important. We need to re-emphasize the importance, as long as you can prove that it was not out of ignorance that those things happened.

The last bit and very crucial is about the search warrants. Going to do a search without a court order, as indicated under Clause 24, is wrong. You need to get a court order first before you can do any search. At the same time, as indicated under Clause 25, there are instances where you will not require that search warrant. We have learnt so much from the two professionals. I hope as we get to the Committee of the whole House, we will see many changes to the Bill.

I thank you, Hon. Speaker, I support.

**Hon. Speaker:** Member for Westlands.

**Hon. Wetangula:** Thank you, Hon. Speaker, for giving me a chance to also contribute to this Bill. Cybercrime is real and is one of the most sophisticated crimes committed anywhere in the world. In fact, it is more dangerous than anything else. This Bill is long overdue. It has come at the right time when our country has embraced the digital platform at a very advanced stage. Today, our economy is driven on a digital platform. We communicate, transact and do so much using the digital platform. Any single mis-calculation and people will take advantage of this. M-Pesa has published that Kenyans are losing billions of shillings in cyber-related crimes. There are people who sit in Kamiti Maximum Prison and other areas and engage innocent people who end up losing a lot of money.

Hon. Speaker, in this Bill, we have also seen the levels of offences created. An example is in Clause 9 where it is an offence for anyone to access a password, codes and other means of gaining access to a computer system. It is a crime. It is very important because there are people who can manipulate systems and access data in a computer by just manipulating it or using the code or password of a person. I am sure you have encountered such an issue through a person who works with you or close to you. This is very common when using mobile cell phone. Although people protect their cell phones, somehow somebody will still access information. In the United States of America (USA), the 11<sup>th</sup> September terrorist attack had something to do with cybercrime. Those people manipulated the USA system and all that. They manipulated the system to an extent that they could not even identify them. They managed to escape and

frustrated the USA. Imagine for a country like ours. If we are not thorough with this Bill, it can cause a lot of damage not just to us as a nation, but it can literally destroy our country.

Hon. Speaker, this Bill also talks about child pornography. The provision given is okay but then, it provides another one that almost takes away this offence. When it is given by one hand and taken away by another, then we must look at it very carefully and make sure that when we are creating protection, it must be seal-proof. It should not just be something that is expected hence we just leave it open to manipulation.

Hon. Speaker, Clause 12 provides that a person who intentionally publishes false, misleading or fictitious data or misinforms with intent that the data shall be considered or acted upon as authentic is another crime. We have seen this on social media platforms when people manipulate information. They pick information, twist it and make it look like it is real and authentic. Yesterday, somebody sent me a message pretending to be a known media personality. He told me that they are launching something and they are soliciting support from us and I almost fell for it. However, when I tried to investigate further, I found out that it was somebody who was just trying to get money from me. I realized that those people are becoming very clever. This Bill, when it comes to effect, I think it is going to address so many numerous challenges that we are experiencing within our own system.

We have just come from an election and you saw what happened. Our own electoral system is not really protected because it was subject to manipulation. Even at the level of registration, most of us went to verify through the systems to confirm whether we were properly registered. However, some of us would not find our names because somebody had manipulated the systems. You would even find yourself registered several times. This denied several people a chance to exercise their universal suffrage because somebody had manipulated the system of the Independent Electoral and Boundaries Commission (IEBC). Those are some of the things that this Bill is addressing. Hon. Musimba and Hon. Osotsi who are the experts in this area have enriched us with information that when it comes to the Third Reading and amendments are proposed, I am sure we shall come up with a better legislation that will go a long way to address a lot of social and digital crimes that are being committed on a day-to-day basis.

Cyber criminals operate in areas that they cannot be easily detected. That is why we also need to empower the people who are going to enforce or implement this legislation because our own police also need to be given capacity if they are the ones who are going to enforce this law. Hon. Osotsi has suggested several agencies to be empowered to implement this Bill. I believe a multi-agency approach would be better because we can have banking fraud, others dealing with other issues and then we can still reach this level.

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

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

During the Westgate attack, the Closed Circuit Television (CCTV) cameras were manipulated and the police could not even detect or get images of the terrorists. So, these are very clever people who do things and get away with it. These are some of the things that we need to look at very critically. If you go to other countries and you commit a traffic offence, the cameras will accurately pick you and the next thing is that you will be caught by the police.

Here, our cameras just pick images. They do not even analyze them and hence we need to re-look into it.

Thank you, Hon. Temporary Speaker, I support this Bill. I will propose amendments at the Committee Stage.

**The Temporary Deputy Speaker** (Hon. Mariru): Very well. We should now have Hon. Ichung'wah followed by Hon. Muchira Mwangi Michael.

**Hon. Ichung'wah:** Thank you, Hon. Temporary Deputy Speaker. I rise to support this Bill. As it has been said by many of the Members who have contributed, this is a very critical Bill not just for the economy of this country, but also the security of our nation. As the last Speaker, Hon. Timothy Wanyonyi has said, it should not just be on security issues around this city, the challenges we have with CCTV coverage that was done sometimes back from 2015, its weaknesses in analyzing what is captured and how that programme was to be implemented to make sure that it has face recognition capability. This is so that criminals who commit crime anywhere within our City can be easily identified and apprehended.

I have had challenges in the recent past on matters to do with IT. We have a crime unit at the Criminal Investigation Department (CID). You will be shocked that even when criminals commit crimes and CID are able to lift finger prints, to be able to analyze and match those finger prints to the crimes database at CID Headquarters is hard. If those fingerprints are not available at the criminal database within the headquarters, how they lift that information with the Registrar of Persons at the National Social Security Fund (NSSF) building will shock you! The success rate of trying to identify criminals is probably less than 1 per cent. That is a challenge to do with IT and how well we can have an IT system in the management of crime.

I hope the Inspector General of Police and the Cabinet Secretary for Interior and Coordination of National Government are going to work on a crime prevention and management system such that when you report a crime in Central, Parliament or Kikuyu police stations, the record in the Occurrence Book (OB) is accessed in digital form. It should be such that if you have committed a crime in Kikuyu and you are arrested in Mandera, the police through their own system can access information about you.

Back to this Bill, issues to do with cyber espionage touch on our economy and safety of data. Those in the corporate world will tell you that information is power. Issues to do with cyber espionage in corporate organizations, especially on the financial sector are quite rampant in this country. Even those companies that are listed at the Nairobi Stock Exchange are affected. People are able to get through cyber espionage, privileged information that they use to trade at the stock exchange markets and make profits at the expense of other Kenyans. These are issues that are clearly covered under this Bill.

Clause 11 goes at length and I do not want to read issues to do with cyber espionage. The question on Clause 9 on unauthorised disclosure of password brings to mind the issue of the National Youth Service. You remember someone alleging that it is only his password that was used but he was not the one who authorised certain payments. You wonder how somebody accessed a password without the person who owns that password giving it to them. It is possible that there was complicity between the owner of the password and the people who were in charge of IT. They were able, from the background, to see what passwords someone was using and even hack into the system.

Therefore, this Bill covers such things. You remember the challenges we had with IFMIS and the Government is now moving not just on procurement issues but even on payments. We have e-procurement and IFMIS in terms of payments, from the county level to the national

Government. Everything is moving towards a computer-based payment system and procurement system. Therefore, it will be critical that we are able to secure our economy, State corporations and public sources by ensuring that we have laws that adequately cover these issues. This Bill talks at great length on that.

Clause 2 speaks volumes about issues that have been raised here about false publications. Hon. Members in this House are the first victims of false publications, be it in the gutter press, social media, *WhatsApp* or *Facebook*. We are victims of all these false publications every day. The Hon. Member for Turkana mentioned that these things even go to the extent of defaming people's families, especially during the campaign period. Many of us were victims, being accused of all manner of things.

Recently, my own wife's name was flashed all over social media over issues in the corporation where she works. Bloggers accused her of being promoted, not on account of her husband being a Member of Parliament for Kikuyu, but on account of other immoral things within the bank that she had absolutely nothing to do with.

The people posting these things on social media have no regard. For me as a politician, I do not care. You can blog anything on social media and I do not care. My wife was so dejected, but I encouraged her to relax. She joined the bank that she works for at a very senior level, years before the things that were written on social media happened. It was well before the current management in that bank came into being and she was promoted on merit. She has been a professional in the banking sector for over 20 years, from the time she cleared University. You can imagine how painful it is for ladies. For two days, she could not go to work. I encouraged her to go to work as these bloggers are busybodies and idlers with nothing else to do.

Again, we have very sharp minds amongst these bloggers who could positively use the time and resources they spend blogging about personality, politicians, public figures to make a living for themselves. The likes of Zuckerberg and the inventors of *WhatsApp* social media sites spend their time constructively.

The other day you saw one Nyakundi posting things but when CS Matiangi tries to have him incarcerated, they all come pleading. This Bill is now addressing that problem. It will not just be a question of suing people for damages, but you will go to jail for long periods of time for these false publications. You can see it is fines of Kshs5 million or imprisonment for a term not exceeding two years. I must say this is, indeed, the way to go.

I was speaking about cyber bullying and stalking, issues to do with child pornography. All of us post our photos and those of our families on social media. These pictures are lifted from social media websites and used to either bully or cyber stalk children. You can do that with computers nowadays. You use those photos and the faces of small children to advance very immoral things in child pornography. This Bill is covering all those issues but we must relook at it in the Third Reading. We will be bringing amendments to make it more punitive and more painful especially for these bloggers and those abusing computer systems in this country.

**The Temporary Deputy Speaker** (Hon. Mariru): Very well. I had allocated time for Hon. Muchira.

**Hon. Muchira:** Thank you very much, Hon. Temporary Deputy Speaker for giving me this opportunity to support this proposed Bill on the Floor of the House. We all know that cybercrimes are becoming more sophisticated day in, day out. Cybercriminals are becoming more organised and have better tools. So, we need a law that protects this country from such crimes. That is why I rise to support this Bill and more so for proposing stiff penalties which will act as a deterrent for such crimes.

A few sections that caught my attention as I was reading this Bill include the issue of child pornography. It is happening in this country and we need to protect our children from pornography. We need to be a country of morals. We cannot be in a country where our children are being exposed to obscene photos of child pornography.

Secondly, is the issue of publication of false and misleading information? On this one, I support. Anyone who publishes information must substantiate it and not publish for the sake of it. This will protect people's characters and images. We know it takes time to build one's image and it can take a second to destroy it.

On the issue of cyber stalking and cyber bullying, we have seen people being harassed on social media. Others have been emotionally hurt to an extent of committing suicide because of cyber bullying, harassment, false accusation and defamation. I support this so that cases of harassment and bullying can come to an end. On fraud, we have seen many people, companies and even the Government losing money. Therefore, we need to come up with stiff penalties to ensure that cyber fraud comes to an end. In Clause 24 of the Bill, we are giving power to the police officers to search without warrants in special circumstances. We need to look into this so that it is not abused by police officers.

With those few remarks, I support the Bill but with few amendments during the Third Reading. Thank you.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Kiti Chonga, Member for Kilifi South. Please, give him the microphone. Use the next one.

**Hon. Kiti:** Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this Bill. Indeed, the world is under siege because of cyber crime. Before the world was digitised we did not know much. Life might have been difficult but, what is going on right now is unfortunate because of digitisation.

I concur with my colleagues on the punitive measures and structures which need to be put in place. I have a challenge which I feel needs to be addressed properly. We are aware that the only enforcing agency when it comes to cyber crime is the police service and may be some other authorities which will be given those powers. The police force is complicated because they are highly demoralised. We have heard of cases where some police officers lack shelter and others sharing houses. You find one room being shared by a police officer who is married and an unmarried one and this is very demoralising.

Just the other day, we heard that salaries and allowances of police officers are going to be reviewed downwards and this is a recipe for making them more corrupt. Cyber criminals are ready to go to any extent to make sure they achieve what they want. Unfortunately, our police officers are not given incentives or lack proper training to cope with challenges of the cyber world. We can come up with a very good Bill but eventually we may not achieve what we expect.

My observation is that, first of all the Bill needs to address clearly on how the officers, who will enforce this Bill, will be taken care of so as to see value in whatever they do. Indeed, everyone is today at a risk of this crime. I have been a victim so many times. I know I am just one example, but there are so many people who have been victims. Day in, day out, people are swindled of money, blackmailed and even as Hon. Ichung'wah has said, marriages are breaking. Therefore, this is not something we can stand and watch. Time has come that we need to rise and put all structures in place to ensure that we end these crimes.

With that, I support the Bill. Thank you.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Ongera Janet.

**Hon. (Ms.) Ongera:** Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this very important Bill. From the outset, I want to congratulate the Mover for bringing it because, it is long overdue. I have gone through it and I am very happy to note very many important clauses which are included.

This Bill will ensure that authors in social media are responsible. As you are aware, these authors have brought down the image of social media with their comments on *Facebook*, *WhatsApp* and others. They are not regulated and sometimes damage the image of many public figures and in particular politicians. I am very happy because this Bill will regulate what they write and comment. In fact, it has penalties for such acts. I am happy to see Clause 42 on territorial jurisdiction and forfeiture. It clearly outlines where the competent jurisdiction will arise. I am very pleased because even if a crime is committed outside Kenyan territory, a person can still be held liable. If you may allow me to read Clause 42(2), it states:

“(2) For the purposes of subsection (1), an act or omission committed outside Kenya which would if committed in Kenya constitute an offence under this Act, is deemed to have been committed in Kenya.”

This is extremely important because we have very many fake accounts on social media which are unregulated. For some, their origin of jurisdiction is outside Kenya but yet they are operated here in Kenya. I am happy to see a clause which will deal with banking operations. Banking has become digital and, therefore, there is a lot of cyber fraud. Many of us are using digital banking and we do not know when we will be hit. Therefore this clause will protect banks. I am also happy to see Clause 9 because I am a victim of access to passwords. Recently, the Members of the National Super Alliance (NASA) had a court case regarding the IEBC servers. We know the password was stolen and a lot of information was stolen and votes added. As you are aware, that made our candidate, the Hon. Raila Amollo Odinga be defrauded of his election. Be it as it is, I am happy also to note that Hon. Raila Amollo Odinga has decided to move on and has shaken hands with the President and he has decided that let bygones be bygones.

Finally, cybercrime will always be there despite a beautiful legislation as this. What is important is how it will be regulated. What will be the commitment by the Government in regulating this Bill or in imposing and ensuring that the penalties described actually are enacted, regulated or imposed?

With these few comments, I beg to support.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. (Ms.) Wanga Nyasuna.

**Hon. (Ms.) Nyasuna:** Thank you, Hon. Temporary Deputy Speaker, for this opportunity to contribute to this very important Bill. I like to note that one of the key discussions at the Commission on the Status of Women Conference that we attended in New York just last week was reviewing the role of ICT in women's participation in politics. There was a big debate around how we protect our cyber space. Rwanda and South Africa both raised key issues around this. This Bill became a subject of discussion because we did say that Kenya was in the process of putting together a Bill that will regulate our cyber spaces. I am, therefore, very pleased that this Bill has come forth.

The ICT is really the biggest revolution of our time. At the same time, if not regulated it might become the biggest destruction as well. While it is important that we protect the freedoms that are provided within the Constitution, particularly the freedom of expression, we must also note that freedom of expression as provided in Article 33 of the Constitution does have limitations and does not include propaganda, hate speech and vilification of others. Users of our

cyber space must understand this. I am very pleased that this Bill deals with access of a computer system with intent to facilitate a criminal offence as an offence and criminalises this. The term “open the server” has become a cliché since we had elections and we do know that there was unauthorised disclosure of passwords, as my colleague has said in her contribution. We do know that this really created problems. I am happy that this can now be dealt with.

It is also important that this Bill deals with publishing false and fictitious data. Right now the biggest debate in the world is around a company called Cambridge Analytica, which is the company that actually came here and published a lot of propaganda and false and fictitious information about His Excellency Raila Amolo Odinga. I am happy that now there is a legal basis within our own Kenyan jurisdiction that we will use to pursue and sue Cambridge Analytica. This is very useful.

There is cyber stalking and cyber bullying. Recently, somebody created fictitious messages on *WhatsApp* and sent them around that Hon. Wanga was speaking to some honourable MPs from Jubilee talking about how we want to talk together. This was before the handshake. This was extremely damaging as you can imagine. I am really pleased that this can be dealt with. Actually, the tragedy of a modern day politician is being stalked and being cyber bullied. It is not just to a politician. We have seen people who have been bullied to the point of committing suicide including with their children.

There is the issue of wrongful distribution of intimate images. I have learnt that there are men who circulate very bad images to women MPs but there are also women who circulate very nasty images to male MPs. This is now a criminal offence. If you are out there listening and thinking you are going to continue sending those nasty *WhatsApp* images, you are now going to be caught by the law and you are going to pay for it.

With those many comments, I beg to support this very important Bill. I will support the amendments that have been proposed by the Committee to even strengthen it further. Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Mariru): Initially, I had seen that no additional Member had interest to speak to this Bill but I can see as Hon. Wanga was doing her presentation, two additional Members registered interest and we shall give them an opportunity. Next is Hon. (Ms.) Buyu Akinyi.

**Hon. (Ms) Buyu:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity and for agreeing to add two Members to your list. I am one of them. I have stood up to support this Bill. One point I would like to stress on is that social media is good and it is progressing but if misused it can actually cause a lot of conflict. I say this because of a lot of fake news and fake information that comes through our *Facebook* or social media in general. Sometimes you read things and you actually believe them. It can cause a lot of tension yet in the end you discover that it was not true. Before one discovers that it was not true, that tension can actually lead to conflict. I am happy that there is going to be an opportunity where anybody who puts the country or puts individuals at such risk will be dealt with and dealt with accordingly.

I am happy to stand up and support this. Once again, thank you for giving me the opportunity.

**The Temporary Deputy Speaker** (Hon. Mariru): Member for Laisamis, you have the Floor.

**Hon. Arbelle:** Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice to the Bill being deliberated upon. The Computer and Cybercrimes Bill has come at the right moment where many Kenyans today are facing the challenges of

people sending them very bad messages, pornography included. Many people are actually unable to tolerate that kind of behaviour. Unfortunately, there has been no proper law in place to deal with cybercrime.

Hon. Temporary Deputy Speaker, as you may have noted, many parliamentarians have actually succumbed to this cyber bullying. It is very unfortunate that as much as we appreciate information technology it has come in handy to help many Kenyans to go about their business. You may have realised that in the old days, people used to sit in their offices and write everything manually. Today, information technology has brought in a lot of advantage to our workforce. You can go about your businesses outside your office by use of your computer or smartphone and execute the duties of your office effectively. However, some people have really taken advantage of that innovation of technology to send people some very vulgar messages and information that somebody cannot tolerate.

For that reason, the Computer and Cybercrime Bill has come in handy. I project that it will deal with those criminals. However, the implementation of this Bill matters a lot because we understand that the only organ that will be given the responsibility to investigate, arrest and receive reports from the public remains the Police Service Commission. Just like one parliamentarian has mentioned, our police officers are not well equipped to handle cybercrime cases. In this case, it is better to equip them first, so that they can handle cases of cybercrime. If you go to report a simple case right now at a police station where a case is booked manually in the OB, you will be told to go tomorrow or the day after tomorrow, until you get tired of the harassment. The police officers take this person in circles. Eventually, he will opt to drop the case. If somebody reports a cybercrime case, which is more or less digital and sophisticated for that matter, I do not think the police officers are capable of discharging that responsibility. So, we better try to reinforce our police service or have a unit within it which will solely deal with cybercrimes.

Some people use other people's names to register themselves as the owners of sim cards. The telecommunication companies should be advised to deregister and register people anew. That way, we will start from a new page and the companies will know that the data which is captured in their systems is truly of a particular person. Some people purport to be certain people and yet they are not. People impersonate other people.

Hon. Temporary Deputy Speaker, with those few remarks, I support the Bill. Thank you.

**The Temporary Deputy Speaker** (Hon. Mariru): We shall now have Hon. Oyoo Onyango, Member for Muhoroni. You need to use the microphone.

**Hon. Oyoo:** Hon. Temporary Deputy Speaker, the advent of Information Technology brought the birth of many learned crooks who are very idle and have many nasty things to do about people who are very innocent. If this Bill goes through, it will help to control the many people who are affected. I am a victim. About two weeks ago, I was purportedly shown to be drowning in my constituency. That is when the rains started. I was too mindful about my suit. I was busy putting on my expensive coat despite the fact that the car which I was on top was drowning at River Yala. My constituency is very far from River Yala. Even if I was drowning, I would drown towards River Nyando or Lake Victoria. This matter caused many of my colleagues and friends to call me and show concern. I was very busy in Nairobi going about my business. I am not the only person, I heard my colleagues here before I had this experience talking about the very nasty images that were sent to them and they were blackmailed. We talk about it because we are accorded the opportunity.

**The Temporary Deputy Speaker** (Hon. Mariru): Order Hon. Oyoo. What is it Hon. Wanga? You seem to have an intervention.

**Hon. (Ms.) Nyasuna:** Hon. Temporary Deputy Speaker, I really regret to interrupt Hon. Oyoo who is like my father. He even gave me the car that drove me at my wedding. I would like him to confirm this incident. We were told that when he was on top of his car, he said that he would rather be found in his Brioni suit rather than be found without it. That is why he was on top of the car wearing the Brioni coat, despite the fact that he would be heavier and sink faster. As a Luo man, he would rather be found in the Brioni coat rather than without it.

**The Temporary Deputy Speaker** (Hon. Mariru): For the benefit of Hon. Wanga and the House, it will be good for you to speak to that particular matter.

**Hon. Oyoo:** Thank you very much, Hon. Temporary Deputy Speaker. What has been expressed by the iron lady of Wang'aya who is now busy educating the people of south Nyanza on how to live and behave is true.

The interest of the orchestrator of this mischievous act was to portray me as a Luo who is too mindful about his suits. More so, they were capitalising on the weakness which is that I love expensive decent suits. Hence, the impression they gave was that I was posed with a danger of drowning but I was still very mindful about my suit. I was busy trying to fit my Brioni suit on top. Those keen observers who looked at the photoshop know that was not my image. As I have said before, I want to allay the fears from the minds of my good friends and colleagues here that on that fateful day, I was very busy going about my business. I was lucky to attend a speech day at the prestigious Alliance Girls High School where I met several colleagues and friends, including my former colleagues, Hon. Ababu Namwamba and Hon. Khalwale. We were all there. When these images erupted, they called and asked me when it happened because we were together. I am a victim who has the opportunity to come here and explain my plight. There are several innocent Kenyans whose images and characters have been besmirched severally and they have never had an opportunity to express themselves.

When this Bill will be passed, the police officers will have it very easy to go about their business arresting the orchestrators of these serious acts, bring them to book and make sure that these kinds of episodes decline but not increase. I was affected. I know my colleagues and friends who were equally affected. This Bill should be supported and passed like yesterday.

I support the Bill. Thank you very much, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Members, I can see that there is no additional interest of Members to contribute to this particular Bill. Hon. Gathoni wa Wamuchomba, you contributed to this Bill before. You can only do it once. We are still discussing the Computer and Cybercrimes Bill but not the next Order. In that case, there being no other additional interest for Members to contribute to this Bill, I now ask Hon. Kisang Kipkemoi, the Chair of the Committee to reply.

**Hon. Kisang:** Thank you, Hon. Temporary Deputy Speaker, for this opportunity to reply to the Bill. I want to thank all the Members who have contributed to this Bill. I believe they are over 60. I thank God because it is only one Member who opposed the Bill. All the other Members supported it. Some Members like Hon. Oyoo have just said that this Bill should have been passed like yesterday. I hope those people outside there who have been fighting people and committing cybercrimes should be warned that this Bill will be law very soon in the next one, two or three weeks. So, they should stop what they have been doing.

The issue of the enforcement of this Bill was raised. I know Members have talked about the police officers, especially the DCI. I want to tell this House that we already have two

cybercrime centres in Kenya. One, we have a serious and modern cybercrime centre at the Communications Authority of Kenya. My Committee and the Departmental Committee on Administration and National Security will visit them in the next two weeks to see what they are doing so that we can help them to enhance, improve and modernise those particular cyber centres. There is also a smaller one at the Directorate of Criminal Investigation.

Hon. Temporary Deputy Speaker, Members have proposed amendment on several clauses, especially Clause 24 where there is a section that says the police may go into a premise without a court order. Basically, as Members of the Committee, we have agreed that we are going to consider all the input that Members have suggested and all the comments that will enrich the Bill. We will incorporate them and bring them to the House during Committee of the whole House.

The last stage of the Bill also anticipates that there will be regulations to effect it. We urge those who are responsible to start making them because we want the Bill to come into effect as soon as possible. So, they need to have draft regulations which we will look at and pass to the Committee on Delegated Legislation to look at and bring them to the House so that we pass them.

I would like to inform all Members that recently we sent four Members of my Committee to Mauritius. They have come back with several good amendments that will enrich the Bill. We remember what Hon. Osotsi said in the morning and also what Hon. Musimba, who is also an expert like I am, has also given us a memorandum on some of the clauses. I promise the House that, as a Committee, we will meet from next week. We will also retreat to discuss and write all the amendments that will be presented at the Committee of the whole House.

Thank you very much. I take this opportunity to thank all Members and promise Kenyans that this Bill will be an Act in the next few days.

With those remarks, I beg to reply.

**The Temporary Deputy Speaker** (Hon. Mariru): Thank you. I defer putting the Question.

*(Putting of the Question deferred)*

Next Order.

## BILL

### *Second Reading*

#### THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Washiali, on behalf of the Leader of the Majority Party.

**Hon. Washiali:** Hon. Temporary Deputy Speaker, on behalf of the Leader of the Majority Party, I would like to step down Order No.11, the Public Private Partnerships (Amendment) Bill (National Assembly Bill No.52 of 2017).

We have set standards in this House. For Members to enrich their debate, the relevant Committee should table a report on any Bill we are about to debate. Unfortunately, in this case, the relevant Committee has not done so. Therefore, as the leadership, we seek to step down this

Bill to give the Committee time to table a report so that once Members go through it, they will be able to debate in a manner to enrich the Bill.

Thank you, Hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Mariru): Thank you, Whip of the Majority Party. That is clear to us.

*(Bill deferred)*

Hon. Members, as you can see, there is no other business on the Order Paper of today. I want to remind ourselves what the Hon. Speaker informed us earlier on the notification of recess from 30<sup>th</sup> March to 9<sup>th</sup> April 2018. Pursuant to the provisions of Standing Order No.28(3), relating to the Calendar of the Assembly, the Speaker notified the House that upon the rise of the House today at the appointed time, regular sittings will resume on Tuesday, 10<sup>th</sup> April 2018 at 2.30 p.m.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Mariru): Hon. Members, there being no other business on the Order Paper, the House stands adjourned until Tuesday, 10<sup>th</sup> April 2018 at 2.30 p.m.

The House rose at 5.15 p.m.