

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 16th April, 2008

The House met at 2.30 p.m.

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

PRAYERS

The Temporary Deputy Speaker (Prof. Kamar): Hon. Members, as you will remember, we interrupted debate on the Accountants Bill yesterday. The debate continues this afternoon.

Mr. K. Kilonzo: On a point of order, Madam Temporary Deputy Speaker.

The Temporary Deputy Speaker (Prof. Kamar): Mr. K. Kilonzo, please sit down! I am sorry, there is a Ministerial Statement that was requested yesterday that I did not remember. I would like that to be made before we go to Order No.6.

MINISTERIAL STATEMENTS

MEASURES TO ADDRESS RESURGENCE OF *MUNGIKI* MENACE

The Minister of State for Provincial Administration and Internal Security (Prof. Saitoti): Thank you very much, Madam Temporary Deputy Speaker. On 15th April, 2008, Mr. K. Kilonzo rose on a point of order to seek a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security on the issue of insecurity, caused by the *Mungiki* menace.

Mungiki is a criminal gang, which was proscribed by the Government because of its involvement in criminal activities. The gang has been involved in serious crimes, including indiscriminate beheading of innocent people. The current situation has been prompted by the murder of one Mrs. Virginia Nyakio Maina. On 9th April, 2008, Mrs. Virginia Maina was murdered after being abducted on 8th April, 2008. The deceased is the wife of Maina Njenga, the gangleader of the proscribed *Mungiki* sect. As soon as the matter was reported to the police, investigations began and are still going on.

Madam Temporary Deputy Speaker, the police are pursuing a number of leads, one of which points to the possibility of the gang's internal fighting. The murder of the said person prompted the *Mungiki* gang to unleash terror on innocent members of the public by blocking roads and harassing passengers in some parts of the Rift Valley, Central and Nairobi Provinces. Following the murder of Mrs. Maina, suspected followers of the *Mungiki* sect reacted in the most bizarre and illegal manner. They engaged in illegal demonstrations, torched public and private vehicles, harassed innocent Kenyans and interfered with public transport.

Contrary to the widely published claims, I would like to assure the House that the police were not caught flat-footed, but instead moved swiftly to protect people's lives and property.

Twelve people have so far lost their lives, 230 suspects have so far been arrested and will be arraigned in court fairly soon. The Government's core mandate is to ensure that the lives and properties of Kenyan citizens are safeguarded. For this reason, the Government is determined to use all legal means at its disposal to stamp out *Mungiki* and all other organised criminal gangs, which have been terrorising innocent people with impunity. The Government shall not negotiate with organised criminals or any other similar groups whatsoever.

Madam Temporary Deputy Speaker, the Government has put in place the following short and long-term measures to address the *Mungiki* menace and other forms of insecurity. It has banned and outlawed *Mungiki* and other illegal societies posing threat to national security. This was done on 15th March, 2002. The Government has intensified crackdown on members of illegal gangs and, so far, several suspects are facing the law. We have deployed security personnel in all *matatu* terminuses to stop the collection of illegal levies from the *matatu* owners. We have also conducted raids and patrols to flush out the illegal gangs from their hideouts. The Government has enforced traffic rules to ensure that the *matatu* operators are not exploited by the members of the *Mungiki* sect in the *matatu* industry. The Government has taken legal action against the leaders who have been suspected of using criminal gangs for political purposes. It has provided anonymous facilities like "*Toa habari kwa Serikali*" boxes in Provincial Administration offices and mobile phone facilities to enhance speedy security information alerts.

The Government has introduced the Community Policing Programme to ensure that the police partners with communities in preventing crimes. It has also formed special police squads in the affected areas to address the criminal menace. The Government has recruited additional security personnel, both regular and Administration Police, to improve the police population ratio. It has offered cash rewards to information leading to the recovery of firearms. I wish to point out that the work to combat crime is, indeed, a collective responsibility of all Kenyans. Indeed, the police, churches, community leaders and civil societies and all organisations in general, have a responsibility to the youth to create a crime-free Kenya.

I want to assure the hon. Members that our security agents are working harmoniously and are up to the task. They will ensure that security is maintained and the gang does not get any opportunity to kill, harass innocent Kenyans, disrupt business and interfere with the flow of traffic as has been reported.

Thank you.

Mr. K. Kilonzo: Thank you Madam Temporary Deputy Speaker. You have heard the unsatisfactory answer the Minister has brought to the House when the nation is bleeding; when young Kenyans are being killed everyday in the guise of *Mungiki*. Just recently, an innocent lady with her driver was burnt along Lang'ata Road. The Minister has not told us about the young people who have been demonstrating in Nairobi asking why that lady was killed and what the police have found out. This has caused a spiral effect and that is why Kenyans are unable to go to work and buses are being burnt. Over 50,000 young men are holding towns hostage in this country and yet the Minister is telling us that---

The Assistant of State for Provincial Administration and Internal Security (Mr. Lesirma): On a point of order, Madam Temporary Deputy Speaker.

Mr. K. Kilonzo: I am also on a point of order, Madam Temporary Deputy Speaker.

The Assistant Minister of State for Provincial Administration and Internal Security (Mr. Lesirma): On a point of order, Madam Temporary Deputy Speaker. Members are only allowed to seek clarification for Ministerial Statements. What clarification is the hon. Member seeking?

The Temporary Deputy Speaker (Prof. Kamar): Mr. K. Kilonzo, please, seek your clarification and let us not introduce something else to the Statement!

Mr. K. Kilonzo: Madam Temporary Deputy Speaker, that is exactly what I am doing. You will realise that I am a young man and those who are being killed are young people. I have not seen

an old man called *Mungiki*!

Could this Government of old people negotiate with these young people to get to know the cause of this menace? Is it unemployment or what is causing this problem? This problem is affecting Kenyans of all walks of life.

Mr. Bett: Madam Temporary Deputy Speaker, I understand the *Mungiki* members are pleading with the Government to be allowed to bury the wife of their leader in Kitengela. At the moment, it is said that the house of the sect leader is fully occupied by the General Service Unit (GSU). Under what law was the house taken over by the GSU? The *Mungiki* adherents would want to bury the wife of their leader out there.

Secondly, the Minister has said that they are looking for the leaders of this gang. I fail to understand where they are looking for them because they appear on television everyday! How come they are being seen on television and yet the Minister cannot see them?

Dr. Khalwale: Madam Temporary Deputy Speaker, the Minister has said that according to investigations, the motive behind the mayhem is infighting. Could he clarify whether, indeed, what he is saying is what has been confirmed by the national State intelligence system?

The *Mungiki* members have been shown on television footage saying that the real reason why they are fighting is because land belonging to their great grandfathers was grabbed by a few millionaires in Central Province. They are doing that to reclaim their land.

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, it is unfortunate nowadays that, when young people rise up to fight for their rights, they are given certain titles like *Mungiki*, *Jeshi la Mzee* and all kinds of names. It is not possible that over 100,000 youths are up in arms and all the Government can say is that they are the *Mungiki*. I watched the news last night. Those people are saying simply that land in Central Province is held by very few people. Their fathers fought for the Independence of this country and they got nothing. We want to know what is the permanent solution to that problem, apart from shooting the youths.

Mr. Ngugi: Madam Temporary Deputy Speaker, the Minister has issued a Ministerial Statement which falls short of addressing the long-term solution to dealing with the *Mungiki*. To me, the Minister has not even told us - and that is why I am seeking clarification - what is the connection between the so-called *Mungiki* and what we are hearing in the news as Kenya Youth Alliance. What is the connection?

What we are seeing on television is the police using excessive force to deal with those young people; killing so many of them. They are also alleging that 5,000 of them have been killed by the police. I think the way to deal with this matter is to look at the whole thing in a more comprehensive manner. To me, to use just force will not deal with the issue of the so-called *Mungiki*. We, as this House, will not want any other group of Kenyans to rise up---

We have not investigated what their grievances are. All we do is go and shoot them indiscriminately. Can we even tell how many innocent Kenyan youths have been shot just because they are labelled *Mungiki*?

The Temporary Deputy Speaker (Prof. Kamar): Please, seek your clarification!

Mr. Ngugi: Madam Temporary Deputy Speaker, the clarification I am seeking is: What is the connection between the so-called *Mungiki* and the Kenya Youth Alliance? What are their grievances, so that we can address them comprehensively?

The Temporary Deputy Speaker (Prof. Kamar): Mr. Minister, let me allow two more but, please, stick to clarifications so that we can close!

The Assistant Minister for Foreign Affairs (Dr. Onyonka): Madam Temporary Deputy Speaker, when hon. K. Kilonzo says that the Government is full of old people and yet, of course, some of us are very young---

The Temporary Deputy Speaker (Prof. Kamar): Is that a clarification or---

The Assistant Minister for Foreign Affairs (Dr. Onyonka): I need a clarification from the Chair whether that is--- The question I wanted to raise is: Is it proper parliamentary language for an

hon. Member to call other Members of Parliament "old"?

The Temporary Deputy Speaker (Prof. Kamar): Let us get the clarification from the last hon. Member! I do not think there is anything wrong with age. Some are young while others are old. It is only the phraseology!

Please, let us continue! Let us have the last one and then we can have the clarification from the Minister.

The Assistant Minister for Agriculture (Mr. Ndambuki): Thank you, Madam Temporary Deputy Speaker. I would like to seek a clarification from the Minister. Is he convinced that the police force is going to manage that situation? Before the current menace, the *Mungiki* was there. They used to be negotiated with. Could he try and find out whether they can sit down with those people and sort out the differences so that people can go to work and destruction of property is stopped?

The Minister for Provincial Administration and Internal Security (Prof. Saitoti): Madam Temporary Deputy Speaker, I am actually very amused by the fact that the hon. Member who has just sought a clarification will fairly soon be here to answer questions! That is because is already an Assistant Minister.

But be that as it may, let me say that it is true that we do have the *Mungiki*. It is the one that has clearly been known to have perpetrated quite a lot of violence. It has done so by attacking innocent people. That, in itself, is criminal and contrary to the law. I think we have to agree that no one can use any excuse to kill, harm and destroy property belonging to innocent people. I think it is important for us to agree that any organization that embarks on that kind of a criminal route, has got to be dealt with.

Madam Temporary Deputy Speaker, for that reason, I am not aware of the fact that the root cause of the *Mungiki* violence is because they are disgruntled over the fact that, their so-called ancestral land has been taken by a few people in Central Province. We have not heard those people say that. They have spread quite a number of leaflets all over and none of them talks about the fact that they want to get that land. I have not heard about that. I think we have got to be very clear. Indeed, there are some hon. Members here who are from Central Province. They, perhaps, would be in a much better position to clarify that. No one has stated that one.

The other thing that I want to make very clear is that I do not see how the Government would sit down to negotiate with people who have taken the law into their hands. They are killing people and burning peoples' property. I do not think any Government can do that sort of thing. What we have to do is to bring that thing to a halt.

We are determined to ensure that, indeed, immediately after we bring the situation to normalcy, just like the post-election violence, that menace does not repeat itself again. We have to ensure that Kenyans live in peace. That is really important. I hope hon. Members will agree on that. Then, we can look at the various causes.

The other point that was raised by hon. Bett regards the lady who was killed. That is Mrs. Maina. It is planned that she will be buried in their home in Kitengela. I do confirm that, indeed, it is true that, that particular home has been guarded by the security personnel from some time last year. The causative factor for that was the fact that, that place was being used for criminal activities. Therefore, security personnel had to be placed there to ensure that there was no eruption of criminal activities.

Madam Temporary Deputy Speaker, Sir, the position is, and I want to be very clear on this, that when a person dies the Government cannot prevent that person from being buried or prescribe where he or she will be buried. Having said that, we hope that the relatives of Mrs. Nyakio Maina will ensure that the funeral service is carried out accordingly and is not used as an occasion for criminal activities. That is one thing that we have stated clearly. We cannot allow a funeral to be used for criminal activities.

Thank you.

The Temporary Deputy Speaker (Prof. Kamar): Thank you, Mr. Minister! Let us hear the next Ministerial Statement from the Minister for Energy, Mr. Murungi!

DISCONNECTION OF ELECTRICITY
SUPPLY TO WATER COMPANIES
IN WESTERN REGION

The Minister for Energy (Mr. Murungi): Madam Temporary Deputy Speaker, yesterday, 15th April, 2008, the hon. Member for Rangwe Constituency, Mr. Ogindo, requested me to issue a Ministerial Statement on the disconnection of electricity supply to various water service companies, especially those in the western region. I wish to make the following Ministerial Statement in connection thereof.

As hon. Members may be aware, the Kenya Power and Lighting Company (KPLC) purchases electricity in bulk from the Kenya Electricity Generating Company (KenGen) and the Independent Power Producers (IPPs) on a 40-day credit term and sells it to customers. Electricity consumers, and this includes water service companies, Ministries and Government departments, are expected to pay all their monthly bills promptly to enable the KPLC meet its financial obligations.

Hon. Members may also be aware that 75 per cent of the revenue from electricity sales to customers goes to pay KenGen and the IPPs for bulk electricity purchase. This means that the KPLC is left with only 25 per cent of the total sales revenue to finance other financial commitments, including power transmission and deterioration system costs.

Madam Temporary Deputy Speaker, as at 31st March, 2008, the Ministry of Water and Irrigation, and its water service companies across the country, owed the KPLC a total sum of Kshs185,349,485 in electricity bills. This accrued debt is causing serious financial problems for the KPLC. As a result, the KPLC is forced to resort to disconnection of electricity supply to all customers, including water service companies as well as other consumers, as a means of compelling them to pay for their electricity services.

Madam Temporary Deputy Speaker, several meetings have been held between the Chief Executive Officer of the KPLC and the Permanent Secretary in the Ministry of Water and Irrigation with a view to reaching a sustainable agreement on settlement of these arrears. Arising from one of those meetings, it was agreed, among other things, that the Ministry of Water and Irrigation would make a down payment of Kshs155 million by the end of April, 2007. That is one year ago. They also agreed that the balance would be cleared over a period of time. Unfortunately, this amount still remains unpaid, forcing the KPLC to be left with no other alternative except to disconnect the water service companies.

Madam Temporary Deputy Speaker, the KPLC has continued to engage the Ministry of Water and Irrigation in discussions with a view to reaching an amicable settlement of this matter. I would like hon. Members to know that it is important for all Government Ministries and parastatals, including water service companies, to settle their electricity bills every month to avoid disconnection.

I am aware of the acute suffering that this disconnection policy has caused to Kenyans at large, and especially public institutions such as schools. To alleviate suffering to the members of the public and public institutions, I have today directed the KPLC to reconnect electricity to all water service companies in the entire country for the next 30 days.

(Applause)

In the meantime, I expect that all the water service companies will enter into discussions with the KPLC on how the outstanding electricity bills are going to be cleared during this period. Those

companies which will not have paid, or made arrangements to pay all the outstanding electricity bills after the 30 days, will have their electricity disconnected.

Thank you.

Mr. Ogindo: Thank you, Madam Temporary Deputy Speaker. First, I would like to thank the Minister. I am glad that he has taken the necessary steps to ensure reconnection of disconnected electricity supply. I am encouraged that he is, indeed, sensitive to the welfare of Kenyans.

Madam Temporary Speaker, the Minister has said that the debt is a matter between the Ministry of Water and Irrigation and the KPLC. I would like to suggest that, while this Government is working in the spirit of collective responsibility, it would be in order for the Ministries of Water and Irrigation and Energy to work together and agree in the interests of the welfare of Kenyans. They should make budgetary provisions, if necessary, so that these old debts are dealt with at the Ministerial level.

You realise that today we have water service companies. These are newly-registered companies. I appreciate that they inherited both assets and liabilities. I also appreciate that the KPLC is an enterprise, which is in the business of buying and selling electricity.

Madam Temporary Deputy Speaker, I want to urge, through the Minister, that KPLC does its business with the biggest business mind, but equally with the biggest human heart, so that we do not make money at the expense of Kenyans.

You realise that---

The Temporary Deputy Speaker (Prof. Kamar): Please, seek your clarification!

Mr. Ogindo: Madam Temporary Deputy Speaker, what I want clarified is the issue of the 30 days. That is a very short period! I want the Minister to clarify whether they are going to disconnect power after 30 days.

Mr. Anyango: Madam Temporary Deputy Speaker, I want clarification from the Minister for Energy as to whether the directive to disconnect power after 30 days also includes the issue of power surges. Some of the water pumps are receiving power that is less than required to effectively operate. This is so particularly in the western region of this country. So, I am seeking to know whether that is covered in the new directive.

Madam Temporary Deputy Speaker, in the past, what we have experienced is that there are pumps that have power, but it is not enough to make them operate and pump water to consumers in that region.

Mr. Bahari: Madam Temporary Deputy Speaker, I want the Minister to clarify what kind of credit arrangement there is between the water companies and the KPLC. This is because I believe that the customers of KPLC must help the water companies to operate reasonably. What kind of credit arrangements are there? Could the Minister clarify that?

Mr. C. Kilonzo: Madam Temporary Deputy Speaker, I know that the Minister has a policy. I am sure that when he took over, he must have told KPLC that it is not going to be business as usual in as far as bills which are not paid are concerned. Nevertheless, disconnection of this power supply to the water companies in some parts of the country, for example, Kisumu in western Kenya, led to the outbreak of cholera.

Madam Temporary Deputy Speaker, I want to make an appeal and also seek clarification as to whether it is possible, rather than have 30 days, these bills be written-off and the Government pays the liability to KPLC or, the period be extended to a much longer period. I believe that 30 days are just too short.

Dr. Khalwale: Madam Temporary Deputy Speaker, it is on record in this country that large debts owed to the Government by parastatals or co-operative societies were written-off. In view of the fact that this disconnection of power was actually a criminal act against humanity to the extent that, for example, in the Provincial General Hospital in Kakamega and the Provincial General Hospital in Kisumu---

The Temporary Deputy Speaker (Prof. Kamar): Please, seek clarification!

Dr. Khalwale: Madam Temporary Deputy Speaker, I am building the clarification! Upon the disconnection of power, operations in theatre and deliveries in labour wards could not take place! This resulted into loss of lives. Could the Minister undertake to, once and for all, write off these debts so that we have a new beginning?

Madam Temporary Speaker, after all, we now have a Prime Minister who will be sorting out the co-ordination between the Ministry of Water and Irrigation, the Ministry of Energy and so on.

Mr. Mwaura: Madam Temporary Deputy Speaker, emanating from the Statement given by the Minister, it is notable that he has made a very timely move to bail out the water companies. I would like the Minister to take a step further and probably inform the House how much money is owed by these water companies.

Madam Temporary Deputy Speaker, secondly, I want to know whether the issue of the credit facility of 30 days was initiated by the managers of the water companies or it was an issue that the Minister thought would guarantee the proper operation of these water companies. If the managers of the water companies were not consulted, it would have been better if they were to be given a longer period to consolidate their financial positions.

The Minister for Energy (Mr. Murungi): Madam Temporary Deputy Speaker, first I would like to assure my colleague that, indeed, under the doctrine of collective responsibility, there have been Ministerial consultations on this matter, in fact, for over the last one year. One of the agreements reached was that each of the service companies should pay its own debts. So, those consultations have been going on and, as I said before, the consultations will continue.

Madam Temporary Deputy Speaker, as I said in my Statement, I cannot guarantee that the water service companies will not be disconnected after the 30 days. After consultations with the management of KPLC, I was informed that the extension that we can give is for 30 days. So, the companies have 30 days within which to make arrangements to pay.

Madam Temporary Deputy Speaker, with regard to power surges, it is true that the country is enjoying a rather low quality of power almost everywhere. The reason for this is that the demand and the supply of electricity in the country is almost now at par. We need to generate more electricity to be able to improve on the quality of supply. With regard to western Kenya, once the Sondu Miriu Project is fully commissioned, there should be no problem with the power surges because we are going to have sufficient electricity for that region.

Regarding credit facilities, the KPLC already extends a credit facility of 30 days to consumers all over the country. Given the fact that they also have a 45-day credit with KenGen, I do not think it is possible to extend this credit beyond 30 days. The KPLC is now operating in accordance with commercial principles. The old days when it had parastatal mentality are gone.

We are trying to get it to financially survive from its own operations. Therefore, the question of writing off debts owed to KPLC would not be a wise thing to do. For those who are saying that 30 days are too short, yes, indeed, this is a short period of time, but we are also aware that if the Ministry of Water and Irrigation includes these rebates as part of its Supplementary Estimates, there could be funding through the Treasury to clear those bills.

So, consultations with our colleagues in the Ministry of Water and Irrigation to see whether the proposal by Dr. Khalwale - we know him as a bull fighter - regarding inter-Ministerial consultations on how these debts can be resolved, will continue. I believe that with the new team in the Ministry of Water and Irrigation, it will be included in the Supplementary Budget. That is the only way the new water service companies can be bailed out.

The total debt so far owed by the various water companies across the country is about Kshs215 million.

Thank you, Madam Temporary Deputy Speaker.

BILL

THE ACCOUNTANTS BILL

*(The Minister for Finance
on 15.4.2008)*

*(Resumption of Debate
interrupted on 15.4.2008)*

The Temporary Deputy Speaker (Prof. Kamar): Is there any hon. Member wishing to contribute to this debate?

Yes, Mr. Mungatana!

The Assistant Minister for Medical Services (Mr. Mungatana): Madam Temporary Deputy Speaker, I thank you for giving me this opportunity to make my small contribution to the proposed Accountants Bill.

As we can see from the Memorandum of Objects and Reasons, one of the most important things that this Bill aims to achieve is to regulate the accountancy profession. Every time we talk about Bills to control professions of any calibre in this House, ordinarily, the thrust of most of the arguments goes towards the ethics and the professional conduct of the various professions.

Madam Temporary Deputy Speaker, my argument, therefore, would be strongly based on the proposed Clause 30 on Professional Misconduct of the members of the accountancy profession. It proposes to create certain types of professional conduct and subject violators to disciplinary action. If you look at what has been proposed under this clause, you will see that there is a good attempt at defining some of the offences that could be deemed to be the subject of professional misconduct.

There is, however, one thing which needs to be pointed out. Accountants are probably the most important professionals when it comes to keeping public money. There is no scandal that has taken place in this country - be it Goldenberg or Anglo Leasing and all the others we have read about in the Reports of the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) - in which accountants have not been involved.

Madam Temporary Deputy Speaker, I want to believe that not all the accountants would have been willing to participate in those scandals, or that they would have kept silence when those cases of misconduct were happening; if there was a way for them to be protected.

This Bill has omitted a whole section on the protection of whistle-blowers in the accountancy profession. There is no protection at all! If there is an accountant who is employed, for instance, in a public organisation such as the Kenya Ports Authority (KPA) or the Kenya Ferry Services (KFS), who finds out that there is something wrong going on in the manner in which the accounts are being presented, or something is being hidden, there is no provision in this Bill to enable them to safely give that information and retain their jobs. So, the Minister needs to look seriously into provisions that will cushion accounts who want to be honest and patriotic and who would want to practise their profession with dignity.

Madam Temporary Deputy Speaker, to this end, I propose that a whole new clause that talks about accountants and whistle-blowing as well as the way they can be protected within their profession, be created under this Bill. I support very much the sentiments by Members here who said that it would be necessary for this Bill to be referred to the relevant Departmental Committee before it is passed by this House. I hope that we will not close debate on this Bill, because we need to introduce certain clauses which are important and nationalistic in nature, and which will help to protect people, who want to be honest, from being removed from their jobs when they tell the truth.

Madam Temporary Deputy Speaker, there is another section that has been excluded from this Bill. It is not the first time that we are regulating professions in this House. We did so when we were dealing with the rules regarding the operations of quantity surveyors, architects and so on. Even the Law Society of Kenya, which is the one that we have referred to many times, has rules which show the ethics that professionals are supposed to uphold. Looking at the Law Society of Kenya Act, for example, there are rules which have been made, every member of the public would know that lawyers who are in active practice are supposed to uphold certain ethical standards, which are included in the Act. The public knows about it.

However, in the proposed Accountants Bill, the rules or ethics, which are supposed to be clear to each member of the public, have not been set out. This is a very critical omission. It is my prayer that when this Bill is referred to the relevant Departmental Committee, its Members will be able to take advice from accountants who will come up with specific rules showing, for instance, that if an accountant does something in a certain manner will be deemed to have breached ethical standards and, therefore, a certain consequence will follow.

The 26th President of the United States of America, Theodore Roosevelt, once said:

"To educate a person's mind and not his morals is to educate a menace in society".

To educate a person's mind and not his morals means to educate that person, but leave alone ethics. Therefore, the ethics that this profession needs to uphold must be very clear to every member of society. This also goes towards consumer protection. A notice of Motion has already been given to this House, of our intention to bring a Consumer Protection Bill. How will a consumer of the services of accountancy know that he has been cheated, or that he is being treated unethically, if the ethical standards of the accountancy profession are not set out clearly in this Bill?

Madam Temporary Deputy Speaker, I would urge that for that particular section, when the relevant Departmental Committee on Finance, Planning and Trade will be looking at this Act before we take it to the Third Reading, they will get a chance to add that important section to it.

If you turn to the proposed Clause 11 of this Bill, it proposes to create a membership of the council. That council of the accountants is to consist of 11 members: There is the chairman, one member to represent the Ministry responsible for Finance, one person from the Capital Markets Authority (CMA) and so on. Then, there are six other members elected in the manner provided for in the Second Schedule. It has been a tradition in this House that whenever we are constituting boards, the rule has now been that we must reflect gender. The rule that the proposed Clause 11 is setting up is not categorical that there will be a specific number of ladies to sit in that membership of the council of accountancy. We need to legislate on what we speak outside. We have said that we want to bring our women up and I believe that this council must have a third of its membership from the fairer gender.

Madam Temporary Deputy Speaker, it has also become a tradition now that whenever we are constituting boards through legislative action, we would always take into consideration regional distribution. So, I would urge the Minister and the relevant Departmental Committee to put in a section that regional representation will be reflected in the constitution of the council of the membership of the accountants. Why? Because the practice of accountancy and the experience they have in the coast region may not necessarily be the same--- Maybe, the conditions of practice are not the same in Nairobi or Eastern Province. That is why, even when you look at the Law Society Council of Kenya, you will find that there is a clear provision for regional representation. I also wanted to add my voice to Clause 13. It talks about the registration committee. Two of the members of the registration committee are supposed to be a user of accountancy services; one member not being a member of the institute nominated by the council to represent the users of accountancy services. That could be anybody and it is the reason why in a country like the United Kingdom from where we heavily borrow most of our legislative practice, they would allow for a person who is not necessarily a technical person of that particular profession to attend any meetings

that are necessary with a technical advisor where it is necessary. But that provision here is missing! So, that means there will be one person who will come. He is a consumer of accountancy services. He could be a butcher or any profession outside accountancy. He will be coming to make important decisions and he does not have technical advice. The likelihood is that he will not provide quality contribution towards that board. What is going to happen is that he will be one of those floaters. He will just be one of those people who are added or lobbied towards making decisions which may not necessarily be useful to the country.

Madam Temporary Deputy Speaker, on Clause 9, I wish to commend the Minister for proposing that the council of the institute shall issue standards of professional practice, including accounting and auditing standards which shall form the basis of accountancy practice for members of the institute in their preparation of financial statements. I would be much more comforted if an extra line is added there that would say the standards should keep up with international standards of the practice of this profession because in most occasions, the accountancy practice that we have here in Kenya borrows heavily from the practice and traditions of the English accountants profession. It would be good if we can measure the standards of our own professions here against the standards of the profession that is practised outside, so that our people and investors can have the same confidence in putting their money here as they would in putting their money in a country that is outside Kenya or in any other city, if our standards are such that they can compare to international standards. I would urge that, again, when the Minister is finalising, he should consider adding that provision. That is because this statute must be very carefully considered.

Madam Temporary Deputy Speaker, we had a very bad experience where, in the Ninth Parliament, we passed what, in our opinion, were very good labour laws. However, today in the Press, we have read that the Law Society of Kenya (LSK) going to court to challenge one or two clauses within the same law that we passed. What happened, and I will testify, is that when we were passing the labour laws at that time, we were in a hurry because the International Labour Organisation (ILO) was meeting in Geneva and Kenya needed to file its report that we had made a lot of progress in terms of passing our legislation. What then happened is that some of those clauses were slipped in and now that legislation is in court for its constitutionality to be challenged. It means that, if it is declared unconstitutional or those clauses are declared so, then we have done zero work! I would urge that we go slowly over this one; we should not rush it. We should send it to the relevant Departmental Committee so that it is checked with a tooth comb so that, when it comes out, we do not have those other problems accompanying it.

Even more so, today, we have read in the *Financial Post* - some newspaper that was circulated in the pigeon holes - about the most profitable banks; the best performing banks. If you look at that, what we are relying on are financial statements that have been done by accountants. If we do not create proper standards for them, then people are going to "cook" a lot of those financial statements. We are going to be fed with that information!

Madam Temporary Deputy Speaker, as a result, the Kenyan public will buy shares in the stock exchange based on false information because we did not set the standards here. We might end up giving a lot of losses to many Kenyans because we did not do our job properly.

Madam Temporary Deputy Speaker, I am sure that other Members would want to look and add more to this Bill to make it better. It is a good piece of legislation, but it can be made better. I hope the Minister, and the relevant Departmental Committee, will take all those concerns to make it better.

I beg to I support.

Mr. Wamalwa: Thank you, Madam Temporary Deputy Speaker. I rise to support the Accountants Bill. Let me take this opportunity to congratulate the Minister for Finance for bringing this Bill which was long overdue. Let me also take this opportunity to congratulate the Minister on his reappointment and all members of the new Cabinet on their appointments. At least, this country can now move forward to address vital matters of national importance that have been put on the

backburner following the tussle that was there. Some of those issues cannot wait. These are issues touching on the Internally Displaced Persons (IDPs), constitutional review, farmers and high prices of fertiliser. But more so, there are issues touching on corruption. Corruption is an animal that has engulfed this country. Every sector of our society has been affected, including accountancy. For this piece of legislation to come at this hour, it could not have been more timely.

Madam Temporary Deputy Speaker, I say so, knowing that so much has happened both in this country and internationally, as a result of accountants suffering from professional misconduct right from the biggest scam of Enron and what we have had locally in our country. We have also had this permeate every sector of our society, constituency and district levels. As you have heard, funds have been devolved to the regions and the districts through the idea of the Constituencies Development Fund (CDF). We have had a lot of money going to the district treasuries and to the constituencies. We have had accountants and auditors there, and yet, so much has gone wrong.

Speaking of my own constituency, Saboti, it is an area that we are still in shock. We have had over Kshs42 million come to the constituency. We are asking where this money went to and how things could have gone so wrong and yet, we had accountants and auditors. However, with this kind of legislation, we will put in check professional misconduct. Looking at Clause 30 of this Bill, we are very happy with the elaborate provisions that touch on disciplinary actions that accountants, like any other professionals, will face. We are not saying that it is only accountants who are guilty of professional misconduct.

Lawyers, engineers and architects are also victims. We have seen buildings collapse and yet, there are professionals who are behind them. It is, therefore, very necessary that we put in place, not only legislation to regulate, but to also maintain standards of professional practice. Looking at this Bill, I think it will go a long way in not only regulating, but also maintaining standards of practice amongst our accountants.

Madam Temporary Deputy Speaker, though Clause 30 elaborates on disciplinary matters, we believe that principles of natural justice must be observed; whether it is in matters of discipline and any proceedings of a judicial nature or quasi-judicial nature such as this. However, looking at Clause 32 of this Bill, you will find that for a professional to face the disciplinary committee, the council will, perhaps, receive a report. If they have reason to believe that a member of the institute has been guilty of professional misconduct, that member will be directly referred to the disciplinary committee. They will face the disciplinary committee.

Madam Temporary Deputy Speaker, I think this goes against rules and principles of natural justice; that one should not be condemned unheard. At least, before a professional faces such harsh and, perhaps, very serious consequences that will follow disciplinary proceedings, the council, after receiving any complaint or any information that would make them believe there has been professional misconduct, should, at least, first, inform the professional in question and that professional should be given the opportunity to show cause why disciplinary action should not be taken against him or her.

Madam Temporary Deputy Speaker, I think this will be one way of, at least, giving the opportunity to the particular professional, probably, to clear the air without necessarily having to go all the way to face the disciplinary committee and very severe consequences that will follow. I would urge that the committee that will be responsible for looking at this Bill at the next stage should, perhaps, look at this particular Clause 32 and Clause 30 to ensure that this Bill will embrace the principles of natural justice.

With those few remarks, I beg to support.

The Assistant Minister, Office of the Deputy Prime Minister and Ministry of the Local Government (Mr. Githae): Thank you, Madam Temporary Deputy Speaker, for giving me this opportunity to make my contribution to this Bill. Before I begin, I have found out that the tongues of a few men in this House seem to have a problem and they are still calling you "Mr. Speaker, Sir". I think they had better get used to it. I think these are the things which will be

coming and we need to teach our tongues to say exactly "Madam Speaker".

Madam Temporary Deputy Speaker, it is very clear that this is a good piece of legislation. It is an improvement of the old Accountants Bill. It has given certain specific provisions that really improve this profession of accountancy.

Madam Temporary Deputy Speaker, quite a number of hon. Members who have spoken have talked about how companies have been ruined and how money has been stolen and yet, there were auditors and accountants in these organisations. Some hon. Members have even mentioned about how some money has disappeared from the CDF and yet, we have got accountants and auditors. I think it takes more than having an accountant to prevent theft and looting of public funds and properties.

Madam Temporary Deputy Speaker, my main quarrel with accountants has been the so-called manager-receiver. There is no law that says that a manager-receiver must be an accountant. Yet, whenever a company is placed under receivership, they appoint accountants who are supposed to be receiver-managers. However, if you look at the history of all the receiverships, once a company has been placed under receivership, it has not been revived. I do not know why banks and other financial institutions appoint auditors as receiver-managers. They only work on receivership and not management. I think if other professions were made to appoint receiver-managers, this would change because they would lay emphasis on reviving the businesses rather than allowing them to collapse. I am advising banks, other financial institutions and financial lenders, that there is no law that says that a receiver-manager must be an accountant. Accountants are basically conservative by nature and do not want to take risks when they are managing their businesses. They prefer to sell the assets rather than manage and revive the companies.

Madam Temporary Deputy Speaker, I would like to take this opportunity to commend the Minister for bringing this piece of legislation. This Bill will amend the current Accountants Act. I notice that the Companies Act has not been amended for the last 100 years. In my view, the amendments to the Companies Act were more urgent than the Accountants Bill because we are still using legislation that was obtained from Britain and India. Those countries have so far amended their Companies Acts to suit modern practice but we are still using the old law. I would like the Minister to give preference to amending or even repealing and legislating afresh the Companies Act.

One of the things that are coming out clearly is that our current Companies Act is outdated because it still requires that shareholders meet at least once in year to adopt the accounts.

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

*[The Temporary Deputy Speaker
(Prof. Kaloki) took the Chair]*

Mr. Temporary Deputy Speaker, Sir, if you look at the current Initial Public Offer (IPO) of Safaricom, where Kshs10 billion worth of shares are being sold, assuming that all the investors will purchase the minimum shares, we will be talking about two million shareholders. Sending accounting documents to two million shareholders will be very expensive. I do not know where two million shareholders can meet in this country. I do not know where they would meet. We need to rectify that. Even if they were to meet at the Kenyatta International Conference Centre (KICC), they would not all be accommodated. The KICC cannot accommodate more than 50,000 people. Even if they were to meet in all the stadia in the country, the space would still not be adequate. We need to amend the Companies Act more urgently than the Accountants Act. It is a good piece of legislation because it will empower accountants to manage their affairs. It will also empower accountants to discipline members who become errant, those who involve themselves in unethical

conduct and corrupt practices. Therefore, to that extent, it is a good piece of legislation.

Hon. Members, this is not something which is unheard of. I think the modern trend now is to empower various professional bodies to regulate their own affairs. For instance, the Law Society of Kenya (LSK) was the first professional body to be empowered to manage its affairs. This is basically so because when it was first enacted, all the lawyers and magistrates, at the time, were whites. I think that is why they were given the priority. However, today, other bodies should also be given power and mandate to regulate their own affairs.

Mr. Temporary Deputy Speaker, Sir, I do not want to go into many details because many hon. Members have talked about the amendments that are required. These amendments are to improve the provisions that are in the current Bill. Therefore, I will not go into details.

In conclusion, today, there was some display of indiscipline. I saw an Assistant Minister seeking clarification from a fellow Cabinet colleague. I also saw an Assistant Minister trying to ask a Minister a question. I think we need to be disciplined if the Grand Coalition Government is to last for the next five years. One of the reasons why the NARC dream collapsed was when Ministers started attacking each other in public instead of doing so during Cabinet meetings. So, if this coalition is to last, there must be discipline. No Minister should attack another in public and no Assistant Minister should ever attack a Minister in public. No Assistant Minister should say that his Minister is only good at dancing. That does not augur well. Therefore, we need discipline if the Grand Coalition Government is going to survive.

With those few remarks, I support.

Mr. Ethuro: Thank you, Mr. Temporary Deputy Speaker, Sir. I rise to contribute to the debate on the Accountants Bill. When you look at the Memorandum of Objectives in this Bill, you will see that our main objective is to review and improve the regulations of the Accountancy profession. We wish to commend the Minister for Finance for bringing this Bill to the House so that we can look at the important legislation. My friend, Mr. Githae, has talked about the need for collective responsibility on the other side. I also want to tell him that the Grand Coalition Government has also brought new things to this House. One of them is for me to be seated, for the first time, on the left hand side of the Speaker in the House. I think that should also be acknowledged.

I do not know if the accountants know to what extent it means to be an accountant. The accountancy profession in this country requires serious soul-searching. To some extent asking them to regulate themselves is like asking hyenas to decide whether to spare the sheep or not. This is one profession which, for the time being, requires a lot of external supervision so that they can get to know their job.

Mr. Temporary Deputy Speaker, Sir, I will give you a few examples. If there is a rotten department in Government, it is the district treasuries. The only time you witness a beehive of activities at the district headquarters at Lodwar is when the accountant is in town. You will see all heads of departments chasing their payment vouchers. As soon as the accountant is not there to sign them, the whole place becomes dead. Before the voucher is paid, the accountant demands a slice of the share. In most cases, the accountants want to be given part of the money, including part of the CDF. If there is a den of corruption in this country, then it is in this profession. It should be looked at thoroughly. That is why, yesterday, we were very apprehensive when the Minister was introducing this Bill in a haste and going through two stages in one Sitting contrary to the Standing Orders. I am glad that the Minister was made aware of that fact and has made a commitment - I want the Chair to ensure that it is done - that this Bill should not pass until the relevant Committees have scrutinised it. We cannot do justice when we are just commenting on the way we are doing. This is a real opportunity for them to come and tell a committee of the House what they think, and for other interested parties to make serious contributions.

Mr. Temporary Deputy Speaker, Sir, the former Minister for Finance, Mr. David Mwiraria, sacked people who were supposed to be in supplies departments. In fact, he should also have done

away with internal auditors. I have had an occasion to sit in the Public Accounts Committee (PAC). When you see the reports by the Government auditors, not any other auditor, you wonder what their role is. They are supposed to certify. There is what is called the "examination department". There is, I do not know what-and-what! But corruption is going on!

Mr. Temporary Deputy Speaker, Sir, these people are supposed to detect the problems that are there even before you get an external auditor. We are saying there is also an improvement in accountability in the Government; that this Bill is supposed to advance further. But there are no specific provisions through which accountability within the Government is going to be realised. There are no specific provisions in this Bill to make sure that accountants can be held accountable personally for the mistakes they commit through what is called "*wizi wa kalamu*". It is worse than cattle rustling. It is worse than banditry. It is worse than the *Mungiki* menace in town. That is what we have from accountants.

Our learned friends here think that, because they have had an opportunity to regulate themselves, they can export that to all professions. Who does not know how many quacks and thieves exist even in the legal profession? There is stealing of our money!

Mr. Ng'ongo: On a point of order, Mr. Temporary Deputy Speaker, Sir. Is it in order for the hon. Member to abuse a whole profession, and call its members hyenas, who are worse than *Mungikis* without presenting facts to show that they are worse than the *Mungiki*?

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Member, could you please keep the dignity of the House? It is not Parliamentary to use words like "hyenas" and other things of that sort! Could you withdraw and proceed?

An hon. Member: On a point of order, Mr. Temporary Deputy Speaker, Sir.

The Temporary Deputy Speaker (Prof. Kaloki): I want the hon. Member to proceed!

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, while I have no problem with as many points of order as possible, I think it is only fair to respond to the earlier one.

Mr. Temporary Deputy Speaker, Sir, with due respect to the Chair, I did not call anybody a hyena. I said that when you make certain professionals do things, it is like hyenas deciding whether to have sheep for supper or not. It is simile. I mean, what is the purpose of the English language if it not for use to make a point relevant and alive to the subject matter?

(Laughter)

Mr. Temporary Deputy Speaker, Sir, I come from a pastoralist background, and I took a lot of time and pain to go through school. Therefore, I should be allowed the opportunity, having attained excellent marks in school, to display them in this Chamber!

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Member, you are out of order! Please, proceed but let us keep the dignity of the House! Let us use Parliamentary language.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): On a point of order, Mr. Temporary Deputy Speaker, Sir. I would also like to challenge that ruling. This business of what is unparliamentary has got to do with the hypocrisy of the British. In this Parliament, we are told not to call a thief so. We are told not to call a hyena so. If there are people who have terrible behaviour, why should we not call them by those words if the words fit them?

(Applause)

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, Mr. Ethuro will continue! But I am saying let us keep the dignity of the House! Let us use parliamentary language and be dignified.

Mr. Ethuro, please, proceed!

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I respect the Chair and will abide by

your ruling.

Mr. Temporary Deputy Speaker, Sir, I am talking about the impact of corruption. A particular profession has a real opportunity to help this country. When we make policy statements as a Government, Parliament or nation that this country must be committed to zero-tolerance to corruption, unless we have certain professionals who are committed to ensuring that there is value for the money spent, that the projects that are funded are the right ones, and that the proper amount of money is spent on the--- That is why we are looking at the role of accountants in helping this nation. That is why these things come to the House; we want to provide the proper policy and legislative framework to ensure that, that business is conducted properly.

Mr. Ng'ongo: On a point of order, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Member, let us not interrupt the hon. Member who is on the Floor. Could you please sit down and let the hon. Member conclude his remarks?

Mr. Ng'ongo: This is a burning issue, Mr. Temporary Deputy Speaker, Sir!

The Temporary Deputy Speaker (Prof. Kaloki): Mr. Ethuro, please, continue!

Mr. Ethuro: Thank you Mr. Temporary Deputy Speaker, Sir, for protecting me. I would like to encourage my neighbour--- I assume he has not spoken, but he will have his chance. I will be here to listen to him.

Mr. Temporary Deputy Speaker, Sir, the Government now gives funding to primary schools. The Ministry of Health came up with the cost-sharing programme. I am talking about things that matter to the local people all over this nation. We trust the accountant to certify receipts and expenditure and determine whether it is properly incurred or not.

Mr. Temporary Deputy Speaker, Sir, we have never seen the cost-sharing money from the Lodwar District Hospital. This is because the accountants who were entrusted with making sure that the money was appropriated properly never did their job.

Mr. Temporary Deputy Speaker, Sir, we have a Water Users Association. I come from a very rural constituency, and these things are very important. We come there and say that for a 20-litre jerrican of water one needs to pay Kshs5. We expect this money to be collected, and at the end of the day you send an auditor to audit the accounts. Turkana Fishermen Co-operative Society is dying. This is a society which had a turn-over of about Kshs500 million. You sent a co-operative officer, who brought in an internal auditor. I am talking facts! Somebody needed them. Here they were. They came to the first meeting; we all agreed that there were no records; the money had been misused. Two weeks later, after giving the auditors and accountants an opportunity to verify the documents--- As Mr. Wamalwa has said, the rules of natural justice dictate that we do not condemn you before we have confirmed that you have stolen. It is the same auditor who will come and tell us after a month that everything is okay. You want us to pretend in this House! You want us not say things as they are!

Mr. Temporary Deputy Speaker, Sir, you will crucify me, but that is the job the Turkana sent me to do in this House! I have a responsibility to this nation to do exactly that!

I have a responsibility to this nation to say what I want to say. Mr. Temporary Deputy Speaker, Sir, part of the reason why we wanted the introduction of the Constituencies Development Fund (CDF) was because we realised that there was too much corruption at the national level. Because of this corruption, money was not getting to various districts or constituencies. We came up with a good proposal that a small fraction, 2.5 per cent only, of the ordinary revenue, be allocated to the CDF. In so doing, at least, each and every constituency in this country will receive some minimal amount of resources that it can use for its development needs. I want to say that, that should be encouraged. We should even allocate more resources from outside the Central Government, especially now that we have a bloated Cabinet. We need to get more money out there, so that people in the constituencies of this country would have a particular amount of money that would be available to them. This Bill, once enacted, will ensure that we properly account for every

shilling.

Sometime next week, we will bring the Report of the Public Accounts Committee (PAC). During the Census of 1979, an ordinary pencil was procured at a price of Kshs10 by the Ministry of Planning. At that time, its retail price was Kshs1. Accountants and internal auditors were there. They did the examination bit and vouchers were prepared. Sometimes even after procuring in such an expensive manner, when you look at the stock records, you would find that the stocks were not even delivered. We do not want to talk about those things. These things must be said. In fact-----

Mr. Ng'ongo: On a point of order, Mr. Temporary Deputy Speaker, Sir.

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, give him the chance, I am big enough to handle it!

The Temporary Deputy Speaker (Prof. Kaloki): Proceed with your point of order, please!

Mr. Ng'ongo: Mr. Temporary Deputy Speaker, Sir, thank you very much for giving me this opportunity. The hon. Member thought I would raise the same point of order that I raised yesterday. For those who do not know me, I am hon. John Mbadi Ng'ongo, Member for Gwassi Constituency.

Mr. Temporary Deputy Speaker, Sir, is it in order for the Member to discuss matters that are not touching on the Bill? With all due respect to the hon. Member on the Floor, this Bill is not touching on the internal auditors or accountants of any organisation. It is a Bill to regulate the professional conduct of the registered accountants who are qualified certified public accountants. It is not about district accountants. Most of the district accountants are not even qualified accountants! So, if you want a Bill that discusses how they should perform their duties, then you should introduce a different Bill.

I need to get guidance from the Chair if this Bill is on the internal auditors and the district accountants the hon. Member is referring to.

The Temporary Deputy Speaker (Prof. Kaloki): Thank you, hon. Member. Mr. Ethuro is just giving an example touching on some functions of some auditors out there. I find his contributions in order. What he is doing is to provide examples touching on the Bill. So, hon. Member, I do not know whether you have finished with your contribution.

Could you, please, sum it up!

Mr. Ethuro: Mr. Temporary Deputy Speaker, Sir, I am guided by the Clerks-At-the Table. You see that the light is not even on! So, I have enough time! I will speak until I have exhausted myself. Do not get worried, you will get your chance.

Mr. Temporary Deputy Speaker, Sir, I am actually surprised that my colleague who is an accountant can actually say district auditors and accountants are not accountants!

Clause 14 of the Bill talks of the establishment of the Kenya Accountancy and Secretaries National Examinations Board. For you to become an auditor or an accountant, I am sure, you will basically get the same requisite qualifications. So, it is in that light. When you have bodies regulating what are they regulating? They want to regulate in a certain manner. The Bill has captured it very well. My opening remarks were that this Bill in the Memorandum of Objects and Reasons says: "The main objective is to review and improve the regulations of the accountancy profession". For what? For its sake! It is in order to provide service to the nation. All I am doing is to point out some misdeeds and lacunas witnessed and expressed previously. I want to believe that when the Minister brought this Bill, these are the kind of issues he wanted to sort out once and for all!

Mr. Temporary Deputy Speaker, Sir, I was trying to state the role of this important profession and its impact on rural poverty. I was trying to demonstrate that, if the money appropriated by the State through the District Treasury can be accounted for properly, then, it would have a greater impact in terms of poverty eradication. This is a commitment each and every Member of this House has to deliver upon. This is a responsibility which the Tenth Parliament should rise to, even when go through the constitutional reforms. This is just the means to an end.

What are we trying to address? We are trying to address the welfare of Kenyans for them to realise better standards of living.

In conclusion, as a former Member of the Public Accounts Committee, and I think in my new dispensation. I hope I will get there, we enjoyed the services of the Institutes of Certified Public Accountants. One John Njiraini who was a frequent member to our seminars and briefings provided an excellent professional input to our Committee. He is a very competent Kenyan. These are the kinds of relationships that we want to have. However, we want them to take it further as an institute now, to ensure that all those people they think are not qualified should not have the title of an accountant if they are not qualified to be accountants. I expected my friend from Gwassu Constituency to be telling this country, through this Bill, that the Minister for Finance should not be appointing district accountants who are not qualified to be accountants! That should be his contribution. But the Institute of Public Accountants of Kenya (ICPAK), through an association with the PAC, did a commendable job for us.

The second point that I would want to bring to the attention of the Minister is that this country is very good in many things, for example, writing policy documents and enacting legislations. However, the issue is not even that. The issue is enforcing and implementation of the legislations that this House would pass. There must a continuous audit of systems and procedures. I think the Minister should have a provision to bring those rules that are not necessarily debated, but can be tabled here. After looking into the performance of the profession - after we have passed this particular legislation - he would come and tell us: "Yes, this profession is playing its useful role as intended in this legislation". There is a tendency for inertia to set in. They is a tendency to say systems have always been there, especially in Government bureaucracy. You would find ordinary Kenyans who have been working in the Government, but the moment they get into the private sector, there is a different ball game. They are the same Kenyans who are trained through the same Kenyan institutions. But their productivity in the private sector is much higher. They get compensated properly. The same Kenyans who are in public offices because of their low productivity would by necessity attract low wages. It is all a matter of motivation. It is all a matter of making sure that systems and procedures are reviewed on a regular basis.

Mr. Temporary Deputy Speaker, Sir, I mentioned specific cases about our schools and health centres. These are ordinary water user institutions. Maybe, the Member for Gwassu Constituency does not realise that some Kenyans in this country go without water because they cannot repair a simple pump! They lack a small piece of equipment which costs Kshs3,000 because of lack of accountability!

Mr. Temporary Deputy Speaker, Sir, we are expecting, through this Bill, that there is a sense of urgency for the greater national good, that our accountants will be able to appraise themselves, especially when they work in public expenditure kind of projects. That they will see that in certain communities that are marginalised, oppressed or are extremely poor, in a situation like today where you would watch a television program about jiggers in a place like Murang'a--- It is because of poverty. It is because of chicken living with human beings in the same huts, resulting in the people being infested with jiggers. Fortunately, the place I come from has a dry environment. So, I dispense with such problems. But that is the poverty that we are talking about. There are 26 districts cutting across the entire nation, that are experiencing that problem!

Mr. Temporary Deputy Speaker, Sir, we need to ensure that those kind of people, through good programmes that the Government, Non-Governmental Organizations (NGOs) and other donors are giving a lot--- In fact, I am of the opinion that this country has sufficient resources to cater for the needs of her people. What we need is prudent management, an accounting and auditing system that will ensure that there is value for money. We should move from just counting what--- How you spent a single shilling. We want to move now to what we call value-for-money auditing. That is what this Bill should be trying to achieve! That is what the regulation of the accountants should be trying to realize! So that, when I start my small business, I can trust an

accountant to run the business as I do other things. The accountant should be able to make returns on Value Added Tax (VAT) and give it to the Treasury without us feeling like someone somewhere is fiddling with the accounts or is hiding something!

Mr. Temporary Deputy Speaker, Sir, you know how enterprises refused the Electronic Tax Registers (ETRs) when they were being introduced. It was good that the Government stood its ground and made sure that the ETR machines were there in every investment or enterprise! Is it not a wonder that KRA is now exceeding its limit. The KRA is raising taxes threefold than from the time we started. We have to take tough decisions for the sake of this nation.

With those few remarks, Mr. Temporary Deputy Speaker, Sir, I beg to support.

The Assistant Minister for Higher Education, Science and Technology (Dr. Mwiria): Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to contribute. I want to begin by congratulating hon. Ethuro for not being a Member of the Cabinet because if he was, we would not have had that honesty. So, we need people like you in the Backbench!

(Laughter)

Mr. Temporary Deputy Speaker, Sir, the point has been made why we cannot play around with the whole profession of accounting. Accounting is at the key of everybody. The very small business persons who are doing business, if they cannot do their maths right, they run out of business! Institutions, governments and Ministries have resources. Part of the reason we have a lot of problems with delivery of services is because a lot of those resources are not well managed to the extent that it is not just inefficient, but many times even Ministries return money to the Treasury! If our monies were well managed, we would not be talking about the big scandals we have been talking about in the last so many years. There would have been no Goldenberg scandal in this country because the taps would have been identified by good accountants from the beginning and we would have known about it. There would have been no Anglo Leasing scandal! Many of the problems that we are talking about exist because of bad accounting; or some accountants themselves were not brave enough to stand out and say: "We have noticed these problems."

Mr. Temporary Deputy Speaker, Sir, with regard to the specific provisions of the Bill, I have noticed that there are issues of how much autonomy there must be with regards to the Kenya Accountants and Secretaries National Examinations Board (KASNEB) in relation to the Institute of Certified Public Accountants of Kenya (ICPAK). I am saying that because I think over the years, there has been a tug of war between KASNEB and ICPAK as to whether or not KASNEB should be swallowed by ICPAK. I do agree that there is a relationship, but that relationship should just be like the one between the Ministry of Education and the Kenya National Examinations Council (KNEC), that allows for a certain extent of autonomy. That autonomy will be key in terms of vetting who are the people who could join those institutions. KASNEB has been extremely successful in terms of developing programs of accounting, finance and administration. It has even an institution that is now developing degree programmes in the area of accounting and related disciplines. So, it is important to protect that autonomy and to support that organization, but still allow a certain autonomy while it relates to the bigger body. There is a great deal of higher indication potential if KASNEB could be supported the way many of those who argue for it are asking for.

Mr. Temporary Deputy Speaker, Sir, the Bill suggests for the formation of various committees and institutes; the Institute of Accountants, the Council, KASNEB, the Disciplinary Committee and many other boards. I would like to suggest, and this is particularly relevant at this time in Kenya that, as we form those committees, we must be aware of our national diversity. It is important that, as we comprise councils, we ask questions about what is the ethnic representation of those particular bodies that are going to be part of this? This is important because we have to

realize that communities can collude. They can collude even when it comes to examinations! That kind of diversity should, therefore, be reflected even at the level of the secretariat. Our experience as a country in the last three months has taught us how important that is. In this regard, therefore, because various bodies and organizations will be identifying membership of committees, the Minister will be identifying some people, the secretary will be identifying some, the council will be identifying others and other Ministers of other Ministries that have nothing to do with accounting will be identifying others. So, it is important that the various organizations, at any particular time, when they are coming up with committees, are able to sit down and consult so that there is no duplication in terms of professions, ethnic groups and in terms of other kinds of key experiences that would be required. In other words, it should not just be a question of writing to a Minister and saying: "Nominate so and so", or going to a particular department and asking for a nomination. The people that are doing the nominating should be able to sit down and compare notes, like the two Principals did at Sagana State Lodge, to ensure that there is that diversity.

Mr. Temporary Deputy Speaker, Sir, during that consultation also, it should be possible to vet those that are to be included as members. It must not be enough for you to be nominated by a Minister to a body like that because even Ministers can make mistakes. It must not be enough for the secretary of the association to nominate you because they can also make mistakes. All of us have knowledge that others are not privy to, and we must bring that together in terms of identifying, not just the membership, but also in terms of vetting to ensure that the body remains credible in the eyes of the public that it serves.

Mr. Temporary Deputy Speaker, Sir, I also see an expanded role for KASNEB in terms of harmonizing the various accounting testing bodies. I think now, there are many institutions and colleges that are offering all manner of degrees. But it is not clear that there is adequate co-ordination and harmonization. There are many colleges that are offering various degrees, but it is not clear that there is adequate co-ordination and harmonisation. Some of these colleges offer courses for three months and others for more months.

We should get to a point, if that has not yet been achieved, where if you take a course in a technical institution or a university, it should be clear as to how much of that count towards getting you to be registered as an accountant in terms of the credit or the content that you have covered. It is more of a challenge than it sounds. This is a big challenge even for those in the Ministry of Education. There is a variety of institutions that are offering that information. There should be expansion in terms of reviewing the curriculum, so that there is not too much rigidity. KASNEB has been accused of being too rigid to the point that we are losing a lot of our students to the ACCA, the Association of Chartered and Certified Accountants. This is an overseas body that is able to attract many of our potential accountants, because of the kind of curriculum it offers and its international appeal. I think our accountants are also well qualified. Those who are Certified Public Accountants are well respected. It is important to translate that to international recognition, so that our people do not rush to take other international examinations when we have examinations, which are even much better in terms of quality of content.

Mr. Temporary Deputy Speaker, Sir, let me go back to the contribution by my friend, Mr. Ethuro, in terms of the problems that we notice in the districts, constituencies and schools. This is an area where accountants can play an outreach kind of role, in terms of the support they can give to our public institutions. I think that should be a requirement. There should be refresher courses for people in Government Ministries, so that if they were recruited before they were fully qualified, they have a chance to update themselves and become the accountants that can provide, at least, the minimum that is expected of a qualified accountant.

We need to support to our small businesses and entrepreneurs, so that we do not have business people that are easily cheated out of business. There are a lot of people who run out of business, because they are cheated by quacks who call themselves accountants, auditors or revenue officers. Some of these people cheat because they do not know how to deal with figures. Those

people need support, and this kind of a professional body can go a long way in democratising its services to the majority of the people of this country and institutions.

Mr. Temporary Deputy Speaker, Sir, there are many questions about meetings. I realise that councils and committees are being formed, but there is no specification as to how many times they should meet in a year. There is no indication as to how much their remuneration should be when they meet. I am saying that because these loopholes are exploited. We have organizations or institutions which hold meetings as they like, so that they can collect allowances. They also fix allowances for themselves depending on the financial needs they have. I think this kind of thing needs to be specified even though we revise them from time to time.

There are concerns about the disciplinary committees. While it is okay for there to be a disciplinary committee, and for people to appear before it, we also need to have an idea that the disciplinary committees must be forced by law to have a deadline by which it must respond, so that people do not just wait for too long for their cases to be determined. How do you deal with examination cheating? May be the Institute of Certified Public Accountants of Kenya (ICPAK) can help us, especially at this time when we have come out of the crisis of the Kenya National Examinations Council, to just ensure that we put in place relevant mechanisms to seal all the loopholes, and ensure that leakages are not possible. It has been said that the people who work for KASNEB themselves fail examinations, if they are not properly prepared. It is an indication of the extent to which KASNEB has been professional, and ensures that there are no leakages. We could borrow from that and strengthen it, even if it means going to where the examinations are prepared. You can even go to the United States of America (USA) or Europe, where there is a central body that prepares examinations for all institutions like the GMAT, GRE and so on. May be this is a point to which we have to get to, because it seems that dishonesty is part of our culture. People always find ways of cheating. Therefore, we must try to get them out of that temptation. What I am trying to say is that to strengthen the accountants body even more, we must find ways of strengthening KASNEB to the point that it continues to have even more credibility than it has currently.

Mr. Temporary Deputy Speaker, Sir, how do you control the numbers? Should accountancy be for anybody, even failures? It is possible to join the accounting profession, even without the basic mastery of certain subjects. I know that we now have bridging programmes. But one way of controlling the glut, and making accountancy a little more of a profession that restricts those who enter it in terms of qualifications that they have---

There must be a requirement about a minimum qualification that you should have even before taking the first set of accounting examinations. There must be a requirement that you have some basic qualification in languages, quantitative subjects and computer knowledge, so that the people who hope to be accountants have some solid grounding before they even begin to take accounting examinations. There is no substitute to solid foundation for any profession.

I realise that the Bill is rather gender insensitive. Everywhere, it is talking about the chairman, the vice chairman and so on. We never expect our women to be accountants. I think in this day and age, this is a matter that needs to be addressed by careful editing of the content.

Mr. Temporary Deputy Speaker, Sir, many of the issues that Mr. Ethuro was talking about relate to the wider context. It is very unfair to ask accountants to take care of the problems of this society. As Parliament, we have the Public Accounts Committee (PAC) reports. How many times do we act on them? Even the debate on them is very limited, leave alone taking action against those who have been found to be guilty. If we do not lead by example, what do we expect from accountants? Go to companies which use all sorts of tricks to try to evade taxes, go through corrupt deals and so on. In terms of auditing itself, especially for honesty, what do you expect? It is very difficult for accountants to be expected to solve the problems of dishonesty.

If people are dishonest, they always find ways of cheating, even if they are accountants. So, as we talk about all this, we also need to address the wider context in which our accountants have

to operate. Even we, as politicians, are guilty in terms of being not so honest with our own accounts, in trying to influence business deals even when we know there are problems and in terms of not taking action against those who have been found to be guilty. Until we address issues of dishonesty, I think it is going to be very difficult to ask the accounting profession to be the one that completely eliminates problems in the society.

With those few remarks, I support.

The Member for North Mugirango Borabu (Mr. Ombui): Mr. Temporary Deputy Speaker, Sir, my names are Mr. Wilfred Moriasi Ombui, Member of Parliament for North Mugirango Borabu. I stand here to support the Bill and at same time give my maiden speech.

I take this opportunity to thank the people of North Mugirango Borabu for granting me this opportunity to serve them in this august House. At the same time, I thank the Gusii Mwalimu Sacco Society, where I grew up to this level. Because of the confidence of the members of the community and the teaching fraternity, I was able to be elected as the Member of Parliament for North Mugirango Borabu. At this time, I will also thank the members of my family for giving me ample time of going round to look for votes, and at the same time assisting me in all ways possible to capture the seat.

Mr. Temporary Deputy Speaker, Sir, I come from a constituency which is in problems right now. We have more than 7,000 Internally Displaced Persons (IDPs). These are people who have been displaced from several places and have nowhere to go to. I take this opportunity to request the Government to ensure that these people are settled.

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Member! I know that you are trying to make your maiden speech. But I gave you time to just make it very brief and contribute to the Bill which is on the Floor now.

The Member for North Mugirango Borabu (Mr. Ombui): Thank you, Mr. Temporary Deputy Speaker, Sir. Being an accountant, I have managed to go through the Accountants Bill. I take this opportunity to thank the Minister for Finance for having drafted this Bill. I know that since the 1990s, all the accounting systems were harmonized.

Actually, the Bill should have been discussed much earlier. But it has come at the right time. It requires to be looked into with a lot of scrutiny, so that we may have an internationally acceptable legal framework that can guide the accountants.

Mr. Temporary Deputy Speaker, Sir, as I was going through the Bill, I found out that in some specific areas, there were some small omissions, especially Clause 9(3). As we know, the accountants, apart from doing the auditing work, they also do what we call investigations once they are requested to do so by firms or shareholders.

At this point, I would request the Minister to look at Clause 9(3) where the word "investigation" may be included, apart from "accounting, auditing and verification of the records of the books of accounts."

Mr. Temporary Deputy Speaker, Sir, as I was going through the Bill, I found out that there is also one area which I may request the Minister for Finance to look into. In Clause 11, where we have the Registration Committee, it is my sincere hope that if we can retain the Registration of the Accountants Board it will be more professional. I think the term "board" is more pronounced than just a committee. So, if it is possible to change the same body to Registration Accountants Board, I think it would be much fair instead of just having the Registration Committee.

At the same time, when I was going through the Bill, I found that there is need to bring in more accounting concepts. Because we are now in a situation where we have got so many micro-finance projects coming up, it is very important to cover the issue of micro-finance accounting. This is because in our economy right now, we need to have small businesses assisted to keep the books of accounts, so that they can tell whether they are making profits or losses.

Mr. Temporary Deputy Speaker, Sir, I do request the Minister for Finance, if possible, to ensure that the individuals who will be doing basic accounting, like the book-keepers, also have a

specific body to cater for their interests. Those people could just keep books of accounts for small businesses. They can also assist the accountants in keeping the books of accounts. They should be registered to also practice as book-keepers, as it happens in England.

When you look at the Bill, it has gone deeper and provided that the body will use international accounting standards and international auditing standards. If it was possible, as I heard this morning here from most Members we can have a schedule showing the current international accounting standards and international auditing standards. We could just have a footnote indicating it could be changed from time to time. Since accounting is a technical area which requires hon. Members who are going to pass. We should make it as clear as possible.

Mr. Temporary Deputy Speaker, Sir, having said that, I wish once more to congratulate the Minister for Finance for having brought to the House a very comprehensive Bill. I hope that if we are going to make changes, they will be very few because it has captured every area that is required of accountants.

Mr. Temporary Deputy Speaker, Sir, I beg to support the Bill.

QUORUM

Mr. Baiya: On a point of order, Mr. Temporary Deputy Speaker, Sir. The House does not have a quorum!

The Temporary Deputy Speaker (Prof. Kaloki): We do not have a quorum. Ring the Division Bell.

(The Division Bell was rung)

The Temporary Deputy Speaker (Prof. Kaloki): Order, hon. Members! We now have a quorum! Let us proceed with the hon. Member for Ndaragwa Constituency, Mr. Kioni!

Mr. Kioni: Mr. Temporary Deputy Speaker, Sir, I stand in support of this Bill. I want to congratulate the Minister in charge for having brought this piece of legislation to this House. This Bill is important because it will help the accounting profession get rid of a few of the quacks who may have infiltrated it. It is also important because accountants perform a very important exercise in all the public and private companies. They are actually a focal point of the activities that are witnessed in these companies.

I do not want to repeat a lot of what has been said. But one hon. Member who spoke before me said that any siphoning of money that has been done in this country has had an input from the accounting profession. It is important that we continue evaluating how these professions are regulated from time to time. It is for that reason that I believe that the Bill that is before us is very important, because we are going through a lot of changes in our economy. We have a lot of companies that are floating shares for public ownership. For those reasons, I want to support this Bill.

Mr. Temporary Deputy Speaker, Sir, there are a couple of things that I would like to point out, which if addressed by the Minister in charge, will help us move on and, perhaps, help us end up in a better position that we are in now.

Clause 14 of this Bill provides for the establishment of the Kenya Accountants and Secretaries National Examinations Board (KASNEB). Clause 14(2)(e) states:-

The Examinations Board-

(e) may acquire, hold and dispose of investments in other enterprises subject to approval by the Minister;"

It is important for the Minister, if it is possible, in one way or another to let hon. Members and those in the profession know how they would benefit from the proceeds from such disposal of investments.

Mr. Temporary Deputy Speaker, Sir, the other area that is important to address is Clause 15. Clause 15 deals with the membership of the Examinations Board. Members will be drawn from various sections as contained in 15(1)(a) all the way to 15(1)(g). However, Clause 15(1)(h) provides that two members of the Examinations Board shall be nominated by the Board. How can a Board that is being nominated be required to nominate members to the same Board that will not have been constituted, or that is to be constituted? It is important that the Minister reviews that provision, so that we do not make it very difficult for the Board to operate. We also do not want to allow people to perpetuate themselves in this Board forever.

Mr. Temporary Deputy Speaker, Sir, I also have an issue with Clause 17, which deals with the Functions of the Examinations Board. Clause 17(1)(c) requires that the Board will issue certificates. It is a practice with other professional bodies that some of these certificates are held for periods that are inordinately long. It may be important for the Minister to specify within which time such certificates should be issued and released to those who are supposed to benefit from them.

Mr. Temporary Deputy Speaker, Sir, I move on to Clause 19, which concerns those who are required to practise as accountants. Clause 19(2), to my understanding, seeks to exclude people who are salaried, or those who are employed by the Government, from the provisions of this Bill. It is important that those individuals also be brought under the requirements of this Bill. In any case, in the past, where we have experienced a lot of loss of money through mismanagement or fraudulent activities, more of it has been in the Ministries. When we exclude persons undertaking accounting work from the provisions of this Bill, we may not be helping the Government to become more accountable. I propose that even those working for the Government be required to meet the requirements of this Bill once it is passed into law.

Mr. Temporary Deputy Speaker, Sir, Clause 26 deals with qualifications for registration. Clause 26(3)(a) to (c) state:-

"Notwithstanding subsection (1) or (2), the Council may require a person making an application for registration to satisfy the Registration Committee, in such manner as it may direct, that the person has-

(a) adequate knowledge of local law and practice;

(b) adequate experience in accounting; and

(c) acceptable professional conduct and general character which, in the opinion of the Committee, make such person a fit and proper person to be registered, and unless the person so satisfies the Registration Committee, he shall not be treated as being qualified to be registered."

These are very subjective requirements that can always be misused at any given time. It is important to specify what adequate knowledge means, or at least set criteria for assessing what adequate knowledge will be taken to mean. Equally, when we talk of adequate experience in accounting, this, again, is a very vague and subjective phrase that will certainly be misused by those who will be in office, because this has been done in other professions. Clause 26(3)(c) emphasises the issue of the opinion of the Committee. This is another very subjective requirement. It will keep changing with changes in the Board. It is important that this be set against criteria that can be measured in one way or another.

Mr. Temporary Deputy Speaker, Sir, let me now move on to Clause 30, which has disciplinary provisions.

Mr. Temporary Deputy Speaker, Sir, again, I am echoing the sentiments of Mr. Githae. There is no provision on how the profession will be policed. The policing of this profession is lacking in this Clause. This is something that has given a headache to other professional bodies, because disciplinary measures are put in place, but how they get to catch up with people who misbehave in the profession, especially those who are not members of the Institute of Certified Public Accountants of Kenya (ICPAK), or those who do not fall within the purview of this Bill--- How such people can be disciplined is something that is important and needs to be looked into.

When the Bill goes to the relevant Departmental Committee, that aspect should be captured and provided for, so that once the Bill is enacted, it will be enforced far and wide.

Mr. Temporary Deputy Speaker, Sir, again, under Clause 31 which deals with the issue of the Disciplinary Committee the same issue will come up again. I have mentioned that the issue of policing this profession is very important.

Another crucial thing is that of the Committee. Clause 31(3)(b) provides:-

"The members of the Disciplinary Committee shall be appointed by the Minister from amongst persons nominated in the following manner-

(b) one nominated by the Council from another profession other than accountancy;"

This is very vague. It will be prone to misuse, because we have very many other professions. It is important that some direction be given, as to what the other profession(s) will be. Perhaps, we could, for example, think of using the Association of Professional Societies of East Africa (APSEA). May be, we could provide that the chairman of such an institution will represent other professions; or other criteria can easily be specified instead of leaving the situation so vaguely provided for.

The same would apply to Section 31(d) where one is nominated by an organisation that promotes corporate governance.

Again, this is something that is very vague. With corporate governance, I do not know how you would arrive at the organisation that will do the nomination. Again, you do not know how to gauge those that promote corporate governance and, perhaps, those that may be seen to be promoting, but are in essence working against the same idea that they are supposed to promote.

That leaves me with the provisions under the First Schedule which deals with the election of the Chairman. The whole of Section 2 under the First Schedule regarding the Chairman of the institute deals with the appointment of a person to act as a Chairman. This whole exercise has been left to the Minister.

I foresee a problem with the institution in the event that the Minister is not able to move with speed so that the institution is able to function or if we find ourselves in a scenario like we were in a few months ago where we could end up without a Minister for a while. That means that the institution will not be functioning because it will have to wait for the politicians to do their things so that professional bodies can function.

I propose that this issue be divorced from politicians and be left to the Council. In the event that they need an acting Chairman, I think the Council can very easily pick one so that they are able to function even if politics have come to a standstill.

The other major issue under the same provision, that is, the First Schedule, Section 2, is that when you have the Minister doing all that is provided for under that Section, then I think it is really interfering with the functions of this Council. It is important that these institutions be allowed to function outside the political arena without too much interference from the Minister.

With those few remarks, I support the Bill.

Mr. Chanzu: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me this opportunity to support the Accountants Bill. The Bill has come at a very opportune time considering the rate at which the country is supposed to be growing now. It is high time we had many more accountants who can keep records of whatever financial transactions we do, be it in Government or private institutions.

Considering the history of accounting, I am sure it must have started at the level of bookkeeping and the like. However, by the growth and complexities of transactions that we have got involved in, it is necessary that at this level, we have a Bill such as this one which will be transformed into an Act which can then regulate and control the performance of accountants.

Mr. Temporary Deputy Speaker, Sir, the publishing of this Bill and the Act that it is going to be transformed into, is going to be a big motivator to those who aspire to join the profession as accountants and for those already in the profession. This is because it forms some kind of

benchmark and guidelines on the basis of which the professionals will be performing. In that case, it shows a road map. It is easier for a person to understand what profession he is joining and what the consequences of some of the actions they take as professionals are. So, it acts as a motivator. Those people who want to aspire to be accountants and those who are already accountants will know very well what is expected of them through the Act. The other thing which is important in this Bill is that, apart from putting together all the aspects of accounts or the way accounts have been handled, it is also going to create clarity such that the professionals in accounting and those who aspire to be accountants will know what is expected of them.

The other point I would like to say is that, as a motivator, other professions like engineering, quantity surveying, architecture, medicine and so on have already had Acts of Parliament to which they refer. When it comes to engagement of consultants in the profession, it is very easy to form a basis of engagement because you know the standards of the calibre of professionals you want and how to remunerate them. So, you will not have a problem. At the moment, we have shoddy services being provided by quacks. They undercut in order to get work, but at the end of the day, they are unable to perform. However, I am sure with this Bill and consequently the Act, it is going to be easier to engage professional accountants and know how to remunerate them.

Mr. Temporary Deputy Speaker, Sir, the other issue is about the professionalism that this Bill is going to bring. First, it is about academic standards. Second, it is about the entry of those who are going to practise and third, the level of practising standards. I am sure that is covered well in the Bill. The other thing which I see as important for those who aspire to be accountants and those who are already in the profession, is that it will be possible for those who are in Public Service and private sector to have some Schemes of Service which will, among other things, form the bases for recruiting and training those who wish to serve as accountants.

The other is that it will help eradicate bad practices. Some of the previous speakers have talked about corruption. It will enable us to get rid of the bad practices that we have witnessed through the profession

Finally, a point was raised here about the Constituencies Development Fund (CDF). From some of the experiences that some of us have, we have not had, and up to now we do not have, capacity. I do not think even the appointed CDF Managers have the capacity to manage whatever they are supposed to manage. Furthermore there is lack of capacity to audit what has been spent. I am appealing that we all support this Bill, so that, in the long-term, we can have qualified accountants to be able manage the Constituency Development Funds. Members of Parliament get into trouble with the funds because we do not have qualified people to manage the CDF properly.

An issue was raised about what happened in Trans Nzoia District, where a CDF Manager was murdered because of questioning about the whereabouts of CDF funds. If we had enough capacity of professionalism in that place, that would not have happened.

With those few remarks, I beg to support.

Dr. Eseli: Thank you, Mr. Temporary Deputy Speaker, Sir, for giving me the opportunity to contribute to this Motion. I am Dr. Eseli Simiyu from Kimilili Constituency.

Mr. Temporary Deputy Speaker, Sir, all the hon. Members who have contributed so far, have made the impression that the accountancy profession plays a very big role in trying to stamp out corruption in this country, and that having a regulatory body would be very important to serve that purpose. However, it disturbs me when I go through this Bill and find that they have got some bits and pieces here, which are avenues for introducing corruption. For instance, on page 51, Clause 39, says:-

"There shall be payable to the institute and examinations board some money as appropriated by Parliament and such grants as may be recommended by the Minister and approved by Parliament for their respective purposes. The Minister may give direction as to the amounts in which and the times at which money

referred to in this section are to be paid to the institute of the examination board."

Mr. Temporary Deputy Speaker, Sir, I do not see why a regulatory body should draw money from the Exchequer, and why the Minister should be the one to decide the amounts to be given to that body. I think that introduces an avenue of corruption. We need to check on it.

Lastly, I am concerned about the provision relating to admission to fellowship whereby one becomes a fellow of the Institute of Certified Public Accountants of Kenya. Clause 4(3) seeks to provide as follows:-

"Where the council considers that a member of the institute has fulfilled such requirements, if any, for admission into fellowship as the council may prescribe, the council may invite such member to become a fellow of the institute."

Mr. Temporary Deputy Speaker, Sir, this clause has left it very open as to who actually becomes a fellow of the institute. We all know that in most of these academic areas, especially when it comes to education, when you call somebody a fellow, it is one of the highest titles that you can confer on anybody. It should not be left open for some old men to lock themselves up in a room upstairs and decide who becomes a fellow or not. That is an avenue for introducing corruption.

So, I believe that this Bill, with its good intentions, should be taken to the relevant Departmental Committee, which will then go through with a fine tooth comb, so that we correct any flaws that might be there, and then we will pass it expeditiously. We need this proposed law to govern the accountancy profession because, as most hon. Members said, it is very closely related to the level of corruption in this country.

Mr. Temporary Deputy Speaker, Sir, indeed, without burying our heads in the sand, this country wins on the side of corruption. It does not win on the side of good practices. I fear that, for lack of a better term, most people have referred to the Grand Coalition Cabinet as bloated. I would like to refer to it as a "monolithic" Cabinet. To be able to control the excesses of such a Cabinet, we need a proper Act put in place.

With those remarks, I beg to support.

The Assistant Minister for Nairobi Metropolitan Development (Ms. Ongoro): Mr. Temporary Deputy Speaker, Sir, thank you for giving me this opportunity to contribute to the Accountants Bill. It is very timely that we have such a Bill. In light of the level of corruption that is facing this country, it is extremely important that we have a Bill that controls the way the accountancy profession operates. Secondly, because of the falling professional standards - not just affecting accountants, but most of our professions - it is important that we provide for a law that regulates even the qualifications of our professions. That is why I think this Bill is extremely important. I want to add my voice to that of the hon. Member who raised concerns with Clause 11(13) and Clause 15. The general trend in the Ninth Parliament, and even previous Parliaments, is towards gender mainstreaming. Therefore, for every Committee that is set up, it is important that we address gender concerns, where gender would include both men and women. I would, therefore, urge that this Bill goes to the Committee Stage, where the necessary amendments will be made to take into account gender concerns.

Mr. Temporary Deputy Speaker, Sir, I would also wish to raise concern with Clause 24(4) of the Bill, which provides for the fixing of the age that a person wishing to be a registered accountant must have. This clause has the potential of discriminating against young persons. I understand that this comes from the side of hon. Members who are not so young. So, I am concerned about the generation of persons in this country who are looking for jobs. Most of our young people finished schooling very early and, therefore, may qualify much earlier than the age we may be anticipating.

This clause may force a lot of people to wait for a long time to qualify. If we leave this clause as it is, whoever will make the rules may decide to fix the age at 60 years for one to qualify as an accountant. That might exclude a lot of young people. It has the potential of discriminating

against young people. It also has a lot of potential of discriminating against older persons, if we put a cap on the upper limit. If you look at other laws that, for instance, regulate other professions, age limit is not provided. Therefore, it is a weird provision, I would say so.

Mr. Temporary Deputy Speaker, Sir, finally, I would want to comment on Clause 21(1)(b). There is need to amend this paragraph to prescribe a period. We should not leave that to the whims of anybody who may want to provide a period within which a practising certificate should be issued. It should be provided within the Act, and not elsewhere.

With those few remarks, I beg to support.

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, there is no other hon. Member wishing to contribute to the Bill. Therefore, I now call upon the Mover to reply.

The Minister for Finance (Mr. Kimunya): Thank you very much, Mr. Temporary Deputy Speaker, Sir.

Let me take this opportunity to, first of all, thank all the hon. Members who have contributed to this Bill. I also thank them for having shown interest in it as well as for all the good words they have said about it. I appreciate all their input in terms of what, in their view, may be missing from the Bill, which requires to be incorporated or, at least, be re-considered by the time we go to the Third Reading.

A lot of things have been said about accountants. But let me also, first of all, reinstate the faith that hon. Members have had in terms of saying that most of the scandals we have had; most of the failures in companies that we have had would not have happened if we had good accountants watching over those institutions, organisations and companies. I believe that is exactly why we want to strengthen the profession through updating the law governing the Institute.

Mr. Temporary Deputy Speaker, Sir, like I said in moving, the Institute was established in 1978 - that is 30 years ago. The law that established it was premised on the circumstances at that time. But things have changed and, over the years, the need has come in terms of what else needs to be brought into the law. That is what is coming in. I am sure even as we move forward, in the next one year or so; in the next couple of months, there will be things changing because we are living in a dynamic world. There will be need for other changes to be incorporated. That is why we are leaving some room even for some of those to come through the regulations that will then come on as the time goes. When we feel the matters are weighty enough, then they can be brought to this House. I believe that is part of the changes we are making to facilitate the making of regulations on an on going basis. I will now get into some of those as I move on.

I was very touched to hear hon. Members' concerns over small scale traders. The backbone of manufacturing, business, retail and wholesale trade in this country is in the hands of small and medium sized enterprises. Sometimes we call them *jua kali* and sometimes, we refer to them as hawkers. But those are Kenyan entrepreneurs who are making a decent living from trading. It is those people whom we need to support in terms of the affordability of accounting services. Can they afford to know whether they have made a profit or loss at the end of the day? I was very touched to hear that hon. Members are looking at that. I am aware that the Institute has, through its small practitioners committee, been looking at assisting those small traders through internship programmes, especially for students who are still going through their examination process. They are assisted to help small scale traders in appreciating what accounting and basic book-keeping is all about. The end result is the increase in taxes because the small people become compliant. They appreciate that they are making a profit and it makes it very easy to tell them: "You are making a profit because you are operating within a society that has given you the conducive environment to operate. Can you contribute to that society through payment of taxes?" We have seen that happening and you can see between 2002 and now--- I think by 2002, the total taxes that were being collected were just over Kshs200 billion. Now, we are talking about double that figure because Kenyans have realised that they need to pay taxes. All that comes in with proper accounting records that are facilitated by those accountants.

So, Mr. Temporary Deputy Speaker, Sir, it is something that we will need to consider. Some of those things may well be put within the law. Some may be put within the regulations while some will need to be worked out with the Government on how the Institute could work as an independent body. We can work with the Institute on programs to assist the small traders to access accounting services. I recall - I think two years back - as a Government, we gave a grant to ICPAK as part of enhancing their audit quality review programmes so that, that could then be used to start off some programmes on facilitating the small practitioners and all the auditors to better the quality of their audits with the better knock-on effect on the rest of the country in terms of higher quality services for anyone receiving those services from the auditors and the accountants. Again, it is something that we need to look at. We should come up with the best way of assisting small traders. I am happy that, that thing has come up.

I think the other issue that came up - I believe it was yesterday - was something that was contained in page 44, about the definition of where conflict of interest is likely to come from, and that auditors will not be allowed to carry out audit work unless they disclose their interest in businesses where there is a family interest. There is a long worded definition of what immediate family means. I have since been looking at this and I can assure the House that I have received all the assurances that, that definition which is contained within Clause 30 of what immediate family means, was arrived at after looking through all the best practises everywhere and looking at who, in that definition, would compromise the decisions or the independence in the decision making process of an auditor who, by looking at the books, would say: "Yes, my child is there. If I give an opinion that this company is not doing well, would he lose a job? My wife is a shareholder or a director, if I say things are bad, what would happen?" So, by looking through that and identifying all the various people who, if they were related to an independent auditor, would actually impair his or her independence, that is how these names were being picked up. It may look like a mouthful but that is probably the best way of protecting the greater public interest by ensuring that anyone who has a relationship with a director or staff within a company where he or she is also the auditor, would have to disclose that interest so that anyone looking at those accounts knows that they were audited by the husband to the managing director or by the wife of the chairman. People can then make up their own minds and say: Is there a possibility of a conflict of interest having arisen in terms of the truth and fairness of those accounts?

Mr. Temporary Deputy Speaker, Sir, I believe that is something we will be looking at as we define the regulations to see whether, further to that, we could re-explain these things, so that we do not become too restrictive. That is what I felt as the fear of hon. Members. That we are getting too restrictive and telling people you cannot audit this or do that.

However, I do recall even in my earlier days - and time is running--- It is close to when I was starting my audit training. We had to fill so many forms stating that we had carried no audit or there was no company that you that you are a member of. Should that happen, you will disclose it to your audit partner. That is a standard practice within the profession. But it is done by some companies. But others do not do it. It is important that we do it for the greater public good within the law, so that everyone can comply. But again, we will be looking through that and, with the guidance of this House, we can further simplify or do it within the regulation.

The other issue that came up in the course of yesterday, and I heard it today, is whether we should have provisions within this Act or legal aid or *pro bono* services as happens, especially for those who cannot afford accounting services. What I would like to clarify here is that this Act is about the regulation of the profession. In terms of how the various other people receive services, I am not quite sure whether this would be the place for us to then say that accountants must provide free services. That is because any business that is making money and requires the services of accountants would be encouraged to pay. Accountants usually charge not scale fees like other professions. It is based on time and expertise. Like I said before, there has been very good consistency in terms how those small businesses receive the services of accountants.

The intention may be good. However, if we say that every auditor must at a given time provide free services, we could end up not being quite sure who will be provided freely. Are we saying, for example, the auditor of Kenya Breweries Limited (KBL) will then have to provide free services to the distributors of KBL or who qualifies for that service? As I said, the intention is good. I believe we can look at it within the other policy frameworks of micro-enterprises to see how small traders can access these services.

Mr. Temporary Deputy Speaker, Sir, the other issue which came out very clearly is the role of the public accountants. The district accountants were mentioned as being critical in the national development. I believe Members have been interacting with them and we will continue to do so. Whether we are looking at our CDF or all the funds that flow to the districts. Again, all these funds will be under the district accountants. They must get involved. If we do not have the right qualified people in there, observing professional standards, we could well end up with compromised work.

However, looking at it from the perspective of the Accountants Bill as we are discussing it now, I want to clarify that we have the Government Financial Management Act. Currently, this Act is under review. We want to update it and come up with a wider and more comprehensive organic budgeting law and financial management law for the entire Government. Perhaps, when we come to discuss it, I would like to hear some of these suggestions which could provide answers to a number of questions. How do we define who can be an accountant within the Government services? What do we need to do? How do we need to ensure that we can attract the qualified people in Government? Right now, I can tell you we have major problems and challenges. We want to attract the qualified accountants, but we cannot retain them. We are competing with the banks and all companies that are attracting the best from the market because they are paying three to five times more than what the Government is paying. It becomes a major problem retaining the very good accountants.

Mr. Temporary Deputy Speaker, Sir, I must assure hon. Members that there are more people who are willing to work for the Government because they have a commitment to this nation. They have a commitment to ensuring that they serve the public and not necessarily because of the money. If they were just looking at the money, they would, probably have moved to the private sector. With regard to qualifications, this is something we can look at, especially within the wider review of the Government Financial Management Act and those other regulations that define who can work for the Government. It will define their qualifications, how they will be sourced and remunerated. I believe also there are some questions which could be answered once we review this Act.

Mr. Temporary Deputy Speaker, Sir, there were also some issues which were raised by some Members in terms of the relationship between the Kenya Accountants and Secretaries National Examinations Board (KASNEB) and the Institute itself. Indeed, as I explained, the registration of Accountants Board which this Bill seeks to delete from that tripod of the KASNEB, setting up the exams, registration of Accountants Board registering the accountants and the Institute then accepting one as a member and moving on with them and regulating their conducts in the future. I am happy that there is concurrence in terms of the role of the registration board that we do not need to have it. Its work is actually administrative and making sure that you do an examination and having passed it, will be eligible for registration and becoming a member of the Institute.

However, in terms of KASNEB and the Institute of Certified Public Accountants of Kenya (ICPAK), I would just like to really clarify here that their relationship, even under the current law, has been very clear and distinct. The ICPAK has never interfered with the former. I do not believe that even within this law it would have any authority or mandate or scope for interfering with the work of the examinations board. The examinations board also sets the examinations for the Certified Public Secretaries. I believe there is scope for even bringing in other professions, so that no single body can actually go and say we want exams either made harder or simpler because we

want more or less members in the ICPAK. I think that has been clearly observed over the last 30 years. I think with this board, it can only be strengthened rather than weakened.

Mr. Temporary Deputy Speaker, Sir, the ICPAK has an affiliate body known as the Kenya College of Accountancy (KCA). I believe there may have been some confusion. The KCA started as an accountancy training centre. I believe one hon. Member talked about it. It has now since become the KCA University. It just shows us the dynamism of what would happen when people are committed to develop the accounting profession because by starting from very humble beginnings from rented premises to now own premises on Thika Road and with our own campus competing with the very best in production and the development of the human capital, that this country requires a bias towards management and accounting. That is where we need to start moving and to see all the others getting there. So, the ICPAK has those projects and it should continue with them. We are giving more power to it to actually be able to do so.

Mr. Temporary Deputy Speaker, Sir, there were some issues in terms of council and committees that we have not quite defined. For example, when they should meet, how often they should meet and what should be the quorum and so on. Again, this will be the subject of regulations because things change over time. If we put it within the main law, then we would have to be coming back here to Parliament to say that in the last month there was no quorum and can we now change the law. These are issues that will be addressed within the regulations and, indeed, those regulations do exist. They will be reviewed as and when it becomes necessary.

Mr. Temporary Deputy Speaker, Sir, an issue has been raised on the gender sensitivity of the Bill. I do accept that I am not a lawyer. We are all law makers. However, I have been advised that the male gender encompasses the female gender in legal making. So, here within the reference of he or she, it also encompasses the other gender. This is an issue that we need to take care of. I believe by the time we go to the Committee Stage we would have taken note of some of this language of the Bill.

Looking at the representations within the committees and council, I can almost say even without it being stated by law that the membership of the accounting fraternity is the one that actually appoints the membership and it will be very sensitive. As I know it, people volunteer to serve on the council because it is a voluntary job. There is no remuneration. They volunteer to serve on the council and then they are vetted by their fellow members. They are voted for in the general meeting and usually that gender sensitivity comes in, but there have to be volunteers to serve on the council.

Mr. Temporary Deputy Speaker, Sir, in all the other nominations in terms of the other people, again, it is necessary that it is taken care of. We can actually put it within the law that people can only be elected into the council so long as we have the gender balance. How do you then force the people to actually volunteer to serve on a council so that there will be enough candidates of either gender to be elected? It is the same thing that we have in the House. Much as we would have, probably, wanted to have one-third of the Members of this House being ladies, how do you force ladies to actually be candidates and go through the nomination exercise before you even force the electorate to elect them?

So, you must vote for them unless we are going for direct nomination which, again, is not envisaged in this Bill. We could, therefore, end up with a law which cannot be implemented.

Mr. Temporary Deputy Speaker, Sir, we must include many things like gender balance but the mechanics for doing it might not achieve that situation. What I can assure you is that when you look at the membership of the Institute of Accountants, you will be very pleased to note that we have very dynamic young male and female adults joining the institute. They have been giving a challenge to one another. It is one of the very few institutes that have had a lady chairperson in the name of Rose Ogega. She was the chairperson of the Institute for two years. I am sure that there

will be scope for many more to come on board. The door is very much wide open and we do not have to legislate for that. However, the issue will be open to the House for further guidance as we go to the Committee Stage.

The issue of international accounting standards and the international auditing standards came into play over 10 years ago, I believe, when I was the Chairman of the institute. That must have been in 1999, 2000 or in 2001. Kenya adopted the international accounting standards as the framework for reporting. Since then, Kenya as a country has demonstrated the way a Third-World country can take up such a challenge and succeed. The accounting standards at the international level keep on changing. Kenya is represented at the international level by our own staff. That is funded through the membership of the institute.

Suggestions that the international accounting standards or auditing standards should be appended to this Act may find problems in terms of the change by the day. The changes depend on the circumstances. I am not quite sure that we need to worry about that, as members, except to refer to the fact that we are operating within the international accounting or auditing framework. The suggestion that we should have a schedule of that may perhaps not add a lot of value to the Bill, but could also constrain. We need to keep on changing every time one has been added or deleted.

Mr. Temporary Deputy Speaker, Sir, one other issue which came up - I have no intention of responding to all the issues but to help as much as possible as we go to the Third Reading - is the fellowship of ICPAK. The fellowship of ICPAK is the highest honour that any accountant practising in Kenya can be accorded by the institute. There is a very clear criteria that was set up. I believe one had to serve as an accountant for a minimum number of years from the time he or she is registered. You had to set your accounting in good standing, pay your subscription fee, attend seminars, go through professional education, do something which can be noted in your citation in terms of being a good member so that you can be elevated from being an ordinary member of the institute to a fellow of the institute.

I am happy to report that yours truly has been such a fellow for 12 years. I know that the criteria has been very solid. Having gone through the rigours myself and being honoured as a fellow 12 years ago, I know it is not open to abuse. By putting it within the law, the Council would have to sit and work out a clear criteria. At that point it was administrative, but now it will be legal and if you see anyone with the writings FCPAK after their names, you will know that he or she is not just an accountant but someone who has served the institute well in accordance with the regulations. Again, we will capture a number of things of working together with the institute on what we can capture within the regulations which will become part of this law.

Mr. Temporary Deputy Speaker, Sir, there was also a very interesting observation that was made by one hon. Member regarding the age one must attain in order to qualify for registration as an accountant. I know it is something that went through a lot of discussion. I would like, for purposes of letting the House know, say that because of our children in this country being very bright or getting the best in education and support from their parents, we see many young students finishing school. Between their time in school and the time they take to join the university, the two years they are out, they attend colleges, commit their time and by the time they are joining universities, they have already qualified as accountants. Probably, they do not have an accounting record. They have the theoretical knowledge and technically, after sitting all the examinations, they pass.

If they were to be registered immediately and be authorised to practice as auditors, in theory, they would take even the biggest companies in terms of capitalization, for example, Safaricom, and say that they are qualified to be the auditors of this company. They could sit their with their book knowledge and come up with the accounts for Safaricom. If the shareholders of Safaricom are in their millions, then they see an 18 year old saying he or she is the auditor of the company who has done the job, even if the chap has done well, it is a perception issue, they might

start wondering how the youngster audited the work and how he can be saying that things are fine. They would say that something must be wrong.

Mr. Temporary Deputy Speaker, Sir, audit opinion is not just a matter of it being true or fair. It also has to be seen to be true and fair. To provide that comfort to the investing public, the person who is giving that opinion should be mature enough to have looked at the books so that they are sure that their money is safe. It was decided among all the various stakeholders that there must be some certain age limit that would be set. It is just like the age limit for becoming a Member of Parliament, where

before you are 21 years old, you cannot be entrusted with a constituency or become a Member of Parliament. So, there must be some reason to say that before you attain a certain age, you cannot be entrusted with the instruments to give a true and fair opinion of the accounting records of a huge corporation in which the public have put their money. The public have to satisfy themselves by knowing that things are either right or wrong. That seems to be the real reason why that has been put here.

Without saying at what age people are mature enough to be respected by an investing public, this is something which needs to be done by the Council. It is very broad based in terms of its representation. The Council should come up with a team of stakeholders and agree whether they should put the age limit at 20, 25 or 30 years and at what age someone is not clear enough in their minds to give an opinion. Those are things which can be worked on and can change over time. They should be covered within the regulations.

Mr. Temporary Deputy Speaker, Sir, as I said, I could go on and on and attempt to respond to all the issues that were raised by hon. Members. However, I am very happy to note the interest that was shown in the Bill, with regard to the work of accountants. I urge the House to continue to support the institute. I also want to say, as I mentioned while moving the Bill, unless it is granted, the accountants institute is not funded by the Exchequer. The registration of the accountants board was a department within the Treasury, so it was being funded by the Exchequer. Therefore, neither the institute nor the examination board is funded by public funds. It is all self-financing including the monies that were used for the construction of the

Thika Road property. All that construction has been through self-financing activities of the institute and through members of the institute. An impression may have been created that this would be another body that would be funded through the Exchequer.

I am aware that there was a grant that was processed through the Appropriations in 2006 for the purposes of the Government showing its investments in the improvements of audit quality, and knowing that so long as you have better quality auditors who can help the public further, the investment will be repaid through more taxes being collected because there are more compliant people. The quality of the audit will be such that auditors will not be compromised by clients, because they can see the greater public good is better than the fee that they will be receiving.

Mr. Temporary Deputy Speaker, Sir, again that is just more of a clarification. I hope I have done justice in terms of issues that were raised by the hon. Members. It is not possible to respond to every bit of them, but I thought that the ones that required clarification I could as well look at and help hon. Members as we go on.

Mr. Temporary Deputy Speaker, Sir, I gave my undertaking that we will wait for the relevant committee to be appointed, which I am sure will be very soon. We will commit the Bill to them with your remarks. I will be happy to go and give further clarification to them, so that by the time we bring this Bill for the Third Reading, we will have agreed on all the issues that need to be amended. We will have a law that serves the greater public good, which is in line with what accountants profess; accountability in the public interest.

Mr. Temporary Deputy Speaker, Sir, I would like to thank hon. Members very much for their input.

With those many remarks, I beg to move.

(Question put and agreed to)

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

ADJOURNMENT

The Temporary Deputy Speaker (Prof. Kaloki): Hon. Members, that concludes the business on the Order Paper. The House, is therefore, adjourned until tomorrow, Thursday, 17th, April 2008 at 2.30 p.m.

The House rose at 5.50 p.m.