

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Tuesday, 15th April, 2008

The House met at 2.30 p.m.

*[Mr. Deputy Speaker in the Chair]*

### PRAYERS

### COMMUNICATIONS FROM THE CHAIR

#### TRIBUTE TO THE LATE CLERK MR. SAMUEL WAWERU NDINDIRI, EGH

**Mr. Deputy Speaker:** Hon. Members, as all of you are aware, the Clerk of the National Assembly, Mr. Samuel Waweru Ndindiri, EGH, passed on, on Thursday, 3rd, April 2008 at the Nairobi Hospital following an illness.

Mr. Ndindiri was born on the 28th of April 1949 in Ndwitha Sub-Location, Komothai Location of Kiambu District. The late Ndindiri joined Parliament in 1974 as a Clerk Assistant after graduating from the University of Nairobi with a Bachelor of Arts Degree the same year. He rose through the ranks in the National Assembly to the position of Deputy Clerk. He was transferred to the Ministry of Tourism and Wildlife in 1994 as a Deputy Secretary.

He was later transferred to the Ministry of Education and the Ministry of Energy, where he served in the same capacity until he was appointed the Clerk of the National Assembly on the 23rd, June 1999.

The late Ndindiri was buried on Friday, 11th April, 2008 at his Komothai Farm. Among those who attended the burial were the Vice-President and Minister for Home Affairs, Mr. Stephen Kalonzo Musyoka, the Prime Minister, the hon. Raila Odinga, the Speaker of the National Assembly, hon. Kenneth Marende and the Deputy Speaker of the National Assembly, hon. Farah Maalim. Over 20 other hon. Members of Parliament and staff of the National Assembly also attended the burial at Komothai.

The late Ndindiri made immense contribution to the institution of Parliament during his parliamentary career, spanning 34 years. Mr. Ndindiri was a dedicated parliamentary officer who will be remembered for his humility, commitment to duty and patience, as was witnessed during the swearing-in ceremony of hon. Members of the Tenth Parliament on 15th, January 2008. His performance in managing the proceedings on this occasion earned him praise and admiration from within and outside the country.

Hon. Members, Mr. Samuel Ndindiri was a member of the Society of the Clerks-at-the-Table in the Commonwealth Parliaments for 34 years. He was also a member of the Association of the Secretaries-General in the Inter-Parliamentary Union (IPU), where he served as an Executive Committee Member, a post he was going to hand over in Cape Town, South Africa, last week during the 118th IPU Conference. He was also the Secretary of our Parliamentary Service

Commission (PSC) from 1999.

On behalf of the hon. Members and staff of the National Assembly, and on my own behalf, I wish to convey our heartfelt condolences and deep sense of loss following [**Mr. Deputy Speaker**]

the death of the Clerk of the National Assembly. May the Almighty God grant comfort to his wife, Mrs. Frida Ndindiri, children, friends and relatives during this period of pain and sorrow. May the Lord give strength to the family to bear the loss of their loved one. May the good Lord rest his soul in peace.

Hon. Members, may we now stand and observe a minute's silence in remembrance of our late Clerk, Mr. Samuel Ndindiri.

*(Hon. Members stood up in their places  
and observed a minute of silence)*

TRIBUTE TO THE LATE  
HON. JEREMIAH J.M. NYAGAH, EGH

Hon. Members, it is with deep sorrow that I convey to the House the demise of a long-serving Parliamentarian, the hon. Jeremiah Joseph Mwaniki Nyagah, EGH, at the prime age of 87 years.

Mzee Jeremiah Nyagah was born on 24th, November 1920 at Igari Village in Embu District. After completing his studies, he taught in several schools among them Kangaru School in Embu, where he was appointed the founder principal of the institution. During this time, he participated in the struggle for Independence of our country.

Mr. Nyagah decided to join politics and got elected to the Legislative Council (Legco) in 1958 and thus began an uninterrupted illustrious political career spanning almost four decades. In 1966, he joined the Cabinet and subsequently served in various Ministerial portfolios such as Education, Agriculture, Environment, Water and Natural Resources.

Mr. Nyagah will be fondly remembered by this House for his selfless service to the nation and to the National Assembly, which he served as the first African Deputy Speaker in 1962, when the House was still known as the Legislative Council.

The late Mzee Nyagah was the leader of the Kenyan Delegation to the 23rd Commonwealth Parliamentary Association (CPA) Plenary Conference in Nairobi in 1983. He was among other nationalists who attended the famous Lancaster House Constitutional Conference in the United Kingdom which negotiated for Kenya's Independence and indeed, he is one of the founding fathers of this nation.

He retired from active politics in 1992 and dedicated his life to the church as a lay leader and also served as the Commissioner of Scouts in Kenya. The country has lost a gallant son, whose life was characterised by humility, dedication, honesty, patriotism and whose vision was one united Kenya.

May I take this opportunity, on behalf of the House and on my own behalf, to convey our deepest condolences to the family of the late Mzee Nyagah. May the Almighty God rest his soul in eternal peace. Hon. Members, may we all stand for a minute in silence in honour of this great son of Kenya, hon. Jeremiah Joseph Mwaniki Nyagah.

*(The hon. Members stood up in their places  
and observed a minute of silence)*

Thank you.

Hon. Members, there is yet another Communication from the Chair.

#### LIVE COVERAGE OF PROCEEDINGS

#### BY THE PRESS

Hon. Members, you may have noticed that the Press is within the precincts of the Assembly and are going to cover the proceedings live on television. Under Standing Order No.1, I allowed this due to the uniqueness of the sitting today, coming immediately after the formation of the first ever Grand Coalition Government in Independent Kenya.

However, I have instructed the electronic media covering the proceedings to ensure that they only focus on the hon. Member on the Floor and on the Chair, but can also show the whole Chamber at an angle without focusing on any other particular Member.

I hope that the media will take this with a lot of diligence.

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. We also note with a lot of pleasure the presence of the cameras. Could I request that, maybe you could use this opportunity to make a firm ruling, so that we can have a breakthrough in this country, where the institution of Parliament is demystified, and allow the media to freely cover us?

**Mr. Deputy Speaker:** Hon. Members, the process of live coverage of the proceedings of the House is under way. I think you are all aware of it. We will have both the radio and television coverage by the end of this year. Actually, the radio coverage is going to come earlier than that. The television live coverage will be in place before 31st December, 2008.

**The Assistant Minister for Education (Dr. Mwiria):** On a point of order, Mr. Deputy Speaker, Sir. I realise that you did order that the media should not focus on any individual hon. Member, especially if they are sleeping! Now, why should that not be highlighted?

**Mr. Deputy Speaker:** That is not a point of order, Dr. Mwiria!

Next Order!

*(Laughter)*

#### PAPERS LAID

The following Papers were laid on the Table:-

Annual Report for the period 1st January to 31st December, 2007, in respect of prosecution of the Anti-Corruption and Economic Crimes related cases pursuant to the provisions of Section 37 of the Anti-Corruption Economic Crimes Act, 2003.

Quarterly Report by the Kenya Anti-Corruption Commission for the period 1st October, 2007 to 31st December, 2007, pursuant to Section 36(4) of the Anti-Corruption and Economic Crimes Act 2003.

Quarterly Report by the Kenya Anti-Corruption Commission for the period 1st January, 2008 to 31st March, 2008, pursuant to Section 36(4) of the Anti-Corruption and Economic Crimes Act, 2003.

*(By the Attorney-General)*

#### NOTICE OF MOTION

INTRODUCTION OF CONSUMER  
PROTECTION BILL

**Mr. Olago:** Mr. Deputy Speaker, Sir, on behalf of hon. Midiwo---

*(Mr. Olago removed the microphone  
from the stand)*

**Mr. Deputy Speaker:** Hon. Olago, if you leave the microphone where it is, normally, you will be heard by everybody.

**Mr. Olago:** Mr. Deputy Speaker, Sir, those who designed the microphone on this Table did not have me in mind. So, I have to really bend down to reach the microphone but I will try my best.

Mr. Deputy Speaker, Sir, on behalf of hon. Midiwo, I would like to give notice of the following Motion---

*(Mr. Olago held the microphone  
in his hand)*

**Mr. Deputy Speaker:** Order, hon. Olago! Please, put down the microphone! Your voice will be picked properly regardless of where you are standing as long as you are close to the microphone!

**Mr. Olago:** Mr. Deputy Speaker, Sir, on behalf of hon. Midiwo, I wish to give notice of the following Motion:-

THAT, in order to ensure comprehensive protection of the Kenyan consumer; this House do grant leave for the introduction of an Act of Parliament entitled The Consumer Protection Bill to establish consumer protection laws that will contribute towards the improvement of consumer welfare and for matters incidental thereto and connected therewith.

**POINT OF ORDER**

SITTING ARRANGEMENT IN THE CHAMBER

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. Is it in order for the Ministers to sit on the Opposition side and harass the Backbenchers? Could I ask the Chair to request or order the Ministers to move to where they belong, so that we can deal with them?

**Mr. Deputy Speaker:** Hon. C. Kilonzo, given the unique situation in the country, that is a very weighty question. The Chair will give a ruling on the sitting arrangement at an appropriate time. In the meantime, we will proceed.

**The Minister for Tourism** (Mr. Balala): Mr. Deputy Speaker, Sir, I am certainly aware of where I belong as a Minister of this Government. It has been a tradition in the previous Parliament and a ruling was given that any hon. Member can sit anywhere in the House. As you have correctly said, this is a unique situation. We have a Grand Coalition. If we do not know what a Grand Coalition means, we cannot differentiate---

**The Assistant Minister for East African Community** (Mr. Munya): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Order, hon. Munya! Hon. Balala is on a point of order!

**The Assistant Minister for East African Community** (Mr. Munya): He is making a

ruling!

**Mr. Deputy Speaker:** Hon. Balala, that is not a point of order!

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** You do not have the Floor, Dr. Khalwale, please!

**The Attorney-General (Mr. Wako):** On a point of order, Mr. Deputy Speaker, Sir. Are the hon. Members in order to raise these points of order? It is clear, under Section 21 of the Constitution of Kenya, that a Minister or an Assistant Minister shall not enter upon the duties of the office unless he has taken the prescribed Oath of Allegiance and such oath for the due execution of his duties? Consequently, they can sit anywhere!

**The Deputy Speaker:** Order! Hon. Attorney-General and all the hon. Members, the Chair has already taken note of that weighty question. There is going to be a Communication from the Chair and we will give the ruling at an appropriate time.

In the meantime, the only thing that the Chair will rule on is that the Front Benches on the right of the Speaker shall be occupied by the Ministers. If there is an overflow and Ministers are occupying other Benches, then the ruling will be done at an appropriate time. That matter rests until then!

Next Order!

## ORAL ANSWER TO QUESTION

### *Question No.011*

#### NON-DISBURSEMENT OF SECONDARY BURSARY FUNDS

**Mr. Mbau** asked the Minister for Education:-

(a) whether he is aware that the funds under the Constituency Secondary School Bursary Scheme for 2008 are yet to be released, and;

(b) what plans he has to ensure that, aside from the Government's free secondary education policy, gifted but needy students are specifically catered for in the scheme.

Mr. Deputy Speaker, Sir, I also want to note that so far, I do not have the written answer.

**The Vice-President and Minister for Home Affairs (Mr. Musyoka):** Mr. Deputy Speaker, Sir, I rise on behalf of the Minister for Education, Prof. Ongerii--

**Dr. Khalwale:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Dr. Khalwale, you are out of order! Please, sit down!

Proceed, Your Excellency the Vice-President and Minister for Home Affairs!

**The Vice-President and Minister for Home Affairs (Mr. Musyoka):** Mr. Deputy Speaker, Sir, Prof. Ongerii is away in Nakuru, officiating an audition for the schools drama festivals. He wanted this Question to be deferred until he is able to deal with it, including, of course, providing a written answer to hon. Mbau.

**Mr. C. Kilonzo:** On a point of order, Mr. Deputy Speaker, Sir. I do not know if you heard what the Vice-President and Minister for Home Affairs said. He said that the Minister for Education is out in Nakuru officiating other duties. Will the House be held at ransom?

**Mr. Deputy Speaker:** Order! Mr. Vice-President and Minister for Home Affairs, under the rules, no Ministry should be left unattended. If the Minister is not around, then there should be an Assistant Minister. If the Assistant Minister is not around, then another Minister should stand in for him or the Leader of Government Business. You should ask for an extension of time but do not say that the Minister is not around. Always there has to be a Minister!

**The Vice-President and Minister for Home Affairs (Mr. Musyoka):** Mr. Deputy

Speaker, Sir, I have heard you. However, due to the prevailing circumstances--- I know that Dr. Kosgei, the Minister for Higher Education, Science and Technology is here but she has not been sworn-in.

Similarly, I am sure that the Assistant Minister who is supposed to have answered this Question has not also been sworn-in. I want to plead with the Chair to give the Ministry more time to answer this Question. As the Leader of Government Business, I do not have the answer. That happens to be the naked truth!

**Mr. Deputy Speaker:** Fair enough! You have until Wednesday next week when the Question will be back on the Order Paper.

**The Assistant Minister for Tourism** (Ms. Mbarire): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** The Chair has already ruled on that matter!

**The Assistant Minister for Tourism** (Ms. Mbarire): On a point of order, Mr. Deputy Speaker, Sir. I just want to plead with you! You realise that we have two weeks to the school opening date. Parents are waiting for bursaries. This Question is of urgency. Could it be answered tomorrow morning?

*(Applause)*

**Mr. Deputy Speaker:** Hon. Members, between now and tomorrow morning, the Minister for Higher Education, Science and Technology will not have been sworn-in. Therefore, it is impracticable that the Question can be answered tomorrow. The Chair has ruled that this Question appears on the Order Paper on Wednesday next week.

Proceed!

*(Question deferred)*

## POINTS OF ORDER

### FORMATION OF WATCHDOG COMMITTEES

**Mr. Linturi:** Thank you, Mr. Deputy Speaker, Sir. I stand on a point of order. I would like to refer to Standing Order No.1 which says:-

"In all cases where matters are not expressly provided for by the Standing Orders or by other Orders of the House, procedural questions shall be decided by the Speaker."

I understand that you have ruled that this is a unique time in this country. However, I am seeking your opinion on the following matters.

Mr. Deputy Speaker, Sir, bearing in mind that Kenya is a multiparty democracy as envisioned in our laws, and considering that on 13th April, 2008, the President and Mr. Raila, under the National Accord and Reconciliation Act, having complied with Cap.7 Section 17(5) of laws of Kenya, formed a Grand Coalition Cabinet, and the fact that the Orange Democratic Movement became part of the Government, there was left a lacuna in terms of who would take up the role of official opposition in this House. There is no political party that qualifies to be the Official Opposition party in this House.

Standing Order No.172(2) says:-

"All seats in the Front Benches of the Chamber to the left of the Speaker shall be reserved for Leaders of Opposition Parties and Members of the Official Opposition Party designated as having responsibility in particular matters."

Standing Orders 147(1) and 148(1) provide for the formation of the Parliamentary Watchdog Committees which should be headed by the Official Opposition. The Official

Opposition should not have a majority of Members in the House as opposed to the party that formed the Government.

I am apprehensive that, if you do not give us a considered opinion on the way forward regarding the formation of these Watchdog Committees, then the Committees may be used by the President and Mr. Raila to reward their cronies and people who did not get Cabinet appointments!

*(Applause)*

It is for that reason that I am pleading with you to give us your opinion. As we speak today, the National Assembly of this country is without an Official Opposition. Secondly, an Official Opposition in this country is a necessity in obedience to Section 1(a) of the Constitution.

Where hon. Members in this House are neither Ministers nor Assistant Ministers, being not less than 30 and by signing decisions in writing, can and shall be recognised as members of the Official Opposition. Such a group of Members shall be called the Grand Coalition Opposition for the purposes of putting the Government on check.

Thank you.

**Mr. Deputy Speaker:** Hon. Members, the Chair appreciates the unique situation we are in. The Chair will give its ruling. The Chair does not give opinions but rulings. It will give a ruling on the sitting arrangement in the House and the composition of the Committees on Thursday 17th April, 2008.

**Mr. Bahari:** On a point of order, Mr. Deputy Speaker, Sir. In view of the ruling you have just made and the point raised by the hon. Member, would I be in order, given that this matter is of national importance to this country, to request that the business of the House be suspended so that this matter can be sorted out?

Accountability starts from the first day. We have to be accountable to the people of Kenya from the first day. Would I, therefore, be in order to ask that the business of the House to be suspended? Since the Grand Coalition Government was formed recently, a Grand Opposition can also be formed!

*(Applause)*

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, it is very important, and very unfortunate, that those who negotiated for the Grand Coalition Government forgot to negotiate for a Grand Opposition. I agree with my colleague that this House is made of two parties; the Government and the Opposition. No Government likes the Opposition.

Mr. Deputy Speaker, Sir, therefore, the Grand Coalition Government is very happy because, legally, there is no opposition. We are requesting that the business of the House be suspended until we amend the law to allow Backbenchers to form a Grand Opposition.

CCK GUARANTEE TO EAMS  
SUB-MARINE CABLE PROJECT

**The Assistant Minister for Energy (Mr. Keter):** On a point of order, Mr. Deputy Speaker, Sir. Before Parliament adjourned, I had requested for a Ministerial Statement from the Ministry of Information and Communications concerning the submarine cables from Mombasa to Dubai. I would like to seek your guidance on that matter.

**Mr. Deputy Speaker:** It is only fair for hon. Ministers who are here to take their business seriously! There is a Ministerial Statement that was requested by hon. Keter way back. Is the

Minister for Information and Communications or his Deputy here now?

The hon. Leader of Government Business, could you, please, respond to that?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, I do hold in very high esteem the Member for Belgut, hon. Keter, and I want to urge and plead for his patience because the Minister for Information and Communications, hon. Poghiso, is currently out of the country. As soon as he is back here, I am sure that he will be able to deal with that matter.

Mr. Deputy Speaker, Sir, I thought that, in fact, hon. Keter was his Assistant Minister! But he has not been sworn in. So, that is the truth of the matter as well.

Thank you.

REQUEST FOR STATEMENT ON RESURGENCE  
OF THE *MUNGIKI* MENACE

**Mr. K. Kilonzo:** Thank you, Mr. Deputy Speaker, Sir. I rise on a point of order to request for a Ministerial Statement from the Minister of State for Provincial Administration and Internal Security in the Office of the President, regarding the *Mungiki* menace.

Mr. Deputy Speaker, Sir, Kenyans were just about to experience a sigh of relief after the formation of the Grand Coalition Government. That is because business, from the beginning of the year, was disrupted by other things.

Mr. Deputy Speaker, Sir, right now, Kenyans are not going to work in about five major towns, plus the Metropolitan City of this country. People are commuting to work because buses are being burnt and people are being killed!

Mr. Deputy Speaker, Sir, we want the Minister to tell this House how a group like *Mungiki* can hold the country hostage, while there is security presence. How come they were caught flat-footed? What is the Ministry of State for Provincial Administration and Internal Security in the Office of the President going to do to ensure that Kenyans will continue with their businesses uninterrupted? The security of Kenyans is of foremost importance and the primary responsibility of any Government is to ensure the security of its citizens.

Thank you, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Is the Minister of State for Provincial Administration and Internal Security here?

The hon. Leader of Government Business, could you, please, respond to that?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, I will urgently communicate to Prof. Saitoti the request by the Member for Mutito and he will issue a Ministerial Statement on that matter.

**Mr. Deputy Speaker:** The hon. Leader of Government Business, given the gravity of that issue, would I be in order to say that you will have that Ministerial Statement delivered tomorrow afternoon?

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, I thought the Chair was to rule on that. That is because hon. Linturi and hon. Bahari said it was a weighty issue. Assuming that the ruling from the Chair will necessitate continuation of business of this House tomorrow, I want to give that assurance that, that Ministerial Statement will be issued tomorrow.

DISCONNECTION OF ELECTRICITY  
SUPPLY TO WATER COMPANIES  
IN WESTERN REGION

**Mr. Ogindo:** Thank you, Mr. Deputy Speaker, Sir. I rise on a point of order to ask for a Ministerial Statement from the Minister for Energy in connection with the disconnection of electricity supply to various water companies, especially in the western region. Those disconnections have compounded what has been reported nationally as a cholera outbreak in the region, causing several deaths. As a result of that disconnection, several schools have been closed ahead of their schedules. Similarly, the general public in those regions is suffering from lack of water for use and for drinking.

Mr. Deputy Speaker, Sir, I appreciate the difficulties the Kenya Power and Lighting Company (KPLC) is going through. But I want to suggest that KPLC should conduct its business, not only with a sharp business mind, but also with a big human heart, so that we can save lives. Therefore, could the Minister issue a Ministerial Statement on that matter?

Thank you, Mr. Deputy Speaker, Sir.

**The Minister for Energy** (Mr. Murungi): Thank you, Mr. Deputy Speaker, Sir. We will be in a position to issue a Ministerial Statement on that matter tomorrow in the afternoon.

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

**Mr. Deputy Speaker:** Yes, what is your point of order, hon. Member?

**An hon. Member:** Mr. Deputy Speaker, Sir, I rise on a point of order. Hon. Bahari asked the Chair to rule on whether the proceedings of the House should be suspended until an answer is given by the Chair. We have not received any Communication from the Chair and we need to know about it.

*(Applause)*

**Mr. Deputy Speaker:** Order, hon. Members! The Chair has undertaken to give a ruling on those two weighty issues on Thursday, 17th April, 2008, in the afternoon. I believe that the Leader of Government Business, Prime Minister-designate and Ministers who are here, and who will also be involved in the selection of Committee Members, will take cognisance of the fact that, that is a weighty issue. The Chair has no authority to instruct them on when to form the Committees. But they will take note of that. But the Chair will give a ruling on those two weighty issues on Thursday, 17th April, 2008, in the afternoon.

**Mr. Aluoch:** On a point of order, Mr. Deputy Speaker, Sir. I do not wish to appear to contradict your ruling, but if it is not possible to give a ruling on whether or not it is in order for Members of the Cabinet to sit on your left, then make a ruling on whether it is in order for the House to proceed with its Business this afternoon.

Mr. Deputy Speaker, Sir, I say so because Standing Order No.172(1) is couched in mandatory terms, and it says:-

"All seats in the front benches of the Chamber to the right of Mr. Speaker shall be reserved for the exclusive use of Ministers".

The word "Shall" is mandatory and "exclusive" is clear. If you are not able to make a ruling now, let us adjourn!

**Mr. Deputy Speaker:** Hon. Member, the Chair has said and ruled that what is provided for right now in the Standing Orders is that on the right side on the Front Benches are reserved for the Members of the Government.

In the event that there is an election in this country and one party wins with a 95 per cent majority, even in a multiparty situation, we will still have a situation in which the majority of the Members of Parliament come from one party. It happens in some countries! It did happen in South Africa! As of now, other than the Ministers who are on the Front Bench here, the rest of you can have a free sitting. But there will be a ruling on Thursday, 17th April, 2008. This matter

is, for now, settled!

**Mr. Linturi:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** What is your point of order, Mr. Linturi?

**Mr. Linturi:** On a point of order, Mr. Deputy Speaker, Sir. I would like to cite Standing Order No.172(2); which states:-

"All seats in the Front Benches of the Chamber to the left of Mr. Speaker shall be reserved for the Leaders of the Opposition parties and Members of the Official Opposition---"

**Mr. Deputy Speaker:** Order, Mr. Linturi! If you study the Standing Orders very well, there is no official Opposition in this House now! Official Opposition, as provided for in the Standing Orders, can only qualify to be one if it has 30 Members or more. Under the current circumstances of the Party of National Unity (PNU) and the Orange Democratic Movement (ODM), no party has that position. All the parties, with the exception of Mr. Jirongo's party, are in the Government.

Hon. Members, this is a weighty matter. The only thing that is provided for right now under the Standing Orders is the reservation of the Front Benches for the Members of the Government, and that the Chair has ruled on. There cannot be another reservation, because no party can qualify to be an Official Opposition party.

Until the ruling is made by the Chair on Thursday. much more than this, in my opinion is the composition of the committees and the chairmanship of those committees. There is going to be a considered ruling on that. In the meantime, the matter shall be put to rest. Let us proceed.

**The Assistant Minister for Agriculture** (Mr. Ndambuki): On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Hon. Member, I have not given you the Floor yet!

Mr. Ndambuki, it had better be a point of order and you understand what qualifies to be a point of order! What is not in order in the House right now, if I may help you?

**The Assistant Minister for Agriculture** (Mr. Ndambuki): On a point of order, Mr. Deputy Speaker, Sir. I would like to follow up on an issue that I raised before we went on recess. Before we went on recess, I requested a Ministerial Statement from the Minister for Transport regarding the increase of deaths caused by accidents on the roads. The Minister is here. Could he give me an answer to that.

### MINISTERIAL STATEMENT MEASURES TO CURB ROAD ACCIDENTS

**The Minister for Transport** (Mr. Mwakwere): Mr. Deputy Speaker, Sir, I am ready to respond to that. I will give a Ministerial Statement.

Over the Easter holidays, that is between 21st March, 2008 and 24th March, 2008 there were 54 fatalities on our roads, and over the same festive season last year, 2007, we had 48 fatalities. In 2006, we had 51 fatalities. This is a very unfortunate trend.

Every time we get to Easter holidays, we lose about 50 people. It is a trend that has to be halted. It is most unfortunate, but it has been happening. It is up to Kenyans, not just the Ministry, to ensure that this does

not happen again. I am saying that because the main causes of road accidents, and eventually deaths, on our roads over Easter holidays is drunken driving. It is most unfortunate that drivers, particularly young people, get drunk, drive carelessly and get involved in fatal accidents through which people get maimed or killed and property is destroyed. The matter was appropriately directed to the Ministry of Transport, but there is a slight disconnect here that I would like to put across to fellow hon. Members. This matter should ideally have gone to the Ministry of State for Provincial Administration and Internal Security.

However, because of collective responsibility, and because it touches on roads and

legislation that touches on the Ministry of Transport, that is the Traffic Act, Cap.403, Laws of Kenya, it is with great pleasure that I respond further as follows.

The next cause of accidents on our roads is the state of the roads, which have potholes and are poorly maintained. This is being addressed by the appropriate Ministry. The role of the Ministry of Transport, as far as road transport is concerned, is legislation. We amend the Acts and produce Legal Notices, but the Ministry of Transport is not responsible for implementation and enforcement.

The enforcement of our traffic provisions, as contained in the Traffic Act, Cap.403, Laws of Kenya, lies with, or it is the responsibility of, the Traffic Police. When it comes to drunken driving, the Ministry of Transport does not have officers to check whether drivers are drunk or sober. That is the responsibility of the Traffic Police.

When roads have potholes, as the second cause of accidents, the Ministry of Transport does legislation that there must be road signs such as circles and triangles; doing them falls under the Ministry of Transport. But enforcement of observance of the same is the responsibility of the Ministry of Roads.

Having said that, there is one problem. Kenyans have a tendency of trying to defeat the law. We cannot expect Traffic Officers to be at every corner of our roads. We cannot even expect them to check whether vehicles are roadworthy--- The regulations that determine whether a vehicle is roadworthy or not is the responsibility of the Ministry of Transport only as far as legislation is concerned. The enforcement is in the hands of the Traffic Police. We cannot expect them to be at every corner of our roads; moreover, we have 900,000 registered vehicles. So, it is impossible to check every vehicle at every time in every corner of the country. If you take into account motorcycles and the *Tuk Tuks*, we have 1.1 million registered vehicles.

It is up to Kenyans to follow the Highway Code as it appears in the Traffic Act. As provided by the Ministry of Transport, it is vehicle owners, operators and passengers who must enforce every aspect of the Traffic Act, particularly the Highway Code. Our role is to legislate; the role of every Kenyan is to implement and the role of the Traffic Police is to monitor and ensure that people do comply with the law. But the Traffic Police cannot be at every point. It is up to ourselves to be responsible and cut down on accidents on our roads.

Unlike with sea and air transport, the Ministry of Transport does not provide the infrastructure, that is the roads. We do not even man weighbridges. That is the responsibility of another Ministry. I am not saying that they are not doing their work properly. They are, but the biggest weakness is in the adherence to what is given as laws governing the usage of our roads. Our people do not show the level of responsibility that they should show. Our people get drunk and drive. That is the main cause of accidents.

**Mr. Ruto:** On a point of order, Mr. Deputy Speaker, Sir.

**Mr. Deputy Speaker:** Mr. I. Rutto, wait until he finishes!

**The Minister for Transport** (Mr. Mwakwere): Thank you, Mr. Deputy Speaker, Sir. It is important for my brother to know that when a Ministerial Statement is being made, he should not interrupt. But I will conclude in a minute.

Mr. Deputy Speaker, Sir, we accept that there are too many accidents but the role of the Ministry is legislation. I would like to inform the House that the following action is being taken to ensure that we cut down on accidents. We are soon introducing electronic, or plastic driving licences. We have made tremendous strides and that will be done before the end of July, so that if people drive carelessly and do not follow the law, it will be recorded. That is the system that is used in advanced countries. Those who drive without valid driving licenses, or who are careless, or get drunk and drive thereby causing accidents and deaths, will, probably, see an end of their misdeeds.

I shall present a proposal to this august House to consider increasing fines that have to be meted out to traffic offenders. So far, the fines do not seem to be deterrents. At the moment, we

collect close to Kshs20 million per month. We collect more than Kshs500 million every year on fines that are paid by offenders on our roads. However, that does not seem to be a deterrent. We have got to increase the fines because the offenders seem to be the same ones again and again. The biggest problem is drunken driving.

Mr. Deputy Speaker, Sir, that is the Statement that I wanted to make to Members. I will accept any suggestions and views that will help us cut down on accidents on our roads.

**The Assistant Minister for Agriculture** (Mr. Ndambuki): Mr. Deputy Speaker, Sir, I thank the Minister for that Statement. But in 2003, accidents on our roads were reduced to almost zero. How come we are losing ten people per day on our roads? Is it that we are not enforcing the usage of safety belts, speed governors and checking of the vehicles? The Minister should tell us what exactly has changed between that time and now. That is because we are losing too many people. It is not only during Easter, but even on other days.

The Minister should enforce the laws that were gazetted at that time, instead of just relaxing them. We should not let people go back to where we were before 2003.

**Mr. Bahari:** On a point of order, Mr. Deputy Speaker, Sir. When the Minister attempted to answer the question he, in his own words, admitted that the nature of the Ministerial Statement required a multi-disciplinary approach. In his own words, he admitted that he will not effectively do justice to that question?

Because we have to be accountable for our time, would I therefore be in order to ask that this Question be referred to the Prime Minister, who is the co-ordinator and supervisor of all the Government Ministries, so that he can do justice to that Question?

**Mr. Deputy Speaker:** Hon. Minister, you are a member of the Government of the day. The Ministries that you are talking about are headed by your fellow Ministers. It is your responsibility to do co-ordination as far as responsibilities--- Kenyans want you to take control.

Mr. Deputy speaker, Sir, under the circumstances, it is not fair for you to say that a part of the question is under the Ministry of Roads, another part is under your Ministry and another part is under the Ministry of State for Provincial Administration and Internal Security. It is your responsibility, collectively with your fellow Ministers, to find a solution and resolve those problems. That is the contention about your Ministry. The Prime Minister-designate has not been sworn-in yet.

Could the Minister highlight on that now?

**The Minister for Transport** (Mr. Mwakwere): Thank you very much, Mr. Deputy Speaker, Sir. Hon. Bahari put words in my mouth. What he said is not what I said. I said: "In the realm of collective responsibility." I did not say that I am unable to give you information on the problem at hand.

But may I re-emphasize here that the problem of accidents on our roads is, first and foremost, a question of being responsible road users. Accidents are caused by people. They are caused by drivers, first and foremost. The drivers who cause accidents - it has been documented - are those who drive after taking alcohol beyond a certain point. The Government did take action and we have now legalised the usage of breathalysers. It is a question of tackling problems where they have been identified by all of us. It is not a

question of the Ministry of Transport or the Ministry of Roads. We know exactly where the demarcations are. But the biggest problem is not the roads or the traffic police. The biggest problem lies in the road users, vehicle owners and operators. Our people get drunk and drive. That is why we have an escalation of accidents over Easter.

When it comes to safety belts, the role of the Ministry is legislation. My predecessor even demonstrated on television how Kenyans should fasten seat belts. It was a demonstration of a new regulation that had been put in place. He even went round and showed an example of a vehicle that had been painted with a broken yellow line. He had to go out and show Kenyans what was to be done. Thereafter, it was up to Kenyans themselves to fasten their seat belts. You do not expect the

Ministry of Transport to have officers in every vehicle to show people how to fasten seat belts, nor do you expect the traffic police to fasten seat belts for you. You have got to follow the law and, by so doing, we shall cut down on accidents. The Ministry of Transport gives regulations. It is your responsibility to apply and comply.

**Mr. Ruto:** Thank you, Mr. Deputy Speaker, Sir. I think that the Minister for Transport should just admit that he does not understand the question and even his role in the Ministry.

He has attempted to shift the blame on Kenyans; that, it is up to Kenyans to drive safely, obey the various regulations that they come up with and fasten safety belts. He is even telling us that he does not even know where the policemen are suppose to be.

I think the Leader of Government Business is here. He should tell us whether he is satisfied with the answer that the Minister has given us. I think the Minister is running away from his responsibilities and he should either be censored or sacked from that job.

**Mr. C. Kilonzo:** Mr. Deputy Speaker, Sir, in 2003 and 2004, when we had hon. Michuki as the Minister, speed governors were working. At that time, safety belts were being worn. There was discipline in the *matatu* industry. So, when the Minister stands up and says it is up to us--- I want to put it to him that it is up to the Government and the Ministries.

The Minister has also said why he has not been able to perform. It is because some of the duties are with other Ministries. We agree that the roads sector is doing badly. He has also said that security has gone elsewhere. When I read his mind, he is right. That is why we are asking: "With 40 Ministries, does it make sense?" It will only make it difficult for the Minister to perform his duty. If the Minister wants to go and talk to the other Minister, and that Minister is not co-operative, we do not expect him to do much.

So, I want to make a suggestion, which the Minister has asked for. One of the suggestions is that the Ministry of Roads, Public Works and Transport be combined into one! That is my suggestion!

**Mr. Deputy Speaker:** Hon. Kajembe, did you have a burning issue?

**Mr. Kajembe:** Mr. Deputy Speaker, Sir, I rise to seek your guidance. I have seen the Prime Minister walking into the Chamber and he is seated on the Back Bench. Could we get guidance from the Chair?

**Mr. Deputy Speaker:** Order, Mr. Kajembe! The Prime Minister has not yet been sworn-in! Under the circumstances, he can sit on any side he wants! When he is sworn-in he will be supposed sit on the Front Bench. Only then will you be able to raise that very relevant point of order!

Mr. Mwakwere, could you respond to the questions that have been asked?

**The Minister for Transport** (Mr. Mwakwere): Mr. Deputy Speaker, Sir, Mr. I Rutto, having been in this House for a couple of years, does not seem to be aware of the legislations we have been passing.

Mr. Deputy Speaker, Sir, I suggest that he reads the Traffic Act, Cap.403 of the Laws of Kenya. It is important that we are fully conversant with every Section of that Act of our laws. If he understands what is contained therein, then he will not even make a comment close to the one he made.

Mr. Deputy Speaker, Sir, having said that, I fully agree that we all need to review the Traffic Act. We should try and see whether certain responsibilities could be shifted to the Ministry of Roads or elsewhere, so that one takes full responsibility.

Hon. Members will be surprised to learn that the issue of road accidents does not really fall under the Ministry of Transport in terms of implementation and regulation. We only make the regulations, but their application does not involve the Ministry Transport on a day-to-day basis.

When we legislate that we must, for example, have a breathalyser, it is not the Ministry of Transport that goes around with gadgets to check whether drivers are drunk or not. That is the responsibility of another Ministry and they are doing their job very well. When we legislate that we

must have safety belts, it is not the responsibility of the Ministry of Transport that goes round *matatus* to check whether there are safety belts or not.

If we legislate that we must have speed governors, it is not the Ministry of Transport that goes round with speed guns to check whether drivers are overspending or not. As a legislator, you have got to know your laws. By so doing you will assist yourself and ourselves, including the Ministry of Transport. All these complaints that are levelled at the Ministry are totally misplaced.

**Mr. Deputy Speaker:** Next Order!

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, before I move the Procedural Motion, I beg of you that you allow me to congratulate the hon. Member for Langata Constituency, the Prime Minister, Mr. Raila, for his appointment. Allow me to also congratulate Mr. Mudavadi who has been appointed as the Deputy Prime Minister and Minister for Local Government and Mr. Kenyatta for his appointment, as well, as the Deputy Prime Minister and Minister for Trade.

Mr. Deputy Speaker, Sir, I also congratulate the Ministers and Assistant Ministers who have been named to this very historic Cabinet. I thought I would be remiss if I did not take this opportunity to congratulate all of them and to thank His Excellency the President and Mr. Raila for doing this country proud.

Mr. Deputy Speaker, Sir, having said that, I know that, indeed, we have those issues that you have promised to address this Thursday. I want to urge that the nation continues with the spirit that was demonstrated when we were sworn-in as the Tenth Parliament, and when we were able to do the historic thing of amending our Constitution as well as enacting the National Accord and Reconciliation Act.

Mr. Deputy Speaker, Sir, the country is now at peace with itself. It is important for us to recognise that, as leaders of this historic National Assembly. I know that there are issues of governance and the need for us to remain transparent. I want to continue to urge for patience for those of us who feel a little bit unfairly dealt with. Indeed, as Mr. Raila said, there clearly has to be, at times like this, a spirit of give-and-take.

Let me now move the Procedural Motion!

### PROCEDURAL MOTION

REDUCTION OF PUBLICATION PERIOD:

THE ACCOUNTANTS BILL

**The Vice-President and Minister for Home Affairs** (Mr. Musyoka): Mr. Deputy Speaker, Sir, I beg to move:-

THAT, pursuant to the provisions of Standing Order No.98, this House orders that the publication period of the Accountants Bill be reduced from 14 to seven days.

The reasons for this Procedural Motion, to the majority of us in this House, are very clearly elaborated. If we do not reduce the publication period today, it is likely that the request by the hon. Member for Isiolo South Constituency, Mr. Bahari, will have to be complied with because then we will not have any business. We will have no option but to adjourn.

It is also important to realise that it is about time we speedily discussed this proposed legislation because the Minister for Finance is, understandably, prepared to move on with this debate. But unless we reduce the publication period from the 14 days to seven days, we will not be able to deal with this matter. The Bill is dated 8th April, 2008. The normal maturity period would ordinarily have been the two weeks.

With those few remarks, I beg to move.

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government** (Mr. Githae): Mr. Deputy Speaker, Sir, I stand to second the Motion. As it has been explained very clearly by the Vice-President and Minister for Home Affairs, it is necessary to

reduce the publication period of this Bill to enable the House to consider and pass it.

*(Question proposed)*

**Mr. Ng'ongo:** Mr. Deputy Speaker, Sir, I appreciate that the House really needs to have some business to discuss. But this is a weighty Bill, given the fact that the accounting profession is the one that keeps watch on the use of public funds.

This profession also regulates and helps stakeholders in ensuring that their investments are properly guarded. This Bill was published on 8th April, 2008. Hon. Members have just received it.

I am sure that most hon. Members have not gone through this important Bill to be able to engage in constructive debate.

Mr. Deputy Speaker, Sir, I, therefore, oppose the reduction of the publication period from 14 to seven days. We should allow the publication normal period to run, so that most of us go through this Bill, so that we will be able to make meaningful contribution to it.

**Mr. Okemo:** Mr. Deputy Speaker, Sir, I stand to oppose this Motion. First, I think this is a precedent that we must avoid at all costs. We should avoid shortening the publication period of Bills, unless there is a national emergency, or something that requires an immediate decision. The Accountants Bill is not going to suffer if the normal publication period is allowed. This is the normal 14 days.

Mr. Deputy Speaker, Sir, secondly, we do not have the Finance Committee in place. We know that a Bill of this nature needs proper scrutiny and analysis by the relevant Departmental Committee of Parliament. So, I do not see how the Minister is going to suffer if this Bill delays by seven days. I think there are more important issues that the Government should be worrying about rather than try to shorten debate period from 14 days to seven days for a Bill that is very normal. Even if it is passed next month or two months from now, nothing is going to be really affected. I do not know what justification the Minister has to not give the relevant Departmental Committee the opportunity to scrutinise the Bill, go through it, and as we do all other Bills, the Committee brings here its recommendations and then they are incorporated.

I, therefore, oppose the Motion and I do not think there is any compelling reason for the Minister to shorten the period.

**The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe):** Mr. Deputy Speaker, Sir, I do support the sentiments by Mr. Okemo because we cannot start tendencies where Ministers will come here to table Bills before they are scrutinised by appropriate Departmental Committees. If we do that, then we shall be violating our own rules. According to the rules and procedures, if the Bill is brought here and a Member of that Departmental Committee moves to defer---

**The Assistant Minister, Office of the Deputy Prime Minister and Ministry of Local Government (Mr. Githae):** On a point of order, Mr. Deputy Speaker, Sir. I think it is important for you to give guidance to this House. The speaker on the Floor has been appointed Assistant Minister. This is a Government Motion and yet he has stood up to say that he is opposed to the Motion. I think you need to give us some guidance.

**Mr. Deputy Speaker:** Hon. Members, this House will recognise the appointment of Ministers after they are sworn-in. They have not been sworn-in yet.

Proceed, Mr. Kajembe!

**The Assistant Minister for Environment and Mineral Resources (Mr. Kajembe):** Thank you, Mr. Deputy Speaker, Sir, for drawing the attention of this subject matter to Mr. Githae. I have taken this opportunity because I have not yet been sworn-in. However, I am one Member of this House who would not wish to see hon. Members violate their own rules; whether one is a Minister

or a back bencher. We must respect the dignity of this House.

It is very unfair to start deliberating this Bill before it is sent to the appropriate Departmental Committee for scrutiny. The Bill will go through the First Reading and Second Reading and so on, but what will happen if a Member of that Departmental Committee defers this Bill? It will be deferred and it will be proper according to the rules of this House. Therefore, yes, I have not been sworn, but I praise the dignity of this House. Whether I am a Minister or not, the dignity of this House should be respected.

**The Assistant Minister for East African Community** (Mr. Munya): Mr. Deputy Speaker, Sir, this is an ordinary Procedural Motion so that as a House we have some business to transact. We have been on holiday and we have not been able to transact any meaningful business since we were elected apart from the National Accord and Reconciliation Bill. I think it is in order that we pass this Procedural Motion so that, at least, we can have something to do for now. Otherwise, we will have an adjournment and we cannot justify all these long period we have not been able to transact business in this House.

The Bill is already published and anybody who wants to read it and contribute can do so. It is not a controversial Bill. It will look very bad if we do not pass this Procedural Motion so that we can be able to continue transacting business in the House.

**Ms. A. Abdalla:** Mr. Deputy Speaker, Sir, I stand to oppose this Procedural Motion. Just this afternoon, our colleagues were very hard on us that we need to come up with an Official Opposition. We really need to have the relevant Departmental Committee set up before we discuss this matter.

The Minister who is bringing this Bill to the Floor is himself an Accountant. So, we do not know what mischief he has inside that Bill. So, give us the time to scrutinise the Bill. We should not let that Procedural Motion pass.

**Mr. Ethuro:** Mr. Deputy Speaker, Sir, although I am inclined to oppose the Procedural Motion for reasons I will adduce to later, for the sake of the business of this House and for us to continue transacting business, I wish to appeal to the House to give the Minister one more chance to ensure that we have some business.

However, ordinarily, the tendency for this kind of a Procedural Motion is when the responsible Ministry has something to hide. You have to be extremely careful, especially when you are dealing with accountants. These are professionals of figures.

Mr. Deputy Speaker, Sir, in fact, where I come from, a former Member of this House used to say, "*Hawa wanaiba na kalamu.*" So, if, even the opportunity for us to read and scrutinise--- More fundamental is the fact that we are yet to establish Departmental Committees of this House. Democracy operates on the basis of Departmental Committees that will have an opportunity, unlike the plenary here, to consider each and every clause so that they make very sound and thorough recommendations to the House.

Mr. Deputy Speaker, Sir, I want to believe that because we do not want Kenyans to think that we reconvened in order to go back and that we value our time in this House, through this Procedural Motion, we should allow this House to debate. This is because from 8th April, 2008 to 15th April, 2008, the Bill will qualify to appear before this House. However, let us drag on that Bill for a while.

**Mr. Ng'ongo:** On a point of order, Mr. Deputy Speaker, Sir. I do not think we will be doing justice to this country if the only reason to have this Motion debated right away---

**Mr. Deputy Speaker:** That is not a point of order!

**Mr. Ng'ongo:** I do not think it is in order---

**Mr. Deputy Speaker:** Hon. Member, please, sit down!

That is not a point of order.

Proceed, Mr. Ethuro!

**Mr. Ethuro:** Thank you, Mr. Deputy Speaker, Sir, for defending me. However, I know that there are many new Members in the House. This is an opportunity we can take to tell them what a point of order is all about.

The Standing Orders are very clear. They have made specific provisions in which certain business can be expedited. So, there is really nothing out of the ordinary that the House is being asked to do if we are following the right procedure except when you consider Standing Order No.99. In terms of the two sessions--- Perhaps, I am moving ahead, but I do not know to what extent. After the First Reading, we will have to move to the Second Reading and yet the Procedural Motion has not factored in Standing Order No.99.

Mr. Deputy Speaker, Sir, my appeal is that whereas we have issues, we continue with the debate. In the meantime, the House should move with speed to constitute Departmental Committees like yesterday, so that there is no other business in future that we shall be asked to expedite simply because there are no Committees.

Secondly, this House must send a very strong message to the Executive. When we adjourned three weeks ago, the only excuse we were given was that we should allow Government to come up with serious business for the House. Three weeks down the road, there is no business. There were 17 Ministers in existence. They should not tell us that they were waiting for the Grand Coalition Government. There were 17 Ministries in existence. They were working and functioning properly. They should have prepared and brought business here. We are, therefore, asking for your indulgence, so that Ministers can take this House seriously. This reflects failure on their part to generate sufficient business.

I beg to support.

**The Minister for Finance** (Mr. Kimunya): Mr. Deputy Speaker, Sir, I stand to support the Motion to accelerate the time to discuss this important Accountants Bill. Allow me also to take this opportunity to clarify some issues which may be creating an impression that, perhaps, there is something being rushed through or sneaked in. The intention is very clear; it is to ensure that this House has adequate work to do. We want to give taxpayers value for their money as we sit here.

I want to, first of all, give my undertaking to this House that the Accountants Bill will not proceed to the Committee Stage before it has been fully scrutinised by the relevant Departmental Committee of this House. Whether it takes months, it will not come here for passage before it has actually been scrutinised.

We can walk and chew gum at the same time. While waiting for the Departmental Committees to be formed, we can be discussing the Bill. We will have some input for the Committee to look at, so that they will also be looking at what hon. Members will have proposed. I see no contradiction. Let us use the time we have to turn the lemons into lemonade and move on with speed. Let us discuss the Procedural Motion and proceed to the Bill.

Mr. Deputy Speaker, Sir, let us discuss the Bill today and on the subsequent days until we are all satisfied and wait for it to mature in terms of its processing in the Departmental Committee. When the Committee is ready, it will bring its Report here. I will then be ready to move the Bill to the Committee Stage. I believe that with that understanding, we can all move together in the same direction, so that we create some business for this House and give Kenyans value for their money. We want to demonstrate to them that they voted us in to work in the House rather than get lost within the procedures.

Mr. Deputy Speaker, Sir, with that clarification, I would beg the House to expedite the Procedural Motion with speed and start the debate on the Accountants Bill. Everyone will have his or her time to say his or her piece on what we need to do even before the relevant Departmental Committee is formed.

With those remarks, I beg to support.

**The Minister for Nairobi Metropolitan Development** (Mr. M. Kilonzo): Thank you, Mr. Deputy Speaker, Sir. I rise to attempt to persuade my colleagues who are opposed to this Procedural Motion to kindly reconsider their positions and support it and pass it.

Mr. Deputy Speaker, Sir, we do not live in normal times. I think it is fair that this House takes account of the recent history of this country. Let us appreciate that it is not only amazing, but also lucky that the first Bill to be presented to this House has something to do with accountants. It is an extremely important profession for this country and its future. If we bear in mind the Enron problem that arose in the United States of America (USA), then the sooner we allow our accountants to know that the House cares about them, the better. Caring about them is not just to advance the reason that the Departmental Committee has not been set up. Nobody in this House is in doubt that no time has been wasted, except only in the formation of the Grand Coalition Cabinet.

I would like to take this opportunity to congratulate the President and the Prime Minister for ending the anxiety that this country had. This is the earliest possible time that this Procedural Motion would have come to the House. If you ask yourself what the result of adjourning for another seven days for the Bill to mature would be, you will begin to realise that the seven days comprise today, tomorrow and Thursday, which are the calendar days of Parliament. The rest of the days are weekend.

So, even if you want to read this, and I appreciate that it is essential that we read this in due course, we will be recommending that, not only Ministers, but also Members of Parliament, be facilitated by research persons, so that they can advise them to offer policy guidelines on legislation pending in Parliament. For the time being, arising from the history that this country has had, it would be unfair to the country to adjourn merely because 14 days have not been acquired in the process of maturing the Bill. We always say that regulations, in themselves, should be the maidens of justice.

If I may use that expression, the Standing Orders should be the maidens of proper operation of this House. If you look at our Motto, it says: "For the Welfare of Society and the Just Government of Men." The Leader of Government Business is candid enough that unless this Procedural Motion is passed, there is the risk of not having business for the House. Therefore, he ought to be taken seriously and we allow this Procedural Motion to be passed, so that debate on the Bill can start.

The other reason that has been advanced is about the Departmental Committee. In my experience, this is not the first time that debate on a Bill will start on the Floor of the House before it has been referred to a Departmental Committee. Why? The reason is that the Members of the Departmental Committee are hon. Members of this House themselves. They will not be invented from thin air. They will come from us.

Mr. Deputy Speaker, Sir, it is an advantage on the Accountants Bill that we will be debating, that the debate will open even before you have been nominated by your party, or the coalition partner, to serve in that very important Departmental Committee.

Again, I would like us to salute the Minister who has given an undertaking that the Bill will not proceed to the Committee Stage, which is the point at which we will scrutinise it clause by clause, word by word and comma by comma in order to satisfy ourselves and the country, that we are producing a good law.

The purpose of debate at this stage would be generalised debate, so that we, first of all, accept the policy that time has come for this country to have accountants managed by legislation for purposes of rendering the necessary services. This is the only way we can avoid some of the problems that have bedevilled the public sector itself.

I beg to request those who have reservations about this Bill to note that we have only two other days left during this week, so that we can start debate on this very important Bill. This is what

the House Business Committee has recommended to be tabled in the House. It is not an attempt to trick anybody or circumvent our Standing Orders. At the right opportunity, we will seek the amendment of these Standing Orders. They ought to serve the interests of the Kenyan people and not the interests of small time opportunities for Parliament itself to avoid working when the country expects us to work. Now that we have a Grand Coalition Cabinet, and now that we are reading from the same script - I can see the Prime Minister smiling very broadly--- The Leader of Government Business is doing equally the same. It is now time for us to embrace these people. Let us shorten the publication period of the Bill, so that we can start debate on it.

Mr. Deputy Speaker, Sir, my concluding remarks are very important. As time will prove me right, this House will be asked to pass the most far-reaching legislative instruments in the history of the country. Some of the instruments that will find their way to the Floor of this House will, once and for all, bury the negative ethnicity that this country has suffered. They will produce the most far-reaching constitutional amendments any African country has ever contemplated.

Mr. Deputy Speaker, Sir, therefore, by disposing of routine business like the Accountants Bill, we will be doing great service by making sure that when the various Ministers are ready with legislation for transforming the management and governance of the country, we will have enough time to address those key issues. Please, let us pass this Motion so that we can start the debate on this Bill.

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

*(Question put and agreed to)*

## **BILL**

### *First Reading*

#### THE ACCOUNTANTS BILL

*(Order for First Reading read -  
Read the First Time -  
Ordered to be read the Second Time  
today by leave of the House)*

### *Second Reading*

#### THE ACCOUNTANTS BILL

**The Minister for Finance** (Mr. Kimunya): Mr. Deputy Speaker, Sir, I beg to move that the Accountants Bill be now read a Second Time.

Let me start by thanking the House for having given leave for this Bill to be read a Second Time and for accelerating the period for the publication of the Bill.

Mr. Deputy Speaker, Sir, as Ms. Amina Abdalla mentioned, I am an accountant. I have had the privilege of serving the accounting profession in committees, and all the way to being the Chairman of the Institute of Certified Public Accountants of Kenya (ICPAK). Any interest that I would have in this Bill is within the wider definition of the public interest; to ensure that the accountant is accountable to the people; the profession has the respect that it deserves and has the regulations it requires to serve the people of Kenya. So, I would like to declare that interest. If that contradicts with the wishes of hon. Members, that will be coming out.

I also want to say that the accounting profession in Kenya is one of the fastest growing

professions and, perhaps, in the whole Continent. Second to South Africa, Kenya has the largest concentration of accounting professionals in this continent. It is growing and I believe the number would now be standing at over 6,000.

From a humble beginning, 30 years ago, when the Accountants Act was passed, we had just a few predominantly foreign accountants who were being registered and accelerated. The profession has now grown to a point where we can be proud to say that we now have a home grown body of accountants who are not just serving this country, but the region and the world.

Mr. Deputy Speaker, Sir, that growth has come along with various challenges. What was relevant 30 years ago has obviously been overtaken by events. The world has changed!

We have different operating issues, lessons have been learnt over the 30 years of the operations of the Accountants Act and about ten years ago, the drive to revive the profession and to review the regulations and laws governing it was initiated with broad-based consultations with all the stakeholders; being the examination body, the registration body, the players within the industry, the users of the accounting profession and the accountants themselves and a whole range of agreements have been reached since then, culminating in this Bill, that was scheduled for debate in this House last year.

However, the House rose before the discussion of this Bill. So, this is not the first time that it is being exposed. It was published last year, but could not be debated. We are now re-introducing it so that the accounting profession can be brought in line with modern reality.

As I said, this Bill basically proposes modernisation of the current Accountants Act, which is 30 years old. We want to bring it in line with the current realities. A very straight forward amendment is being brought in. There are no controversies. I wish to take the hon. Members through the fundamental changes coming through the Act so that, as they contribute and go through the Bill, they can add value to the debate. If they find that there is nothing we need to change, then we will be happy once it has gone through the Committee, to be passed by this House.

Part I of the Bill basically contains all the preliminary provisions. They are self-explanatory. But Part II of the Bill provides for the establishment of ICPAK in terms of its definition. We already have the Institute, but we want to define what it should have in future. There is also the establishment of the Kenya Accountants and Secretaries Examinations Board, popularly referred to as KASNEB. What the Bill is trying to do with respect to ICPAK is to diversify the membership of those bodies to include persons who have responsibility of promoting accountability in the Government. We are not just restricting it to only those professions working within the private sector. Again, this is part of the wider objective of promoting accountability within our country and the wider Government.

Under this Bill, the examinations body, which is KASNEB, will retain its powers and functions as provided for within the current Act. But it will have some additional powers to capture what has happened within the changes in the examination of accountants and the composition of the Board. We will be looking at some of those.

Under the current Act, it was premised on a tripod kind of situation where we had the Institute, the examination body and a registration board; the three of them working in tandem where you pass the examination that are set by KASNEB, then go to the Registration of Accountants Board to be registered, then you become eligible to become a member of the Institute and, from then on, you are regulated.

Looking through after all the consultations, it became very clear that the role of the Registration of Accountants Board was purely administrative and does not stop anyone from becoming an accountant. It has also, at times, become an impediment in promoting people who have passed and are eligible to be accountants from being registered.

The proposal to bring it in line with other professions is to remove the Registration of

Accountants Board, which is established by Section 11 of the current Act and replace it, acting as a separate body and subsume it within the institute as a registration committee.

Mr. Deputy Speaker, Sir, I believe that is what happens with the lawyers, engineers and other professions so that, the members of the institute you are joining can vet the quality of membership rather than just having a bureaucratic procedure of saying: "We will not allow you to move to the next institute", even when there is nothing to stop them from doing so.

Mr. Deputy Speaker, Sir, it then proposes that after the passage of this Bill, the Registration of Accountants Board will cease to exist as we know it. It will be replaced by the Registration Committee.

Mr. Deputy Speaker, Sir, the other issue that I would like to highlight is on Clause 22 of the Bill. Clause 22 provides that where a registered accountant intends to practice as a firm, sole practitioner or in a partnership, he shall apply to the Registration Committee for an annual licence. The committee will be vetting all the applicants to be registered within the Institute.

Mr. Deputy Speaker, Sir, Clause 25 of the Bill provides for persons who hold letters of authority to practise under the current Act to apply for registration within a period of 18 months after the commencement of the Act. This Bill does not then contain any provisions on the issuance of any due letters to practise which is a transitional arrangement under the current Act.

Mr. Deputy Speaker, Sir, the import of this is that 30 years ago we did not have African accountants. The only accountants we had were those who had been authorised to actually practise. This was intended as a transitional arrangement after which they were then going to either join the institute through passing of exams and then become members like everyone else and be regulated. However, they continued in that arrangement until the transition period became permanent. Some of those have actually then ended up passing on to other successors to them without necessarily going through the route of having to sit for exams. This could well compromise the quality of accounting services and the accounting profession as we would like to see it happening today.

So, to avoid that situation, we are then saying let all those who accountants practising as authorised accountants now regularise that situation within 18 months. If they do not do so, then they cease being accountants or authorised accountants. For those who are still surviving after the 30 years, once they have stopped, then they will no more be granted licences. At least, it is not something to be succeeded.

**Mr. Ethuro:** On a point of order, Mr. Deputy Speaker, Sir. I rise on a point of order by making reference to Standing Order No.99. It says:

"Save with the leave of the House not more than one stage of a Bill may be taken at any one sitting".

I had made reference to this in my support to the Procedural Motion which came under Standing Order No.98. It is incumbent upon the Minister or the Chair to have then sought leave of the House, so that we could allow the Minister to have the First and Second Readings, all in one stage. I think it is important that with a new House, we set the record straight and we follow our Standing Orders.

Thank you.

*(Applause)*

**Mr. Deputy Speaker:** Order, hon. Members! Mr. Ethuro, yes, you are right. That is provided for in the Standing Orders. However, you were supposed to raise an objection at the time the Minister was seeking the leave of the House, but you did not raise it. So, we have to proceed on that!

Proceed, hon. Minister!

**The Minister for Finance** (Mr. Kimunya): Thank you, Mr. Deputy Speaker, Sir. I actually thanked the House for having given the leave.

Mr. Deputy Speaker, Sir, Clause 26 is very relevant and I would like to highlight it. It sets out qualifications for the registration. Again, they remain broadly the same as those that are obtaining in the current Act. However, it removes eligibility to be appointed an auditor at the commencement of the Act as a basis for registration. We want to have a situation where even people who do not intend at all to become auditors can still seek to be registered as accountants. It has moved in terms of the range of services that accountants provide and not all of them will end up being auditors.

Again, this was a transitional provision under the current Act where some people had to be allowed in because auditors were required and they were in short supply. Any one who wanted to just become an auditor, was allowed to be actually registered. However, this has now been overtaken by events with our 6,000 accountants having been now produced within our country.

Mr. Deputy Speaker, Sir, Clause 27 is broadly the same within the current Act. Again, it is doing some reorganisation, so that there is proper sequencing of the Act. People can follow through exactly how do I register, how do I become a lawyer, what do I do, how do I get regulated. It is a very easy thing, not just to read, but to practice.

Mr. Deputy Speaker, Sir, as I said, the Registration Board is being replaced by the Registration Committee. Clause 29 provides for the circumstances under which the Registration Committee may cancel member's registration. It also provide for appeals against the decision of that committee to an arbitrator, and thereafter, to the High Court. Again, this is provided for to avoid the Registration Committee from taking decisions on its own to the disadvantage of a member. However, at least, one has recourse. If he is not registered, he can go, first of all, to arbitration, and thereafter, to the High Court which, again, gives every one the right to be heard.

Mr. Deputy Speaker, Sir, now of particular interest to us is Clause 30, which is basically defining the conduct. It define the conduct which is deemed to be professional misconduct by accountants who have been registered. We do not want to leave it to doubt or broad interpretation as to when an auditor or when an accountant is deemed to have conducted himself in a way that will be deemed to professional misconduct.

Following immediately after that is then the establishment of the Disciplinary Committee within Clause 31. This is a committee of the Council. However, by putting it now within the law, it is being uplifted from just being another administrative committee of the Council or the Institute to make it a legally recognised committee that would now have the powers to actually take action on people who go wayward. It is proposed that this committee will also include members who are not accountants, so that people who are nominated by the Council from a professional other than accountancy and an organisation that promotes corporate governance--- I think the import of this is to ensure that when we are now looking at the Disciplinary Committee, we have the users of the accounting services, bodies that are promoting good governance and what accountants should be observing and also by looking at any other profession to bring in and practice this from the other end. That committee will be able to give justice, not just to the person who has been brought before it, but also to the wider society.

Mr. Deputy Speaker, Sir, Clauses 32, 33 and 34 provide for inquiries that will be held by the Disciplinary Committee. The next clause basically clarifies the disciplinary provisions that shall apply to the holder of an authority to practice.

Mr. Deputy Speaker, Sir, Part V of the Bill, again, contains some miscellaneous provisions. The only one to highlight here is that Clause 37 which provides for employment of staff by the Institute and the Examination Board. It is now recognised within the law that they actually have the

power to contract and hire staff. These are some of the things that were, perhaps, not envisaged when they were almost volunteer organisations then. It provides also for the protection of the Institute and Examinations Board from liability for what it has done in good faith and without negligence in exercise. Again, this is a standard provision in all the setting up of the other institutes.

Mr. Deputy Speaker, Sir, Clause 39 provides for the funds of the Institute and the Examinations Board which are similar to those obtaining under the current Act. More importantly is that the accounts of the Institute and the Examination Board must they themselves be subjected to audit which, perhaps, had been assumed that auditors do not require an audit, but we now know that everyone requires that. We know that the quality and integrity of the accountants is only as good as the examination process they go through. Clause 42 is now providing for examination offences and prescribing penalties for those offences. If there is something that happens within the examination of accountants, that anyone committing those happenings knows those examinations are protected by law, they are required by law to ensure that the end product is not as good as the process and can be acted upon by the public to give advice.

Mr. Deputy Speaker, Sir, the management of the Institute will be in the hands of the Council. This law now provides for validity of meetings of those councils. Currently, there is no provision for what happens if one of the Council members falls sick or does not attend a meeting. To ensure that we are in tandem with current corporate governance practices, then, this is now opening up and saying that the decisions of our Council would not be invalidated provided that there is quorum, but by the absence of a vacancy in the membership.

In a situation where we have a practising member who is registered as an accountant and gets indisposed or incapacitated in any way and has a practice that he is running, we do not put members of the public in trouble by saying "wait for your auditor to come". We can provide for the Institute to actually appoint an interim manager to run the professional affairs of the firm, while waiting for the member to come out of the incapacitation.

Clause 46 provides for making of the regulations by the Minister to capture some of the things that, perhaps, are day to day details that do not need to be included within the Act. Some of that will come within this debate and on ongoing basis. Again, that is a standard provision in all the laws.

I am aware that The Companies Act is being reviewed independently. But pending that review, and to make it in tandem, we would be proposing that Section 161 of the Companies Act, Cap.486, be amended to require that to be appointed an auditor of a company, a person should be a holder of a practising certificate issued under the proposed Act so that we do not have accountants who practice under different legislations when this House would have seen it fit to pass the new law that would be regulating what accountants should do. So, we want to harmonise these legislations. Once we pass this Bill, which I am sure the Members will support, we would bring in the Companies Act and the Building Societies Act, as well as, the Labour Relations Act, to be in harmony with this new Act.

Instead of looking at the patch works in terms of cut and paste, we have taken the view that the changes contained herein are so fundamental. It would be good to actually bring to the Members the entire Act as it would be. Once this is then passed, the current Act as it is in its entirety would be repealed. That is a provision under Clause 50.

Mr. Deputy Speaker, Sir, the Schedules are very self explanatory. They provide for provisions of the Institute, on the appointments and elections of the members of the council so that it is not left to doubt, how this will happen in terms of what would happen to procedure and the registration of committee. It also talks about the membership of the Examination Board, the procedure for an inquiry and disciplinary action so that there is a legal due process in terms of who,

at what point you get taken; what is the recourse and what steps do you go through. Basically, the rest are the transitional provisions that we are making so that at the passage of this Bill, the current Council of the Institute transits to the next Council of that Institute.

Mr. Deputy Speaker, Sir, this is a straightforward Bill. It is something that has taken close to ten years in terms of trying to get it within all the various stakeholders and negotiations within the industry. But I am very happy that after ten years of those attempts, it is now on the Floor of the House. It will also enjoy the privilege of being the first Bill that this House would be looking at. This is because an economy that is growing requires to have an environment where shareholders' funds are protected and figures cannot be forged like we saw in the case of the Enron Company where people bought shares because it was growing but it was actually figures that were being stage-managed.

For us, as we recoup our positions as one of the fastest growing economies in this region, it is important that we have the legislative environment for our accountants to give them the operating framework so that they can look into the accounts of our companies and give comfort to our shareholders so that things are well. I believe that this House would rise to the occasion and look at all the things that need to be done. We can then debate it and bring it here by the time we go to the Third Reading in order to give the accounting profession a clean start after 30 years of existence with the current law.

I believe I have covered most of the aspects. I wish to inform the Members that there is nothing hidden within this Bill. It is all there for them to read. There are no hidden motives. We do not want to discuss it with speed. We want to discuss it fully. I am prepared to wait until we form a Committee that will read through and discuss this Bill so that we pass a law, that come another ten years time, we shall be proud of passing a law that has passed the test of time.

With those few remarks, I beg to move and request hon. Mudavadi to second.

**The Deputy Prime Minister and Minister for Local Government** (Mr. Mudavadi): Mr. Deputy Speaker, Sir, I beg to second the Bill. I would focus may be just on two issues because the provisions of this Bill would have to be scrutinised quite effectively. I am happy that the Minister has, indeed, stated that before the Bill is brought back for the Third Reading, the relevant Committee, which would have been constituted, would have an opportunity to thoroughly examine the provisions of this Bill.

First, let me just say that this Bill is extremely timely because we know very well that matters that relate to finance are extremely sensitive. They can also be extremely distractive. There are occasions when some accountants have completely let down the profession and, indeed cast a lot of doubt on the integrity of the profession of the accountants.

There are many cases in this country, where annually, auditors, who by profession are actually accountants, would make provisions and actually give financial institutions a clean bill of health only for the same financial institutions to collapse a few weeks or months later. That would mean that somewhere along the line, the professionals were not doing their job properly or were part of the broader scheme to ensure that the details and the full disclosure of a particular institution is not made public, yet it is holding public funds and peoples' deposits. So, clearly this Bill calls for a lot of attention from the Members of the House so that we can seal those loopholes where the professionals can be used to be part of a process that can hurt and injure many Kenyans.

Mr. Deputy Speaker, Sir, many financial institutions have gone under. Several banks that were licensed in this country have collapsed with millions of deposits of innocent Kenyans, who would, perhaps, rely on the financial statements that were produced annually that showed a clean bill of health of some of these institutions. Examples of these banks are so numerous that one does not really have to enumerate them.

Mr. Deputy Speaker, Sir, I believe it would be important for the Members to look at some

of the provisions that are being provided for here.

Mr. Deputy Speaker, Sir, when they talk of the Membership of the Council, one of the things that seems to be coming up nowadays is a situation where there is too much an element of one public entity being part of another. To a certain extent, we are creating institutions whose composition is, perhaps, becoming too "incestuous". This leads to a situation where the independence and professionalism is undermined, because somebody may be sitting, or doubling up, in several institutions. He may be doubling up because it is one institution. Like here, we have the Capital Markets Authority (CMA) and others, which are all going to constitute councils of the same members.

Mr. Deputy Speaker, Sir, I raise this because these are becoming very weighty issues. Not too long ago, for instance, there was debate on the aspects of the flotation of Safaricom shares that is going on. There were a lot of questions being raised about some aspects of the prospectus of the Safaricom share issue. This is a prospectus that has, indeed, been pieced together by professionals. The majority of them, I am sure, are accountants and financial experts. This needs to be looked into.

Mr. Deputy Speaker, Sir, while seconding this Bill, let me point out one other issue. On page 44 of this Bill are Disciplinary Provisions. There is (j), which talks of an accountant requiring disciplinary action if he expresses his opinion of financial statements of any business or any enterprise in which he, or his immediate family, his firm or any other partner in his firm has an interest, unless he discloses that interest when expressing the opinion.

Mr. Deputy Speaker, Sir, if you look at that provision and then look at the definition of what immediate family is, it becomes a mouthful. Immediate family here includes a spouse, child, grandchild, parents, grandparents, brother, sister, uncle, aunt, first cousin or adopted child, or a child of his or her brother, or a sister of his or her adopted child and such relations of the half-blood, or a child of such relations of the half-blood as well as of the whole-blood. This is a mouthful! I think we want to make laws that really help the country. We should be very careful when defining what immediate family is. This is extremely broad. Most hon. Members may not have captured this particular aspect, because they just received the Bill today.

Mr. Deputy Speaker, Sir, however, when you look at it, you can see that I would have needed a glass of water when just trying to go through those provisions. I think these are areas that can be looked at, so that we can have a more meaningful way of defining what or who is an immediate family, as opposed to going to an extent where it can become unnecessarily prohibitive even to the profession itself and institutions. At the end of the day, defining some of these things can be extremely difficult in the current circumstances.

Mr. Deputy Speaker, Sir, by and large, I believe it is important that the profession of accountancy is given better definition. It also needs to be supported by an Act of Parliament that is more in tandem with the changes that have taken place since the earlier law came into force. It is important that the issue of KASNEB and ICPAK are re-looked at.

Mr. Deputy Speaker, Sir, I would also like to urge that hon. Members look at this particular Bill. They should bear in mind that it is important that we should create laws that can support indigenous professionals. We must make sure that within the provisions of this Bill we are very careful and look at a way of ensuring that we can build capacity in our people. We do not want to have a situation where, perhaps, a foreign bank comes to Kenya, invests, starts up but when it comes to hiring professionals who can do some of the accountancy jobs, they tell you: We will come with our accountants from another country to take care of the aspects of auditing and looking at the books of our institution. As we professionalise, we must bear in mind that we build capacity. We must give indigenous Kenyans an opportunity to participate in some of these fields, so that we do not create laws or institutions that at the end of the day will cease to serve the Kenyan people,

but will continue to serve the interests of professionals from other countries.

We want to create employment and build capacity. I think these are some of the very important issues that I would request that when the relevant committee deals with this Bill, they go through it with a tooth comb, so that by the time it gets to the Third Reading we can be proud and say we have a very good law for Kenyans; a law that will safeguard and not constrict, or strangle, professionals in this country.

With those few remarks, I beg to second.

*(Question proposed)*

**Mr. Deputy Speaker:** Mr. Lenny Kivuti, please, proceed!

**Mr. Ruteere:** Thank you Mr. Deputy Speaker, Sir---

**Mr. Deputy Speaker:** Sorry; you are not Mr. Lenny Kivuti!

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, my name is hon. Silas Muriuki Ruteere from North Imenti Constituency.

**Mr. Deputy Speaker:** Please, proceed!

**Mr. Ruteere:** Mr. Deputy Speaker, Sir, this is a very important Bill before this House. Accountants are professionals who are very important in the financial sector of this country. They are required almost every where, in firms and all institutions that handle money. There is no institution that does not need them for its accountability. We normally talk of transparency and accountability. These are the people who help make institutions accountable to people. These are the people who can run down institutions. They are the ones who can make institutions grow. They can also make firms stand or fall. This is a very timely Bill.

Mr. Deputy Speaker, Sir, it is good that the Minister for Finance found it fit to table this as the first Bill, after the Bills we passed, which were necessitated by the events in the country. I am sure that if we are to fight corruption, which is a cancer in this country, we need professionals of high calibre. We need professionals who are properly protected by the law. We need professionals who are very sure of what they are doing. We need professionals who have the necessary qualifications, papers and have undergone the necessary examinations. This Bill provides for all this.

Mr. Deputy Speaker, Sir, I feel that it is prudent that we congratulate the Minister for taking a lot of time in going through all the relevant areas that are required to get us good professionals in this country. We should have good accountants and good secretaries who are professionally qualified and know what they are doing.

I, therefore, beg to support the Motion.

**Mr. C. Onyancha:** Thank you, Mr. Deputy Speaker Sir. I wish to support the Motion. First, I would like to congratulate the Minister for Finance for trying to bring improvements in this profession by introducing the Accountants Bill. As one of the old accountants in this House, I wish to support the Deputy Prime Minister's sentiments about the definition of "immediate family". I believe we will need to ratify that in the Committee Stage. With regard to the reputations of accountants, I would like to take exception with some hon. Members imputing that some members of the profession are dishonest. I wish to say that these people are the pillars of our country. As such, acting more as watchdogs, I believe they have done more good than harm and credit must be given where it is due.

*[Mr. Deputy Speaker left the Chair]*

*[The Temporary Deputy Speaker]*

(Prof. Kamar) took the Chair]

With regard to this Bill, it is my hope that it will be synchronised with Cap.470 of the Income Tax Act and Cap.486 of the Companies Act, as well as the Partnership Act so that the definition of an accountant in all those Acts match with the one given in this Bill such that we do not have some quacks practising as accountants and presenting figures to the Income Tax Department which are then allowed and cause many problems to assessors and eventually to the people who serve as professionals.

Madam Temporary Deputy Speaker, it is my pleasure to support this Bill. In supporting it, I will say that there is a spirit of co-operation which has started to emerge in every aspect of the Government. We hope that those who are Back-benchers will provide sufficient opposition to the Government so that we keep people like the Minister for Finance in check at all times.

I beg to support.

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, please, mention your names before you speak.

**Mr. Ngugi:** Thank you, Madam Temporary Deputy Speaker. I rise to support this Bill and congratulate the Minister for Finance for bringing it. First of all, I would like to say that most of the laws that were made in this country are due for review. They are archaic. The law that governs the Accountancy Profession was made more than 30 years ago. We must move with the times. That is why this Bill that has been brought by the Minister for Finance will modernise the rules regulating the Accountancy body.

We have seen, in this country, many institutions collapse. Ordinary members of the bodies always wonder how these bodies collapse while the institutions are often audited. Several companies in the insurance profession have collapsed one after another and yet, every year, all these companies are audited and file their returns with the Commissioner of Insurance. The Commissioner of Insurance is supposed to see to it that they are healthy and solvent. However, we still see one after another going down. This is why I support a body that will regulate the Accountancy practice, by enforcing penalties; so that if an auditor certifies a company to be healthy, only for it to collapse the next day he should be held responsible.

Another example is the Nyaga Stock

Brokers which recently collapsed. I believe if we had such a law which is modern, then, even the Nairobi Stock Exchange (NSE) and the Capital Markets Authority (CMA) would have had a better chance to look at such brokers so that they do not collapse and *wananchi* end up suffering.

Madam Temporary Deputy Speaker, it would be healthy that even the regulations governing other professionals in this country are modernised by being brought to this House so that we can move with the times.

With those remarks, I support the Bill.

**Mr. Baiya:** Thank you, Madam Temporary Deputy Speaker. I stand to oppose the Motion for the Second Reading of the Bill.

This House has passed a Procedural Motion reducing the debating period of the Bill from 14 to 5 days. We have also passed the First Reading of the Bill. As it is about to go to the Second Reading, I must say that I feel pushed to the corner. This is because the first time I saw this Bill was this morning. I only had a quick glance at it. I heard the Minister explain the contents of this Bill but I am not ready to support the Bill to move as fast as the Minister wants it to go.

The Bill has very substantive implications for the Accountancy Profession in this country. It is also seeking to create institutions that will have far reaching implications as far as the regulation of the financial sector of this country is concerned. Therefore, the immediate reason why we are

regulating its registration is not for the sake of creating efficiency but merely to create work for this House. Perhaps we stand a bigger risk of passing a piece of legislation that will not withstand the scrutiny of time.

The procedures of Parliament allowing us to debate the Bill as it is being presented have a lot of meaning. They enable us to digest what the Bill purports and what changes are likely to be made. This also gives Kenyans outside this House, an opportunity to scrutinise and ventilate various aspects that will be legislated upon by the Bill.

I am, therefore, very hesitant and would like to oppose the Bill.

**The Temporary Deputy Speaker** (Prof. Kamar): Before I call upon the next contributor, I request that since 70 per cent of us are new, that before you contribute to the debate, you first mention your names.

**Mr. Ng'ongo:** Thank you, Madam Temporary Deputy Speaker. I would like to support the Bill even though I had reservations about the time we have, as hon. Members, to look at it in detail and give informed opinion about it. I would like to thank the Minister for Finance because the Act we have has taken too long to be reviewed. Therefore, I think it is necessary that something be done, given the importance of the Accounting Profession.

There has been recent public demand on the part of accountants to be more accountable and responsive to the needs of stakeholders. I am more particularly impressed by the fact that, now, we are going to regulate the accounting profession

so that no other person can just come and practise in it. I am particularly impressed with that particular provision because, in the past, you would find so many people moonlighting and just taking their work to the accountants to stamp. They would use their name and make a kill out of it. So, that is a very positive development.

Madam Temporary Deputy Speaker, I must point out what the Seconder of the Bill alluded to. That is on page 44, Clause J which states:-

"30(1) A member of the Institute shall be guilty of professional misconduct if such member -

(j) expresses his opinion on financial statements or any business or any enterprise in which he, his immediate family, his firm or any partner in his firm, has an interest, unless he discloses that interest when expressing the opinion;"

I am concerned with the term "interest" because we do not want to put accountants in a situation where they become investigators. If he is a shareholder, it should be clear that his family member or his partner should not be a shareholder in the company that he or she is auditing. He or she is not supposed to be a partner. There should be a clear mention of the word rather than just putting the word "interest". I was looking at it and wondered: If my partner is probably a supplier in same company, does that constitute an interest? Am I disqualified from auditing such a company? If that is true, then you might realise that some companies might not have auditors to audit them.

I know that might come before the Finance Committee. The Committee should scrutinize it in detail and make amendments that may stand the test of time.

Otherwise, Madam Temporary Deputy Speaker, I must say that this Bill is long overdue. It is necessary to amend the Act to regulate accountants even more. I was also a bit concerned about the provision in the Bill that is proposing to include the Government in the Council and Disciplinary Committee. I am a bit hesitant in bringing the Government in some of those bodies. I do not want to say that the Government is corrupt, but many bodies that are controlled by the Government--- We know the consequences! We have seen the consequences. So, I am a bit reluctant to include the Government in bodies that govern the accounting profession.

Otherwise, thank you very much, Madam Temporary Deputy Speaker.

I beg to support this Bill.

**Mr. Muriithi:** I am much obliged, Madam Temporary Deputy Speaker. I rise to support this Bill for the following reasons:-

First, the backbone of our economy today is not business. We are talking about industrializing Kenya and if, truly, we want to do so, we must be able to promote and provide active support to our small businesses.

Madam Temporary Deputy Speaker, the economy has experienced excellent levels of growth in the last four or five years. What we have seen is the growth in the number of enterprises that require to access professional services. That is why it is absolutely necessary and crucial to update the Accountants Act so that those small businesses have a chance to access professional services that put them at a level where other institutions in the financial services are able to transact with them.

Madam Temporary Deputy Speaker, in Kenya today, many small business are unable to access credit because they do not have access to a professional service that can assist them to put a set of books together and table in front of a bank. The reason why that is happening is because quality professional services are very expensive for small businesses. Therefore, this Act seeks to modernise the profession, regulate it and ensure that, in fact, small businesses access quality service.

Madam Temporary Deputy Speaker, today, we need to improve on the level of trust that is there in professional services. I have spent many years in banking. I can tell you that one of the key hindrances for financial institutions' ability to determine whether to give a loan to a small business is, in fact, whether you can be able to trust the set of books that have been presented before you. So, this is a key pillar in the Government's efforts to ensure that small businesses do, in fact, have credit. That is because if you are a banker and you know that the accountants and auditors who audited the accounts are of impeccable quality and well regulated, you can believe and trust the quality of service that is put forward and provide credit.

I note with satisfaction, Madam Temporary Deputy Speaker, that the profession and the Institute whose statutes are being updated own the Kenya College of Accountancy (KCA) University. As you know, that university is one of the universities which, in fact, has campuses in Kisumu and Githunguri. Therefore, that is an institution that needs our support and, indeed, that is why I support this Bill. Indeed, I want to encourage ICPAK and KCA University to move on to other centres in Kenya where their services are needed.

Madam Temporary Deputy Speaker, I think it is also time that we facilitate other professions to update the statutes that govern them. We all appreciate that the nature of the economy, financial transactions and engineering have changed tremendously in the last ten or 20 years! Therefore, it is, in fact, an excellent time for many professions to update the statutes that govern them. That will enable the various professions to serve Kenyans and the people in a modern economy.

Madam Temporary Deputy Speaker, I know that a number of colleagues have expressed some anxiety that this matter has come before us very fast. But this matter has been under discussion for a long time. The need to update statutes that govern accountants; the need to ensure businesses hire accountants and auditors to get value for their money has been under discussion for a long time! I dare say that those issues have been before us for more than ten years. It is true that we have taken long to get where we are. Therefore, I urge my colleagues to fully support this Bill, so that we can modernise the accounting profession, so that we are serious about ensuring small businesses have access to professional services and credit. We must pass this Bill.

With that, I beg to support.

**Mr. Muthama:** Madam Temporary Deputy Speaker, I want to support this Bill. I want to

start by saying that it has come at the right time, and needs to be supported. We want to recognise that any Government, institution or even the private sector that stands to prosper must have well-qualified accountants. Accounts is the backbone of every sector that wants to prosper.

We have seen, even in our constituencies or districts, that the Government has posted District Accountants there. I want to say that we should support that but we still need more accountants. Some should even be posted to the divisional level. That is where you find the operations of the county councils and the provincial administration.

Another issue that needs to be considered is recognising the work that is being done by accountants. Some of them are more than willing to work more as much as possible. Some of them are out to make sure that public funds are controlled properly. I want to add that their salaries need to be boosted and taken care of. To have someone as the custodian of public funds, and funds are quite tempting, and yet they are not properly paid, may make them end up doing things which are questionable.

This Bill is very important; having it shows a great deal of recognition, and the Minister for Finance has done a good job. It is a great recognition of accountants. If they know that their issues are being given the seriousness that they deserve, they will feel encouraged to do their work. This Bill has come late and we did not have enough time to study it properly, but it is important.

Madam Temporary Deputy Speaker, we have co-operative societies, which are run mostly by ordinary wananchi. They are their source of income; the business they do on a daily business is running co-operative societies. Government Accountants should be posted to those organizations, so that the public funds can be controlled properly. In co-operative societies there is coffee which, is owned by thousands of people; let me take the example of my Constituency, Kangundo. That is the only source of income; there are very many co-operative societies, but we lack supportive accounting, so that public funds can be controlled properly. These societies engage in production of coffee, purchase of farm products, the purchase of chemicals and payments. In some places, things are being done in a very primitive way. It is my sincere hope that in the future, when this Bill has passed, this issue will be considered with the seriousness that it deserves.

With those few remarks, I beg to support the Bill.

**The Assistant Minister for Roads** (Mr. Kinyanjui): Thank you, Madam Temporary Deputy Speaker. I rise to support the Accountants Bill and also to congratulate the Minister for Finance for bringing this Bill at this particular time when we have seen an increase in the number of Kenyans who are now willing to invest in alternative sectors, away from the traditional one, namely cattle keeping.

It is true that more and more Kenyans are investing in the Stock Exchange by buying shares in companies. Most of the companies that have had their Initial Public Offers (IPOs) have been over-subscribed by over 100 per cent in most cases. It is true that most Kenyans lack the technical skills to evaluate the worth or profitability of a company. They, therefore, rely on the work and professionalism of the accountants, and it is important that the accountants give figures that reflect the reality and performance of a company.

With this in mind, it has become extremely important because we have seen many companies that have previously posted very good results, but suddenly get into serious financial problems and we have no way of exactly explaining what has gone wrong. The obvious explanation is that some of the accountants we have had, had no body that registered or certified their qualifications. When they are put under pressure, they are able to "massage" figures to reflect a certain position that may be consistent with the need of that particular time. With the passing of this Bill, it will become difficult for any accountant, who wishes to do such a thing, to do it because he will be blacklisted and disciplined, as stipulated in the proposed Section 30.

Madam Temporary Deputy Speaker, I would also like to add that the role of accountants in our economy today is very critical, because taxes that we pay as individuals or companies are determined by the figures that are basically given by our accountants and auditors. If they do not give the right figures, for whatever reason, it is obvious that the taxation that we are going to pay will not reflect the position on the ground. So, a properly constituted and regulated profession is going to increase the tax base of the taxes that we will be able to collect, and will give a better representation of the productivity in the country.

I would also like to add that in our country today many professions are not regulated. As a result, we have had very serious professional negligence, which has often led to serious repercussions to the general public. That has often led to serious problems in our society. With the passing of this Bill, there will be a body that will oversee the performance of the accountants, and ensure that they adhere to the code of ethics at all times, as stipulated in the Bill.

It is also indicated that the fees charged by the accountants will essentially be determined by the profitability of the company, unless the company is in liquidation or under receivership. My fear is that if this is passed as it is, accountants will be tempted to post figures that will be higher than the reality, because that will definitely affect what they will be able to take home in the form of professional fees.

With those few remarks, I support the Bill.

**Mr. Kutuny:** Thank you, Madam Temporary Deputy Speaker. I would like to support the Accountants Bill which has been moved by the Minister. It is a well-thought-out idea.

Actually, this is an era of accountability and transparency. I believe that this is a good gesture that will go a long way to make sure that there is accountability in terms of spending in most institutions. It will go down in history that most financial institutions have been brought down by lack of accountability. At the same time, we need to instil some professionalism in that sector. In most cases, we have quacks practising in the sector. They have rendered the sector inefficient. Therefore, I would like to say that we support the idea. But at the same time, when you read the Bill, you will realise that it has a lot of loopholes, which I think should be subjected to a lot of discussions. There is the formation of the committees which will be set up by the Minister. There is also the examination body which, I think, will be appointed by the Minister. We would like to discuss a lot about the issue of checks and balances in the whole process. That is because in this country, there is tendency that everyone pulls towards his or her direction. God for us all, but every man for himself. So, we are going to take a critical look at those issues as we adopt new systems. In most cases, you favour your friends. I will favour you because you are closer to me. So, it might also jeopardise the whole objective of the Bill. So, I think, as time goes in the House, we will try to discuss the Bill. I also hope the Committee is going to be put in place early enough to make sure that we discuss these things accordingly.

Otherwise, we support the idea and we will do what is necessary to put it in place.

### QUORUM

**Mr. Shakeel:** On a point of order, Madam Temporary Deputy Speaker. It has come to my notice that we do not have a quorum.

**The Temporary Deputy Speaker** (Prof. Kamar): Let me ask the Clerks-at-the-Table to do the head count.

*(The Clerks-at-the-Table counted  
the number of hon. Members  
in the Chamber)*

Thank you, hon. Shakeel. You have put a very important thing to notice. It is true there is no a quorum. Ring the Division Bell.

*(The Division Bell was rung)*

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, we have a quorum now. Could you, please, take your seats? It is a bit interesting that we had no quorum and yet, we had challenged the Minister about his Bill today. So, we will continue with the debate.

Is there anybody wishing to debate?

**Mr. M'Mithiaru:** Thank you, Madam Temporary Deputy Speaker. My name is M'Mithiaru from Igembe North. I wish to support the Accountants Bill.

Let me, first of all, say that I have actually not gone through the entire body of the Bill. But I have read the Memorandum Clause and also the importance of the Bill to the industry.

Madam Temporary Deputy Speaker, the Accountants Bill is a professional bodys' Bill. What we know is that all professions must be backed by the requisite law for them to be able to enforce what they do, and also practise with their functions properly defined. This kind of a Bill will go on to set the standards that the practising accountants will follow. It is going to bring in more professionalism to the practice of the accountants. Secondly, we know that there have been issues where we say that the accountants have not been doing a good job. They have been compromised and so on. I am sure that, with the setting up of this Bill, it is going to address the issue of professional ethics, so that we do not have accountants abusing the practice that they are already in.

Having a glance at the Bill, I have seen that it has also gone on to establish other arms within the Institute of Certified Public Accountants like the Examinations Board. We know for sure that if we set up an examinations board, without having a proper legal backing on what it is supposed to do, we may end up having what we call a toothless dog. But now, with the examination board that is going to be established under this Bill, we are sure that it will address all the necessary issues concerning the examination of the accountants and also the standards, so that we do not have accountants whose qualifications are doubtful.

I would also wish that this Bill - and I wish the Minister could take note of this - could take into account the small businesses which may not have the might and money to hire qualified accountants.

Is there anything that can be put, in terms of provisions in the Bill, so that those small businesses could be promoted through a provision which gives a concession, so that the accountants also will be seen actually to promote those smaller businesses? That is because tomorrow, those are the businesses that will also give the accountants business. If there is a way to include that kind of a clause, it will be very good.

Madam Temporary Deputy Speaker, the other issue that is quite admirable in this Bill is that in the event that an accountant is incapacitated, the firm can appoint what we call "an interim manager" to manage the affairs of the business while the practising accountant is indisposed.

The problem we have been having is that when you hire an accounting firm, and the main partner is not there or is indisposed, you find that everything grinds to a halt. With this provision now, it will mean that even when the main owner of a firm is not there, there will be a way of ensuring there is continuity within the accounting business. For those firms that will be practising audit, there will be no reason for them to say: The main partner is not there; so we cannot continue with the audit. To me, this is a very nice provision that has been included in this Bill.

On the issue of appointment to committees, one of the my colleagues asked: How do we

have all these committees appointed? We know that appointment of committees can be a bit tricky, because sometimes we may not have the right people. Within the Bill we can incorporate the kind of qualifications that we should consider when it comes to appointment of the council members or any other members of the committees.

If that fails, we can have requisite provisions when it comes to regulations to ensure that all the committee members go through a proper vetting process to ensure that we have the right people at the helm when it comes to managing the affairs of a professional body like the proposed one. It is the professional bodies that are going to bail this country out of any malpractices. We talk about corruption, but if we do not provide against malpractices in the law, we may not go far.

Madam Temporary Deputy Speaker, it is also gratifying to note that within this Bill there is provision for any auditors or accountants who do not practise accordingly. If they do not do that, the due process of the law will catch up with them. This also includes those auditors or accountants who may be compromised. We hear that some people or firms sometimes prepare three sets of accounts, depending on where the several sets of accounts will go. There will be the accounts for the tax man, which will show a loss. The accounts for the bank will show a huge profit. Then there are the main accounts for the owner, which give the actual position. I am sure that with this law, we will ensure that the set of accounts prepared give a true and fair state of the affairs of a particular company at any one time.

Madam Temporary Deputy Speaker, with that contribution, I beg to support the Bill.

**Mr. Shakeel:** Thank you, Madam Temporary Deputy Speaker. I am a qualified accountant. I would like to take up the point made by my brother, the hon. Member for Igembe North Constituency. He touched on something important. I am sure that the Minister will remember this. In certain professional bodies, and since this Bill seeks to regulate the accounting bodies, it is very important---

*(Mr. Kimunya consulted  
other hon. Members)*

I wish the Minister would be kind enough to hear this, because it is an important point. It is important that we make a provision that each body, or firm, of accountants in this Institute has what is called "a social aspect". Many micro and sole proprietor businesses are not able to afford the services of a qualified accountant. They need the services of a qualified accountant when they are raising funds.

On many occasions, when they want to raise funds from banks and other institutions, they are not even able to pay for the accounting services. I propose that in this Bill there will be a provision, which will allow or compel accountants to have a certain element of their practice which is aimed at micro enterprises and sole traders. This will help the economy and the *wananchi*, who try to raise funds. It will bring the *wananchi* within the tax net. *Wananchi* would like to pay taxes, but they would like to do it in a manner that they understand.

Madam Temporary Deputy Speaker, that is my submission. Thank you.

**Mr. Mwaura:** Madam Temporary Deputy Speaker, as I note with a lot of joy the presentation of this Bill by the Minister, I would like to probably limit my contribution to two observations. I note that our country has been a hub, or granary, for supplying very qualified accountants to the rest of the world, and in particular to the African continent. To maintain this trend, spirit, and a very worthy contribution, it is important that we continue to supply corrupt-free, qualified and very disciplined professionals. This Bill, therefore, comes at a very critical time and points further to this direction.

We note that there are certain areas where qualified accountants have already contributed

immensely to the growth and stability of firms. For instance, in the East African Breweries Limited, Safaricom Limited, the British American Tobacco (BAT) and Kenya Airways the procedures of keeping accounts have been up to date and credible. We also recognise the role of accountants in our dairy societies, which have become very successful. Some of the societies have started milk processing firms. This is as a result of the contribution made by the very qualified accountants.

We have also seen other areas where accountants have not been able to maintain integrity, confidentiality and even the exhibit talents needed to maintain some of these institutions. We also note the case of a firm like Francis Thuo and Partners. This was a pioneer firm in stock brokerage in this land. After the death of Mr. Thuo, some people took advantage of the firm without the knowledge of some people who were supposed to be running it. The firm eventually collapsed, causing a lot of agony to the shareholders.

Madam Temporary Deputy Speaker, it is therefore important that this Bill is passed in this House, so that we continue to maintain our edge in the supply of very qualified accountants. It is being reported in certain circles that accountants from this region who have been given opportunities to serve in the World Bank and the International Monetary Fund (IMF) have been of great help, and so have promoted the image of this nation.

Madam Temporary Deputy Speaker, if we continue to have well qualified accountants, this will help improve and promote performance in our constituencies and in all sectors. If we have credible and disciplined accounting managers in all our sectors, then the economy of this nation will improve greatly.

I beg to support this very timely Bill.

**Mr. Chepkitony:** Madam Temporary Deputy Speaker, I wish to support this very important Bill. It is only that the Minister did not give us copies of the Bill on time so that we could study it. However, I would like to congratulate him for seeing it fit to bring this Bill which is going to strengthen the functions and the smooth running of the different bodies which are being established for the sake of improving the accountancy profession.

Accountants are very important in any organisation, be it the Government, schools, private businesses and so on. They assist in bringing order in expenditure and the way revenue is collected in institutions. In order for accountants to perform their duties well, they need to ensure that high standards are observed in every institution. There should also be high standards in the examining body to ensure that the examinations administered are proper. That way, the people who are being examined will perform according to the requirements of the job.

The KASNEB, which is also being established under this Bill, plays a very important role in administering the various examinations, for example, the KATC, for institutions like the Central Bank of Kenya and so on. These exams are very important to those who have chosen accountancy as a profession. So, they must ensure that there are no leakages like was the case with the Kenya National Examinations Council (KNEC). This body must have proper management, people of integrity, people who are qualified and who can match what is happening in other parts of the world as far as accounting examinations are concerned. You will find many Kenyans doing an accounting exam called ACCA which is administered from the UK because, perhaps, they think that ours is inferior. However, that belief would not be there if KASNEB establishes and maintains the good standards required.

I notice also that there is a disciplinary committee being established in this Bill. That is important for any profession. It should be able to discipline its members who are not performing according to the requirements of the profession. This is very important and it will ensure that accounting bodies do not embezzle customers' funds and that they will give fair assessments of companies in their audit reports. Auditing is a very important part of any organisation. This is done

by accountants.

In order for the accountants to give a fair report of institutions, they must be people of integrity. They must be people who can display high standards so that they are not compromised. They should give a fair report about organisations. For example, if an organisation wants to go public through an Initial Public Offer (IPO), people would expect accountants to present a proper state of affairs of that body so that when the public invest money in the organisation, they will be investing in an organisation whose true state of affairs is known.

With those few remarks, I beg to support.

**The Assistant Minister for Public Works (Mr. Wathika):** Thank you, Madam Temporary Deputy Speaker. My names are Dickson Mwangi Wathika. I am the Member of Parliament for Makadara Constituency in Nairobi.

First, allow me to thank the people of Makadara for electing me to represent them in this august House. Also, allow me to thank the councillors that I worked with as the Mayor of the City of Nairobi for having elected me to serve as the Mayor of Nairobi for two consecutive terms. Allow me also to thank, particularly, the people of Ofafa Maringo in Makadara Constituency for having elected me to serve them for three consecutive terms before finally adding up their votes to make me their Member of Parliament. I want to promise that I will do my best to serve them as their Member of Parliament and to serve Kenyans in general.

Allow me also to thank the President of the Republic of Kenya, His Excellency Mwai Kibaki for having appointed me to serve as an Assistant Minister for Public Works. I am very grateful for that and I will give it all my brains and energy to serve Kenyans together with my other colleagues.

Madam Temporary Deputy Speaker, I wish to support this Bill because it intends to inject or direct professionalism in the accounting field. When a professional body is well constituted and regulated, then you expect very professional results from this body. That is why I want to support this Bill.

I also want to ask the Minister for Finance to look into the way these examination bodies carry out their exams. I have personally witnessed, in my studies as an accountant, a lot of unfairness in the manner in which examinations are carried out by KASNEB. I think this is the only part of the world that people can pass their examinations and after a short while they get a fail for the same paper. As you study accountancy, you will find that at times you pass two of the three subjects in a section and then after a short while, the passes are reduced to a fail. I think that is very unfair to students of accounting and it should be taken into consideration by the examination bodies so that we do not fail accountants unnecessarily. We want to produce professionals, but we must also direct the manner in which they are produced. Accountants are very important professionals in our economic development. We all know that Kenya is on the run and we need a lot of accountants and auditors for us to be able to manage our economy effectively.

**Mr. Dache:** On a point of order, Madam Temporary Deputy Speaker!

**The Temporary Deputy Speaker (Prof. Kamar):** Order, Mr. Wathika! There is a point of order by Mr. Dache.

**The Assistant Minister for Public Works (Mr. Wathika):** Madam Temporary Deputy Speaker, I am making my maiden speech. I do not think I should be interrupted.

**The Temporary Deputy Speaker (Prof. Kamar):** Thank you for reminding us, Mr. Wathika. That is his maiden speech, Mr. Dache. Please, allow him to continue.

**The Assistant Minister for Public Works (Mr. Wathika):** Madam Temporary Deputy Speaker, hon. Members should better learn the rules of the game. I was talking about the manner in which we are developing our economy. Kenya is on the run. We must be able to produce and encourage as many young people as possible, to take up accounting as a profession. They will be

very much needed.

**Mr. Dache:** On a point of order, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Prof. Kamar): Order! Order! Mr. Dache, maiden speeches are not supposed to be interrupted through points of order. So, allow the hon. Member to finish his contribution. I will allow you to make your contribution.

**The Assistant Minister for Public Works** (Mr. Wathika): Thank you, Madam Temporary Deputy Speaker. We need to encourage many young men and women to take up professions like accountancy, so that they can contribute positively to the development of this great nation. We have a lot of small-scale businesses referred to as *kiosks*, especially in Nairobi and other urban centres. We, as Parliament, need to make sure that these people access cheap accounting services, so that they can put their books in order for

them to access capital from financial institutions. This Bill is very important for this nation.

Madam Temporary Deputy Speaker, as I serve as the Member of Parliament for Makadara, I intend to galvanise the youth and encourage them to engage in economic activities that will improve their living standards. Therefore, I want to believe that together we, as Parliament, must very serious look into the issues affecting the youth.

Another thing I would like to mention is the recent land clashes in some parts of the country. Every time there is an election, politicians provoke anger and animosity among communities. So, how can we stop politicians from provoking anger against other communities that are their neighbours or who live with them?

Madam Temporary Deputy Speaker, I want to propose that, we, as Parliament, should seriously consider large-scale farming instead of cultivating individual small portions of land owned by Kenyans in the countryside. Maybe, we can amalgamate those pieces of land, come up with commercial and residential centres and give people shares depending on the acreage of their pieces of land, so that we undertake to support large-scale commercial farming. In my opinion, such an undertaking will help this country in two ways: First, nobody will ever incite another person because of a piece of land. The pieces of land will have been amalgamated and doing large-scale commercial farming. Secondly---

**Mr. Shakeel:** On a point of order, Madam Temporary Deputy Speaker. As much as I appreciate that this is the maiden speech of our dear brother, there is no quorum. I would like to do service to hon. Wathika, so that he can continue when there is quorum. This is his maiden speech, and we are not giving him the dignity of his maiden speech. So, there is no quorum.

**The Temporary Deputy Speaker** (Prof. Kamar): Thank you. Let me consult on that one because, my understanding is that, normally, I should not allow for any interference when an hon. Member is making his maiden speech in this House.

I have already ruled that we should not interfere when hon. Members are making their maiden speeches. So, if you could allow that ruling to stand, the hon. Member on the Floor would not have been interfered with.

**Mr. Shakeel:** Madam Temporary Deputy Speaker, I raised the point of order under Standing Order No.25.

**The Temporary Deputy Speaker** (Prof. Kamar): Please, take your seat!

*(Mr. Shakeel resumed his seat)*

**The Temporary Deputy Speaker** (Prof. Kamar): Please, continue, Mr. Wathika!

**The Assistant Minister for Public Works** (Mr. Wathika): Thank you, Madam Temporary Deputy Speaker. I was saying that large-scale farming will benefit the owners of land. Nobody will ever kill anybody because of that piece of land. You will not get access to the shares of that particular farmer. That is one aspect.

The second one is the fact that we have continued to sub-divide land in accordance with the

number of children in a family. You find that a family of ten boys with ten acres, each boy is given one acre. Then each person builds a house there to live in with his family. We have continued to consume arable land through construction of residential houses for ourselves. So, that will take care of our arable land, which can be utilised for food production.

The amount of arable land that we have in this country is good enough to feed Kenyans and enable us export food to our neighbours and the rest of the world. So, we are wasting a lot of arable land by families sub-dividing their pieces and putting up residential houses for themselves whereas we can utilise that land, as a country, and as a people, to produce more food commodities for ourselves and for export. We need to think about the future of this country.

I want to support the proposal to create a Peace and Reconciliation Commission. If it is true that the post-election violence that was witnessed in this country in the recent past was planned before the elections, let us get to know the truth. The other day, I was watching a movie on the Nazis of Germany. Up to now, those people are still facing justice. So, I want to believe that it does not matter what position we are holding in society at the moment; the truth must come with us even at our old age, so that perpetrators of violence can be brought to book. In order for us to move forward we, as, a country, cannot afford to relent on that one. So, I want to support that proposal.

Madam Temporary Deputy Speaker, as we continue to consider legislations in this House, we will seriously consider developing the autonomous office of the Police Commissioner and the Judiciary. If we are to have strong institutions, that is the only way we can be sure that tomorrow, Mr. so-and-so or Mrs. so-and-so will not abuse human rights.

The provisions contained in this Bill are meant to inject professionalism and controls.

Therefore, I beg to support.

**The Temporary Deputy Speaker** (Prof. Kamar): Hon. Members, Mr. Shakeel needed clarification on the issue of quorum. I want to apologise that we are not getting the actual exclusion of the issue of quorum when it comes to maiden speeches. So, if the hon. Member would like to raise it again, he is free to do so now. Are you satisfied that we now have quorum?

**Mr. Shakeel:** Madam Temporary Deputy Speaker, I am a novice. So, at the risk of incurring the wrath of people who were speaking, I still feel that there is no quorum. I was only raising that issue because I felt that the maiden speech of my brother, Mr. Wathika, should have been given the dignity of quorum. I still maintain that even if there is a maiden speech, if there is no quorum, then I am afraid it is so. I see no exclusion to that fact. However, I stand corrected.

**The Temporary Deputy Speaker** (Prof. Kamar): I would like to say that we will do a clear clarification because the exclusion seems to talk of no interruption. If you start your maiden speech with a quorum and it goes down when you are still on the Floor, the fact that you are not supposed to be interfered with supersedes the quorum issue at that time. So, we will clarify and bring it later to the Floor of the House. Since we have only about 30 minutes to go and we have quorum, we will continue.

**The Member for Ol Kalou** (Mr. Mureithi): Thank you, Madam Temporary Deputy Speaker. My name is Mr. Erastus Mureithi. I come from Ol Kalou Constituency. I take this opportunity to thank Ol Kalou people for having accorded me this opportunity to serve them as their hon. Member.

This is also my maiden speech. I tried to catch the eye of the Speaker and I am very happy that I caught your eye. I would like to support the Motion by bringing up a few issues regarding the Accountants Bill. Having had the opportunity to go through it very much, I have one or two things to speak about regarding it.

For a long time, this country has had a shortage of qualified accountants and, therefore, what we have found out is that most of the firms have had accounts assistants dealing with very important parts of their books and, therefore, facing a lot of problems as far as taxation is concerned. That is one of the issues that this Bill is going to correct. That is because if there is

anything that most companies agonize about is taxation. That is why you find that our indigenous investors have a problem compared to the foreign investors who tend to have many books as my previous colleague has said. They make many books of accounts and, hence, they have a relative advantage over taxation.

The other issue I would like to raise is that when you have a body regulated by law, it is also necessary to ask it to develop a code of ethics outside the normal statute so that it can self-regulate and see that people are following the law with respect to the accounting procedures and keeping of books of accounts.

However, Madam Temporary Deputy Speaker, I would like to say that when I look at this country, something tends to get me very concerned. We are agricultural based, but we seem to give so much emphasis to industrialisation and, therefore, we forget that this country will take off when we pump a lot of money into the rural areas and develop agriculture, whether through small scale or large scale. Considering that our country is becoming small scale, we should do like India. India does not have large scale farms and when Indira Gandhi came up with her philosophy of the green movement, it is now a net exporter. So, what we have to do is to re-look at the way we are going to re-engineer our agriculture.

Madam Temporary Deputy Speaker, when His Excellency the President read his Speech in this House, what shocked me is that one of the items that was left out was horticulture. We only dealt with tourism, tea and coffee. May I tell this House that this country has survived twice because of horticulture. This country survived in the Likoni Ferry accident when all the tourists left and 30,000 employees in the tourist industry were completely unemployed. By then, I served as the Chairman of the Kenya Wildlife Services (KWS), an organisation that was receiving Kshs280 million through gate collections. We went down to Kshs40 million which could not even pay the services of the KWS. What sustained this country was horticulture!

After the clashes started on 30th December, 2007, all other institutions, tea, coffee and tourism, disappeared. What is sustaining this country and the strength of the Kenya Shilling today is horticulture. When the Speech was read, only those three sectors were mentioned and horticulture was totally left out and yet, it is a very important area.

My presentation is that we look at horticulture, not necessarily from a large scale farmers' point, but from a small scale point of view. In the 1970s, before the large farms investors came here, Kenya was being sustained by small scale growers in Kinangop. However, they have been pushed out because of the aggression of large scale growers. We must go back and see where we went wrong. We must also distribute horticulture because Uganda grows flowers around the Lake. But we have no flowers in the lake region in Nyanza. That area is better for flower growing because it is drier than the Ugandan side, which is completely humid and growing of flowers is quite difficult.

Madam Temporary Deputy Speaker, I would now like to address myself to the issue of investment in this nation. It is always good not to re-invent the wheel, but to look at the countries that have succeeded in development and growth.

I would like us to look at a country like South Africa. I would prefer that the Minister for Finance - and I will be addressing him because when we try to re-invent the wheel, we do not go very far. I toured South Africa when I was the Managing Director of Co-operative Bank and one of the things that I found out had sparked and stimulated development in that country is tax regime. I visited Blomfontein and I found that they have tax regimes that give compensation to the people who invest further from the market. As a result, they encourage people to go and invest far and wide. What has happened in this nation is that the tax regime tends to encourage the large cities. They are growing at the expense of the small scale areas in the rural areas.

The other thing I would like to look at is the youth and appropriate technology. If this

nation does not address itself to the youth, we have a bombshell. All over this country, we look at the issue of the youth.

The rural Kenya is very poor and the urban poor are very poor. Believe you me, if we do not address ourselves to the two groups, without necessarily looking at any region but rural Kenya, we are doomed!

Madam Temporary Deputy Speaker, rural Kenya is poor. If we are not careful, these groups will revolt. This is a bombshell and we will find it difficult to deal with it once it explodes. That now brings me to the policy of this nation from the time of colonialism.

Madam Temporary Deputy Speaker, I had the opportunity to work in Kisumu where I was dealing with cotton. In the 1970s, cotton could only be exported either to Manchester in the United Kingdom (UK) or some other foreign place. There were no industries that were manufacturing cotton in this country.

Look at the issue of financial institutions. What is the policy of financial institutions in this nation? It was generated that all the banks whatever branch you are talking about, and I am talking out of experience, in terms of banking policy, are just collecting units. The money comes to Nairobi. The people who borrow it are people with big business. They have denied the rural people an opportunity to get money. One of these fine days, I will bring a Motion before this House to reverse that investment portfolio. I would like to see money circulating in the rural areas. We want our people to borrow their own money. Right now, all banks are collecting units. They make a huge profit to the tune of Kshs60 billion. What is ploughed back to the rural areas is almost zero.

The financial policy, therefore, must be re-looked into. We need to review it because it was formulated by the colonialists. We have banks that are district-based or constituency-based. Those banks are run down like the Savings and Co-operative Credit Societies (SACCOS). That is why I was very happy with His Excellency the President's Speech. He said the time has come for us to debate issues relating to SACCOS in this country. We would like to see SACCOS based in constituencies. We would like to see them collecting their own money as it is happening in a country like Indonesia. I visited that country when I was starting the micro-finance unit in the Co-operative Bank. We went there with the current Managing Director of the Kenya Tourist Board (KTB). We found that these financial institutions are created at the district level. As a result, I thought that wealth will be created to improve the rural Kenya. Look at the Initial Public Offer (IPO) that was given by Safaricom. We have 4,000 co-operative societies in this country with seven million people. When allocation was being done for foreign investment companies, nothing was given to our co-operatives. We denied the *wanjikus* of this country an opportunity to invest in an institution that they have created with their own money. The *bamba* Kshs50 air time card has created a monster.

However, when it came to allocation of IPOs, we allocated shares to foreign based companies. We denied our SACCOS the opportunity to invest in their own nation. It will be a major disaster when we start transferring the wealth of this nation from the hands of the *wanjikus* to the hands of foreigners. It is a very tragic moment when we do not recognise the co-operative societies. This country is known for destroying the institutions they have taken many years to build. Right now, Co-operative Bank will issue IPOs. Are we also going to surrender that wealth to foreign hands?

Madam Temporary Deputy Speaker, it actually bleeds my heart to see us depriving our SACCOS of the biggest investments in this country. When we come to share allocation, we do so to foreigners. It is high time Kenyans came together and re-engineered ourselves, so that we remove the disparity of this nation.

Madam Temporary Deputy Speaker, the chaos we witnessed in the recent past was because

of election dispute. A time is coming when the uprising will not be between tribes, but "haves and have nots." It is good that we start looking at the machinery of this nation. One of the machineries that can remove disparity among our people is the co-operative societies of this nation. That is a delivery vehicle. They did in the Scandinavian countries and developed them into modern nations. If you study the history of Germany, France and Poland, the biggest bank which is Triple "A" is located in Holland. It is called Rabo Bank. Rabo means co-operative bank. I think what we should do in this country is to make sure that we re-engineer ourselves financially rather than by creating mayhem. We should re-engineer

ourselves on how we will transfer resources to the rural Kenya and to the urban poor. Once we do so, we forestall a situation whereby we shall not have a major problem.

Madam Temporary Deputy Speaker, I do believe the Accountants Bill is a great Bill if it will be fully implemented. This nation is known for so many laws and yet, they are never implemented. So, we cannot keep on making laws and yet, we do not implement them.

With those remarks, I beg to support.

**The Assistant Minister for Foreign Affairs** (Dr. Onyonka): Thank you, Madam Temporary Deputy Speaker. The Minister for Finance who happened to be a year mate of mine at the University of Nairobi is making me laugh.

My names are hon. Richard Momoima Onyonka. My constituency is known as Kitutu Chache. I am the Assistant Minister for Foreign Affairs-designate since I have not yet been sworn in.

Madam Temporary Deputy Speaker, the Accountants Bill is a great idea for this country. This country has always needed certain regulations to be put in place, so that we can try and change the way we do business. One of the issues that I wanted to raise in this House is that when you look at the way the accounting profession has been handled and has been handling business, sometimes, it has left a lot to be desired. I hope that the Accountants Bill will be geared towards trying to sort out the problem which exists.

Madam Temporary Deputy Speaker, I will make a few observations so that the Chair may understand where I am coming from. One of the issues that I have been shocked to find and discover is that in all the committees which exist at the district level in our country, all of them have district accountants as their members whether it is the District Roads Board (DRB) or District Road Committees (DRCs) or the Constituencies Development Fund (CDF) committees. All the cheques are usually endorsed or signed by the district accountant. So, essentially most of them are party to mismanagement, and the pilfering of public funds has actually been done in front or in sight of the district accountants.

Madam Temporary Deputy Speaker, one of the issues that I wanted to raise is that through this Bill, I hope that we will be able to get to a position whereby if there is a public official who happens to be trained and is qualified to act as an accountant and is found that during his tenure public funds from a certain institution were mismanaged, whether it was the CDF, DRB or the District Water Committee (DWC), then that individual must be punished effectively.

So, I hope that the Accountants Bill will be able to actually control and manage our funds transparently wherever the funds will be. So, there needs to be a way of accountability by our officials who happen to be district and even provincial accountants. I hope that this Bill will go a long way in trying to solve that problem.

Madam Temporary Deputy Speaker, the second issue that I want to raise is that, basically, accounting has a lot to do with management of money. If you realise one of the issues that all the economists and business people and even churches these days deal with is that we must be able to be good money managers. So, I want in a way to raise this issue, so that at the time when we have an Education Bill being presented into this House, we can have a mandatory class in all our

secondary schools whereby students are actually taught accounting from Form One up to Form Four, so that all our children of school going age are able to be literate in money matters and managing their money.

Madam Temporary Deputy Speaker, the other issue that I want to raise as mentioned by the Member for Ol Kalou Constituency, is that we need to have decentralisation on how we will allocate resources and organise ourselves in this country.

I hope the Minister for Finance who is here, will support me that, in fact, the Institute which is being introduced in this Bill, can be decentralised. For example, we can actually have Provincial Institutes, so that we can have many of our students from rural areas going to these colleges which are near their homes. This is because chances are that Nairobi will be too expensive for them to come to school.

Madam Temporary Deputy Speaker, the other point that this Bill will introduce is the fact that when you look at every year, you will see that what happens is that all of us are supposed to file taxes. We need to have an accountant to actually help us file these taxes. The problem is that we do not know who is the best qualified accountant who has not been struck off the roll. We do not know whether there is an accountant who has "eaten" somebody's money.

Madam Temporary Deputy Speaker, I hope that through this Bill, we will get to a position whereby the Government, or the Institute which is already here in this Bill, will be able to advertise every year accounting firms, so that we know them, either at the district level or the provincial level. In so doing, when Kenyans are filing their taxes, they would know which accountant can actually do their books. That would go a long way to make our public use accountants, so that we can file our taxes since we depend on taxes to run our Government.

Madam Temporary Deputy Speaker, the other issue is that we seem to have a problem whereby under the management of all the co-operative societies, like the Member for Ol Kalou Constituency, talked about-- For example, in Kisii, all the co-operative societies have failed. Yet, their books have always been audited every year by accountants. All these co-operatives societies have collapsed. There is no coffee industry in Kisii. Now the next thing we will hear collapsing in Kisii is the tea industry. Through this Bill, we need to regulate all the accountants who are practising and doing the books for co-operative societies and Teachers' Savings and Credit Societies (SACCOS). We need to have integrity in the accounting industry. If we do not have integrity in the accounting industry, then our economy will fall sick, the way if we do not have integrity in the medical profession, many patients will die.

Madam Temporary Deputy Speaker, I support this Bill and hope that it will go a long way to solve the problems of money management in our country.

Thank you, Madam Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Prof. Kamar): Last person to debate.

We only have a chance for only one person! Yes, hon. Oburu!

**The Assistant Minister for Finance** (Dr. Oburu): Madam Temporary Deputy Speaker, I wish to contribute to this very important Bill. This Bill is addressing very pertinent issues. As we are all aware, from the colonial times, this profession called accountancy has been made more or less like an exclusive club for a few people. The rules which were in place were very bureaucratic. They made it very difficult for young accountants to come up and be registered. Over the years, we have had this profession of accountants and many other professional bodies have been coming up to emulate what the accountants are doing.

Madam Temporary Deputy Speaker, the objective of many of these professions has not been to help the young people to join the profession. Actually, it has been the aim of creating exclusive clubs for a few people. But as the economy grows, we need to encourage our young people to join the accountancy profession. In this country, the accountancy profession has been abused. As my friend, Mr. Onyoka said, in the Government system many people view the profession of accountancy to be the one enriching peoples' pockets.

Madam Temporary Deputy Speaker, I used to be a civil servant. As a civil servant, I know, particularly in the field, where I worked--- I worked in several places; that at the end of the financial year when the Government is closing its accounts, is the time when you find the District Commissioners and District Accountants are working overtime. They would work up to midnight. The records from the departmental heads would appear as if the monies which were unspent were returned to the Treasury. From what I know, very little money goes back to the Treasury because they are unspent. Most of these monies, which are meant to be disbursed for projects sometimes are released late.

Madam Temporary Deputy Speaker, sometimes the reasons for realising the money late might not be very clear. The reason given normally is that there are delays in the disbursement of the Exchequer issues.

However, you will find that fake vouchers are prepared and that is when money goes into the pockets of individuals at the expense of offering service to wananchi.

Madam Temporary Deputy Speaker, these laws which are being made are meant to streamline our financial systems, so that we have more integrity in our accounting system. There will be a proper system of vetting people who are joining the profession, so that the profession can retain its integrity. This particular law is creating a proper system where people who are properly qualified are not subjected to the bias of a few individuals. The process of establishing this institution of accountancy has become very transparent in this particular Bill.

It is our hope that eventually when Parliament, in its wisdom, passes this Bill into law, it will go a long way in improving our accounting system in the service of our country. The accounting profession which is local has served us well. Our professional standards in accountancy are recognised internationally. Because of this, we need to be very transparent so that we continue to be respected by the international community by having good laws which give protection to our noble profession of accountancy.

I do not want to prolong my speech very much. But I want just to emphasize here that the young people who are coming up in the accounting profession should not view it as a profession of "eating". They should view it as a noble profession. They should view it as a profession which will give development to this country. We know that the economy is growing. As the economy grows, we need to account and accountants. These accountants must, therefore, be able to propel our country into the new millennium which has very high growth potential.

Madam Temporary Deputy Speaker, the Bill makes the Capital Markets Authority (CMA) part of the Council. The reason why CMA is included is because in the capital markets we require a lot of transparency. That is where most of companies which are floated to the public, and which require closer scrutiny by the public, are found. We hope that this is going to go a long way in creating transparency, which investors require.

Madam Temporary Deputy Speaker, without transparency it is very difficult for our country to attract investors. We need investments. Recently, we had clashes in our country and as a result, many investors ran away. As we now come back to normalcy, we need to be very transparent in our transactions. We need to improve our accounting systems in order to attract more investments.

It is very clear that when you take care of a shilling the millions of shillings will take care of themselves. If you do not take care of a shilling you will not take care of millions of shillings. Therefore, we need people who are ready to account from the shilling and then we shall have millions and billions of shillings accumulating in the pockets of individual Kenyans.

*(Applause)*

Madam Temporary Deputy Speaker, I think because of this the accountancy profession must be given the prominence that it deserves. It is not just the accounts in public service that matter; accounting in the private sector must also be given the prominence it requires. We,

therefore, need very good laws in order to do this for the future of our country.

Madam Temporary Deputy Speaker, in conclusion, I would like to say that this Bill could not have come at a better time. This is the time when our country needs more transparency than at any other time.

With those very many remarks, I beg to support.

*(Applause)*

### **ADJOURNMENT**

**The Temporary Deputy Speaker** (Prof. Kamar): Thank you hon. Members for that lively debate.

It is now time to interrupt the business of the House. The House stands adjourned until tomorrow, Wednesday, 16th, April 2008 at 9.00 a.m.

The House rose at 6 30 p.m.