



## **EAST AFRICAN COMMUNITY**

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### **EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)**

#### **The Official Report of the Proceedings of the East African Legislative Assembly**

#### **12<sup>TH</sup> SITTING - FOURTH MEETING – FIRST SESSION: FOURTH ASSEMBLY**

Tuesday, 17 April 2018

*The East African Legislative Assembly met at 2:30 p.m. at the Pius Msekwa Chamber,  
Parliament of Tanzania, Dodoma, Tanzania*

### **PRAYER**

*(The Speaker, Mr. Martin K. Ngoga, in the Chair)*

*(The Assembly was called to order)*

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### **COMMUNICATION FROM THE**

#### **CHAIR**

#### **USE OF MICROPHONES**

**The Speaker:** Honourable Members, before proceed, let me make one housekeeping

announcement. The microphones we have may seem to be placed at a distance from where you are seated. However, they are very sharp. You will not need to bend when you speak. Just switch on the two on either side and speak straight. You do not need to follow them. They will still catch what you are saying.

Procedural Motion, Dr Makame.

## PROCEDURAL MOTION

### UNDER RULE 10 OF THE RULES OF PROCEDURE

**Dr Hasnuu Abdullah Makame** (Tanzania):  
Mr. Speaker, Sir, I beg to move:-

“THAT, pursuant to the provisions of Article 55(1) of the Treaty establishing the East African Community and Rule 10 of the EALA Rules of Procedure, this House do resolve to hold sittings in Dodoma, United Republic of Tanzania.”

*(Ms Fatuma Ndagiza, Ms Pamela Maasay  
seconded)*

**The Speaker:** Thank you. Dr Makame, go ahead and justify.

**Dr Makame:** Thank you Mr Speaker. The resolution of the Assembly to hold its sittings in the United Republic of Tanzania.

Whereas Clause 1 of Article 55 of the Treaty establishing the EAC provides that the meetings of the Assembly shall be held at such times and places as the Assembly may appoint; and, whereas Rule 2 of the Rules of Procedure provides that “The seat of the Assembly shall be at Arusha, in the United Republic of Tanzania and whereas Sub Rule 5 of Rule 10 provides that the meetings of the Assembly shall be held at such times and places as the Assembly may appoint and shall meet at least once in every year at Arusha in the United Republic of Tanzania at a time to be determined by the Assembly:

Hon Speaker, the tradition that this Assembly has been having for a number of years now, of making itself visible to the East African

Community (EAC) citizens so that integration is felt has continued to be practiced. It is for that reason that this Assembly resolves as follows:-

“That, pursuant to the provisions of Sub Rule 5, Rule 10, stated above, the Assembly shall hold its sittings in Dodoma, in the old Chamber of the Parliament of Tanzania from today, Tuesday 17<sup>th</sup> up to Wednesday, 25<sup>th</sup> April, 2018.

Mr Speaker, Sir, I beg to move.

**The Speaker:** Dr Makame, in moving your Motion, you sounded as if you were justifying it at the same time. Is there any additional comment you want to make by way of justification?

**Dr Makame:** Thank you hon Speaker. When we established the EAC in the year 2000 through the operationalisation of the Treaty for the establishment of the EAC, the people of EAC were very enthusiastic about the revival of the cooperation between the three Partner States. In the process, the Community expanded to in-cooperate the Republic of Rwanda and the Republic of Burundi and recently the Republic of South Sudan.

The Community has four integration stages; Customs Union, Common Market, Monetary Union, and Political Federation. The Community has been growing since 2005 when we achieved the Customs Union Protocol.

**The Speaker:** Honourable, make your justification short. We understood your Motion very well.

**Dr Makame:** Okay, Mr Speaker, the EALA decided to be holding its sittings in rotation so that wherever it sits, it gets an opportunity to reach out to the local citizens other than staying at the headquarters in Arusha.

**The Speaker:** Thank you Dr. Makame.

*(Question proposed)*

**Mr Abdikadir Omar Aden** (Kenya): Thank you Mr Speaker for the opportunity to speak to this. Indeed, I stand to support the Motion. As an EAC citizen and a representative of the people of EAC, the opportunity to come to Dodoma, as a journey, has made me feel that I have been through territories in Tanzania. The journey to Dodoma has given us the opportunity to appreciate the country and people of Tanzania. For that reason, I think the intention of the rotations and particularly of coming to Dodoma because we initially thought we were going to Dar es Salaam, as it has been the practice before, was well intended. It is good and will make us appreciate and interact with the people of Tanzania.

I was told by a Tanzanian friend that this area is referred to as *Kanda ya Kati*. Now I know what *Kanda ya Kati* means. It is the central region of Tanzania. I am now able to understand the simple things that make it easy for us to understand East Africa. I support the Motion. Thank you.

**Mr Mathias Kasamba** (Uganda): Mr Speaker and honourable Members, I take this opportunity to support the Motion. Considering the good working environment we have been ushered and the hospitality of the people of Tanzania, we want to appreciate it. The quest for integration and the establishment of the EAC is an aspect of

deepening integration and having a people-centred and business oriented integration. The move we are making of taking the EALA near people is very commendable.

I support the Motion.

**The Speaker:** Thank you honourable Members.

*(Question put and agreed to)*

## COMMUNICATION FROM THE CHAIR

### WELCOME REMARKS BY THE SPEAKER

**The Speaker:** Honourable Members, I welcome you to Dodoma, the seat of the Government of the United Republic of Tanzania. As I mentioned during the Press Conference on Tuesday 10 April 2018, this is the first time ever that the Assembly is holding its meetings in Dodoma since its inauguration in 2001.

We are, therefore, very grateful to the authorities for making it possible to have this historic moment in the history of our Assembly. I would also like to officially salute and most sincerely thank our host, the Speaker, Rt hon Job Ndugai, Members and staff of the Parliament of the United Republic of Tanzania for the very warm reception you and I have been accorded since we arrived in this beautiful city. I further wish to express our profound gratitude to the Speaker and the Parliament of Tanzania for granting us unconditional access, not only to the precincts of this Parliament but also to all the excellent facilities such as this chamber, committee rooms, offices and the restaurant.

This is more so even when their own Parliament is in session.

I, on behalf of you all, want to thank our own colleagues of the Tanzanian Chapter led by their Chairperson, Dr Makame, for their support. Since we arrived in Dodoma and even before, they have attended to our many requests and inquiries with love and humility and have done all they can to make us feel comfortable and at home. I particularly thank you Dr Makame and Members of the Commission, hon Maryam, hon Fancy who accompanied me to different meetings that I attended.

Hon Members, the approved programme for this meeting and the business to be transacted as approved by the Commission has been circulated to you all. As you know, we lost a lot of time. I, therefore, implore upon all Committees to ensure that they finalise all business before them and report to the Plenary as per the programme.

I also want to make one point regarding what honourable Members of the Front Bench and I are working on. As you all know, as soon as we conclude this Plenary, two of our Committees will embark on other important statutory activities. The Committee on Accounts will have to convene in Nairobi to work on audited accounts. The Committee on General purpose will have to convene in Nairobi to work on the draft budget. Therefore, we have a challenge in that we do not have those two documents yet. We do not have the audited accounts and we do not have the draft budget.

With regard to the audited accounts, we are very much behind schedule. We should be having the Report by now. As for the draft budget, this is normally ready by end of April. Most likely, we will not have it in time. I am, therefore, engaging with the Ministers

for them to understand that this is a serious challenge to our schedule and the business of the House. I believe they will do all they can to make sure that we have these documents in time for the Committees to convene as planned. We beg you, honourable Members of the Council, to do all that you can to make sure that these reports are brought before the House as soon as possible.

Honourable Members, should I have challenges on these matters, I will come back to you to discuss the way forward. This House is not prepared to allow anyone to stand in the way of its business. We are extending our support to other organs of the Community. We do not expect any other organ to stand in the way of our business. We hope that this message will be well understood and that we will get the cooperation we need to get the issue resolved.

Finally, honourable Members, I wish to happily inform you that His Excellency Dr John Pombe Joseph Magufuli, the President of the United Republic of Tanzania, has graciously accepted our invitation to address this House. He has confirmed to do so on Tuesday, 24<sup>th</sup> April 2018 and the programme we had planned will be adjusted accordingly. I implore all of you to be present on that day so that we listen to the advice and address of His Excellency the President of the United Republic of Tanzania.

#### VISITING DELEGATION FROM MURANG'A COUNTY ASSEMBLY/KENYA

For the time being, those are the announcements I had to make. I am being reminded that one of our own, Ms Josephine Lemoyan, has visitors here, not to visit her but to visit all of us. They are Ms Doreen Ophishas who is the Programme Coordinator

**The Speaker:** Programme coordinator for?

**Ms Josephine Sebastian Lemoyan (Tanzania):** Programme Coordinator for EALA MP, Ms. Josephine Lemoyan.

**The Speaker:** We also have Mr Samuel Malo who is personal assistant to *(interruption)*

**Ms Lemoyan:** He is my personal assistant, Sir.

**The Speaker:** Thank you very much for inviting them. We welcome you, our visitors. We hope to find time to interact with you. Thank you for doing a good job to support our colleague.

We have other visitors from Murang'a County Assembly, Kenya.

Hon Lilian Kabaya  
Hon Moris Thuku  
Hon Duncan Muturi  
Hon James Kabera  
Hon Sospeter Nyoko Muriuki  
Hon Peter Muiruri  
Mr Joel Ngugi, Clerk to the Committee

If you could stand up for recognition, please. We thank you very much for travelling all the way from your county to come and interact with us. We appreciate what you have done and we are happy to have you.

Thank you.

### *Second Reading*

## THE EAST AFRICAN COMMUNITY OATHS BILL, 2017

*(The Minister of State for East African Community (Uganda) and Chairperson,*

*Council of Ministers (Mr Julius Wandera Maganda)  
on 15.3.2018)*

*(Resumption of business interrupted on  
15.3.2018)*

**The Speaker:** I will jog your memory on where we ended on this item. Before I do so, Members of the Council, regarding the comments I made, if you wish to make a comment about it on a later date, I will be happy to give you an opportunity to do so.

Honourable colleagues, you will remember that at the time of adjournment, the Chairperson of the Committee on Legal, Rules and Privileges had presented the Report of the Committee on the Bill and debate had ensued. We adjourned pending harmonisation of the issue particularly the subject of the penalties. That is where we ended.

Now, we are resuming business. However, I want to remind you about the rule that may not allow those who had already contributed to the Motion to debate it again. You can only come in to seek clarification or to provide information but not to have substantive debate. Now, to make it easy for you, I will remind those who had contributed by the time we adjourned.

Hon. Francoise Kalinda  
Hon. Rose Akol  
Hon. Gabriel Aher Garang  
Hon. Peter Munya  
Hon. Dr Gai Deng  
Hon. Habib Mnyaa  
Hon. Mary Mugenyi  
Hon. Francoise Uwumukiza  
Hon. Susan Nakawuki  
Hon. Chris Opoka-Okumu

I now call upon the Chairperson to update us on the current status.

**Ms Fatuma Ndangiza** (Rwanda): Rt hon Speaker, I beg to lay on the Table the Report of the Committee on the Consideration of the proposal to include penal provisions on the East African Community Oath Bill, 2017.

**The Speaker:** Honourable Chairperson, I wanted you to update us on the status. What happened between the time that we adjourned and today? That should constitute a background for the debate to continue. That is what I meant.

**Ms Ndangiza:** Rt hon Speaker, as you recall, after requesting the Committee on Legal, Rules and Privileges to consult the Council of Ministers to consider amending the Bill to include penal provisions, we had various meetings.

The Committee held three meetings. One meeting in Arusha and two in Dodoma. The meeting we held yesterday held discussions with the Council of Ministers. Rt hon Speaker, if you allow, I will go into the details of the discussions we had in the Report.

**The Speaker:** Yes.

**Ms Ndangiza:** Rt hon Speaker, Sir, the background information is as follows:

#### 1. BACKGROUND INFORMATION

The East African Oaths Bill, 2017 was introduced by the Chairperson of the Council of Ministers and it was read for the First Time on 8th February, 2018. The Bill was read for the Second time on 15th March 2018. During the debate on the Bill, Hon. Members were concerned that the Bill does not have sanctions for people who violate the oath or

affirmation by disclosing confidential information or lying under oath. Consequently, the Assembly deferred the debate and directed the Committee on Legal, Rules and Privileges in consultation with the Chairperson of the Council of Ministers to consider amending the Bill to include penal provisions.

#### 2. METHODOLOGY

The Committee held three meetings, one in Arusha and two in Dodoma, to consider proposals for sanctions for violation of oaths or affirmation. The Committee met with Members of the Council led by the Chairperson Hon. Julius Wandera Maganda, Minister of State for East African Community from Uganda, Hon. Peter Munya, Cabinet Secretary for the East African Community and Northern Corridor Development from Kenya and Hon. Olivier Nduhungirehe, Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community of Rwanda. The Honourable Ministers were accompanied by Hon. Christophe Bazivamo, Deputy Secretary General in charge of Productive and Social Sectors, Hon. Dr. Anthony Kafumbe, the Counsel to the Community and Mr. Denis Kibirige, the Principal Legislative Draftsman of the Community.

#### 3. FINDINGS OF THE COMMITTEE

##### a. THE EAST AFRICAN COMMUNITY OATHS BILL, 2017

The objective of the East African Community Oaths Bill, 2017 is to provide for the taking and administering of oaths for specific persons appointed to serve in the Organs or Institutions of the Community or to individuals giving evidence before Organs of the Community.

The Bill is intended to provide for the legal obligation to take oath (Clause 3), the effects of refusing to take oath (Clause 5), the

manner of taking oath and prescribes the actual oaths or affirmations, which are required to be taken.

**b. INCLUSION OF CRIMINAL OR CIVIL PENALTIES IN LEGISLATION PROVIDING FOR OATHS**

One of the purposes of an oath or affirmation of secrecy is to bind the person taking the oath or making the affirmation to observe secrecy in relation to confidential information that they receive or come across as they discharge their duties. Ordinarily, the oath or affirmation is provided for in Oaths Laws styled in accordance with the jurisprudence and norms of a particular legal system.

In the Partner States, oath laws are already in existence either in Constitutional Instruments or in Laws passed by the legislature:

- a) Tanzania - Official Oaths Act, Cap 266
- b) Rwanda -Article 63 of Constitution – Oaths for public officials
- c) Uganda- Oaths Act, Cap 19
- d) Kenya- Article 74 of the Constitution – Oath of office of State officers
- e) Burundi- Constitution for specific office holders
- f) South Sudan - Constitution

In all the Partner States, the Constitutions and or the specific laws providing for taking oaths or making affirmations do not contain any criminal or civil penalties in respect of violation of the oath or affirmation of secrecy. The reason is largely because:

- a) There are specific Penal or Criminal Codes which provide for penalties on a wide range of matters that are crimes in many countries. The common offence relating to oaths is perjury which is the offence of lying under oath. Other offences relating to breach of oaths include, abuse of office,

unauthorized administration of oaths and false assumption of authority which are all crimes that are found in Penal Codes and for which specific punishment is prescribed.

- b) Confidential information is usually protected by laws relating to the protection of confidential information. The laws are in many jurisdictions, including in the Partner States, styled as Official Secrets Acts or Organic Laws, State Secrets Acts or Organic Laws, Security of Information Acts or National Security Acts or Organic Laws. These laws will define and categorize confidential information.

- c) In the recent past, there are Data Protection laws that provide for security of information especially personal and private information of individuals. These kinds of laws arise from the right to privacy provisions which are normally enshrined in Constitutions and are present in the Constitutions of all the Partner States.

All these laws make it an offence to unlawfully disclose information that is received especially by security agencies and public officers in the discharge or execution of their duties and prescribe penalties mainly imprisonment and a fine.

Once a person takes an oath or affirms, he or she is subjected to the Treaty, the Laws of the Community and all the laws of the Partner State, including the penal and criminal laws of the Partner State where the person is serving the Community in accordance with the responsibilities that person is supposed to undertake.

**c. EXISTING LEGAL INSTRUMENTS WITHIN THE COMMUNITY**

The East African Community already has a number of legal instruments that provide for sanctions to individuals who violate their oath.

i. The East African Community Staff Rules and Regulation, 2006

The East African Community Staff Rules and Regulations, 2006 are made by the Council of Ministers in pursuance of Article 14(3) (g) and 70(3) of the Treaty to embody and define the fundamental conditions of service, and the basic rights, duties and obligations of members of staff of the Community. These Rules and Regulations are substantive law made under a power directly conferred on the Council by the Treaty.

Indeed, Article 16 of the Treaty provides that: “Subject to the provisions of this Treaty, the regulations directives and decisions of the Council taken or given in pursuance of the provisions of this Treaty shall be binding on the Partner States, on all organs and institutions of the Community other than the Summit, the Court and the Assembly within their jurisdictions, and on those to whom they may under this Treaty be addressed.”

Regulation 29 of the Staff Rules and Regulations requires all members of staff of the Community to take oath of allegiance and oath of secrecy. Regulation 88 provides for three categories of offences which constitute grounds for disciplinary action:

- a) Minor Offences;
- b) Serious Offences; and
- c) Grave Offences.

One of the grave offences according to Regulation 88 (3)(e) is breach of confidentiality. The disciplinary measures that may be taken against a person who breaches confidentiality include verbal warning, written warning, reprimand, deferment of annual salary increment,

suspension from duty, termination or dismissal.

ii. The East African Legislative Assembly (Powers and Privileges) Act, 2003  
The East African Legislative Assembly (Powers and Privileges) Act, 2003 provides for freedom of speech and immunities from legal and civil proceedings for Members of the Assembly. It also provides for the oath of allegiance of Members and the Speaker, powers to compel attendance of witnesses and protection of the proceedings of the Assembly and Committees. The Act also provides for a number of offences including refusing to be sworn in and presenting false documents before the Assembly or a Committee.

iii. The Rules of Procedure of the East African Legislative Assembly

The Rules of Procedure of the Assembly contain Rules governing the standards and general principles of conduct expected of all Members in undertaking their duties. Among the Rules that governs the conduct of Members are Rule 50, 51, 52 and 53. Also, Annex 9 to the Rules of Procedure provides for the Code of Conduct for the Members of the Assembly which provides in paragraph 6 (f) that ‘information which Members receive in confidence in the course of their parliamentary duties shall be used only in connection with those duties. Such information must never be used for the purpose of financial or any other gain.’

According to paragraph 8 (1) of the Code of Conduct of Members a Member in violation or breach of this and other rules may be subjected to investigations by the Committee on Legal, Rules and Privileges and action may be taken against the Member. Specifically, paragraph 8 (4) empowers the Assembly to impose a sanction or any disciplinary action on the Member in



accordance with the Rules of Procedure of the Assembly and the Laws of the Community.

d. CHALLENGES OF INCLUDING PENAL PROVISIONS IN THE EAC OATHS BILL

i. Lack of Criminal Jurisdiction

According to Article 27 of the Treaty, the East African Court of Justice does not have criminal jurisdiction, therefore any proposal to include a criminal or penal provision in the Bill will have to refer to the criminal jurisdiction of the courts in the Partner States.

Indeed, according to section 72 of the Laws of the Community (Interpretation) Act, 2004, offences provided for in any Act of the Community are triable in the appropriate courts of the Partner States. Section 72 provides that:

Subject to the express provisions of any Act, any act which constitutes an offence under any enactment shall be triable in the Partner State in which the offence is alleged to have been committed and the jurisdiction of the appropriate court in that Partner State in relation to the trial and punishment of the person alleged to have committed the offence shall be determined by the Penal Code, the Criminal Procedure Code and any other Act of that Partner State.”

ii. Immunities and privileges of persons in the service of the Community

According to Article 73 and 138 of the Treaty, persons in the service of the Community enjoy immunity in the Partner States similar to that accorded to similar international organizations. This includes immunity from legal process. Apart from the Treaty, Article VII of the Headquarters Agreement between the United Republic of Tanzania and the East African Community

guarantees immunity to all staff from legal process for all acts done in the course of their duty. Whereas the immunity can be waived, the administrative disciplinary procedures provided for in the Staff Rules and Regulations are intra-organisation measures to which immunity does not apply.

The immunity of members of the Assembly is further insulated by Part II (sections 3 to 7 of the East African Legislative Assembly (Powers and Privileges) Act, 2003 which provides for the immunity of Members from legal proceedings. In the case of Judges, their immunity is provided for by Article 43 of the Treaty and are also subject to the Judicial Codes of Conduct which are in existence in the Partner States since Judges are nominated mainly from persons who are already judicial officers in the Partner States.

iii. Requirements for Creating Criminal Offences

Criminal offences are the most serious form of sanction that can be imposed under law. They are one of a variety of alternative mechanisms for achieving compliance with legislation and should not be seen as the default response to breaches of legislation.

Before deciding whether to create a criminal offence, four matters should be thoroughly assessed. These matters will establish whether or not a criminal penalty is necessary, or whether the conduct can be addressed by alternative mechanisms, such as the civil law, infringement penalties or pecuniary penalties. The four matters are:

- a) What conduct is to be prohibited? (the “physical element”);
- b) When should the person be held responsible? What is their culpability? (the “mental element”);
- c) What defences, if any should be available?

d) Who should be punished? (management or the offending individuals).

#### 4. CONCLUSION

After considering the Treaty and all the relevant laws of the Community, the Committee has come to the following conclusions:

a) laws providing for oaths do not ordinarily provide for sanctions against the breach of the oath or affirmation;

b) Penalties for breach of confidentiality or secrecy are usually provided for by either the penal or criminal laws of a jurisdiction or specifically provided for in laws relating to protection of confidentiality or secrecy;

c) The Oaths Bill, 2017 seeks to provide for the obligation to take oaths or affirmation and to prescribe the actual oaths or affirmations. To include sanctions in the Bill would be going into territory that should be the subject of another law on confidentiality;

d) Until a specific law on confidential information or secrecy is developed, there are other laws in the Community and in the Partner States that may be used to punish those that breach confidentiality, including the EAC Staff Rules and Regulation, Rules of Procedure of the East African Court of Justice, the East African Legislative Assembly (Powers and Privileges) Act and the Rules of Procedure of the East African Legislative Assembly.

#### 5. RECOMMENDATION

The Committee recommends to the Assembly to pass the East African Community Oaths Bill, 2017 without including criminal provisions.

#### 6. ATTACHMENTS

The following documents are attached to this report:

a) The Revised proposed schedule of amendments to the Oaths Bill, 2017;

b) The extract from the East African Community Staff Rules and Regulations, 2006; and

c) The East African Legislative Assembly (Powers and Privileges) Act, 2003.

**The Speaker:** Thank you Chairperson, Committee on Legal, Rules and Privileges. Before we proceed, honourable Members, our caterers could not place water on your tables owing to the way they are fixed. However, you can always alert them if you need. They will distribute to you.

Given the updated status, I find it necessary to revisit my announcement on who can contribute to this debate because we have additional information that those who had contributed did not have.

I will, therefore, provide a leeway under Rule 37(8) to include those whose names I had read out to contribute although I will prioritise those who had not contributed before.

*(Question proposed)*

Since we have to dispose of this item today, please, try and be brief. Remember I can switch off your microphone from here. However, I do not want to do that.

**Dr Makame:** Thank you Rt hon Speaker. First, I would like to congratulate the Council of Ministers for bringing this important Bill that would ensure that we have ethics in the operations of the Community. My main worry is on the issue of enforcement especially when it comes to penalty. When it comes to the issue of secrecy taken by the staff, I am not sure what laws we will use in ensuring they are adhered. Will we legislate another Bill that will define the magnitude of penalties? If so, then we should propose that the Bill is developed so that immediately

after this Bill becomes an Act, we have a Bill stipulating the penalties. We could also incooperate it here.

I submit, honourable Speaker.

**Mr Aden:** Thank you Rt hon Speaker. I will also be very brief on this even though I realised that you did not read out my name despite having contributed to this Bill.

**The Speaker:** Thank you for the disclosure.

**Mr Aden:** I just want to take the opportunity to thank my colleague, hon Fatuma and her Committee, for the very elaborate report. I think they have done a good job. The main issue with this Bill was the lack of provisions for penalties for persons who contravene the oaths they take. The question we were asking is; what happens to a person who takes an oath, walks out there and goes against the provisions of the oath?

I can see that the Committee has worked very hard to try and direct, in its report and additions to the Bill, the issues of penalties to the existing rules and regulations that govern the affairs of staff (if it has to do with staff). This clearly provides for penalties when a member of staff does wrong. They are able to do into the different punitive measures like withholding of salaries, investigations, interdiction and possible dismissal.

I remember seeking for the kind adjournment of debate on this Bill so that we could thrush out these issues. I must admit that hon Fatuma and the Committee have extensively, on a number times engaged many of others, for instance, honourable Members, to get our input. I am quite happy that the version of the Bill and report before the House now, in my view, adequately addresses the issues of penalties with regard to contravention of the

EAC Oaths Bill. For that reason, without further ado, I stand to support the Bill.

**Ms Wanjiku Muhia (Kenya):** Thank you hon Speaker. On the onset, I support the Bill. I wish to thank my able Chairperson for the detailed and well-explained information. This Bill is self-explanatory. It is a short Bill. This is the first Bill in the Fourth Assembly. For that reason, I want to thank all the Members for having pointed out the issues regarding the punishment. That shows that Bills that will come in future will not be dealt with on assumptions as we had done on the Staff Rules and Regulations among other issues without putting them down in writing. That shows that the debate in this House is of high calibre and all information will always be put forward for debate.

This Bill, being self-explanatory, does not need to be discussed very much. We should move all the way into the Third Reading. I ask Members to support the Bill.

**Mr Kennedy Mukulia Ayason (South Sudan):** Thank you Mr Speaker. I stand to support this Bill, although I have reservations. When the Committee did their extensive research, they found out that the Constitution of the Republic of South Sudan contains an Article concerning oaths. This is a very big lie. I have read the Constitution of South Sudan. (*Interruption*)

**The Speaker:** Honourable Kennedy, you should say that the information is not correct. The word “lie” is not Parliamentary.

**Mr Mukulia:** Well, the information provided here is not correct. I have also read the Agreement on the Resolution of Conflict in South Sudan, which supersedes the Constitution. There is nothing to do with

penalty there. Therefore, the Committee needs to take note of that.

*(Ms Rose Akol stood in her place)*

**The Speaker:** Hon Rose Akol, I have seen you. I remember you are the one who raised this issue.

**Ms Rose Akol Okullu (Uganda):** Thank you Rt hon Speaker for giving me this opportunity to make some contribution to the report that has just been read by hon Fatuma. First, I want to thank the Committee for the research they did to ensure that the issues that were raised then are taken care of in the Report.

Rt hon Speaker, I believe that the Bill, as it is, and the report supplementing the initial report especially on penalties, which was the main question has now been addressed. Therefore, I do not have further queries regarding this Bill.

**The Speaker:** Thank you hon Rose. Honourable Chairperson, Committee on Legal, Rules and Privileges, could you give your reply?

**Ms Ndangiza:** Thank you Rt hon Speaker. Let me start by thanking the Members who have intervened to make comments or to support the report.

Dr. Makame is worried about the enforcement especially on the issue of secrecy and was asking whether we will legislate other laws. I think this is provided for in the report on Page 3. However, the issue of enforcement is the role of the Council of Ministers. Therefore, Council of Ministers, you are requested to follow up on enforcement and especially on the EAC Staff Rules and Regulations.

Hon Abdikadir, I would like to thank you very much for your support and also for raising the issues that you raised because it provided us room for further research so that we do justice to this Bill. I thank you for your support.

Hon Wanjiku, I also want to thank you for your support. Hon Kennedy, thank you for providing information. We have taken note of it and we will further consult with the Republic of South Sudan. Hon Rose Akol, thank you very much for your support and kind cooperation.

Thank you Rt hon Speaker.

**The Speaker:** Thank you Chairperson. I now invite the Chairperson of the Council.

**Minister of State for East African Community Affairs Mr Julius Wandera Maganda (Uganda) (Ex Officio Member):** Thank you Mr Speaker. I also want to thank the Chairperson and Members of the Committee. We want to appreciate the interface we had with the Committee, which was resolving issues, which had come before the House, adjourned during the previous Meeting. I believe that the Committee considered our input just as the Chairperson has said in her report. Therefore, we believe that the original Bill still stands as prepositions, which had been made by the Council. We do not have any further comments to make apart from requesting the House to proceed and pass the Bill.

**The Speaker:** Thank you Chairperson, Council of Ministers.

*(Question put and agreed to)*

*(The Report was adopted)*

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

# COMMITTEE STAGE

*(Order for Committee read)*

*[The Speaker (Mr Martin Ngoga) left the Chair]*

# IN THE COMMITTEE

*[The Chairperson (Mr Martin Ngoga took the Chair]*

## THE EAST AFRICAN COMMUNITY OATHS BILL, 2018

**The Chairperson:** Honourable Members, we are now in the Committee of the Whole House.

Let us proceed.

### Clause 1

**Ms Ndingiza:** Mr Chairperson, I beg to move that Clause 1 be part of the Bill.

*(Question proposed)*

**Dr Makame:** This Clause says, the Act may be cited as the East African Community Oaths Act, 2017. Should it read 2017 or 2018?

**Minister of State for East African Community Affairs Mr Julius Wandera Maganda (Uganda) (Ex Officio Member):**

Mr. Chairman, it is 2018 because we presented this Bill to the House in February, 2018.

**The Chairperson:** Dr. Makame has moved an amendment, which the Council is conceding.

*(Question, that the word to be left out be left out,  
put and agreed to)*

*Question, that the word to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 1 as amended agreed to)*

### Clause 2

**Ms Ndingiza:** Rt honourable Chairperson, the Committee has an amendment on Clause 2, Page 2.

I beg to move:-

That, we insert definition of “affirmation” immediately before the definition of “Council” as follows:

“affirmation” means a solemn declaration of truthfulness or commitment made by a person who objects to taking an oath;”

The justification for this is to define what constitutes an affirmation, which is provided for by Clause 7 of the Bill as an alternative to an oath for persons who object to taking an oath because of their beliefs.

*(Mr Aden and Ms Ussi seconded the amendment)*

*(Question of the amendment proposed)*

*(Question, that the words to be inserted, be inserted put and agreed to)*

*(Clause 2 as amended agreed to)*

**The Chairperson:** Honourable Members, I noted that the Chairperson of the Committee had several amendments and I wanted to take them one by one. I did not want to bundle together several amendments at once for practical reasons.

**Ms Ndingiza:** Thank you Rt hon. Chairperson. On Clause 2, we have a new insertion of New Clause 7A. However, in accordance with Rule 15, I beg that we bring it up after all clauses have been discussed.

**The Chairperson:** We, therefore, need to proceed with Clause 3.

**Mr Aden:** Hon Chairperson, she is referring to Clause 2(7). My whole idea is that, that should be a new Clause 7A.

On the Clause on the definition, I thought that the Chair had on several occasions referred East African Community Staff Rules and Regulations with regard to the penalties. I know and believe that some of the additional amendments will be referred to here. Have the rules been defined here?

**The Chairperson:** I do not understand. What substantive Clause on the Table are you debating?

**Mr Aden:** Clause 2

**The Chairperson:** We have disposed it off.

**Mr Nooru:** Thank you hon Chairperson. I thought that when the Chairperson of the Committee was moving the amendment to the Bill, she wanted to put the definition of the word “affirmation.” Could we put the amendment of affirmation under the interpretation now before we dispose of Clause 2?

**The Chairperson:** Is that part of her amendment? Is it part of your amendment, honourable Chairperson of the Committee? You have the document.

**Ms Ndingiza:** Thank you Rt hon Chairman. Yes, it is part of our amendment as the Committee, to insert the definition of “affirmation” immediately before the definition of the word “Council.” I then provided some wording. I could also read that again. - *(interruption)*

**The Chairperson:** Yes, you inserted the word “affirmation” and you defined affirmation. The amendment we voted includes all that.

**Ms Ndingiza:** Thank you Rt hon Chairperson. I thought that was clear.

### *Clause 3*

*(Question, of the amendment)*

**Dr Makame:** Mr Chairman, I am having an issue with the First Schedule, which is on Page 6. Once we adopt item No.3 that will mean that we have also adopted the Schedule. The Schedule is on Page 6. The Secretary General as the administering authority is not

there. The office before whom the oath is taken is not provided.

When we look at the Members of the Assembly, the administering authority is the Clerk and the organ or the office to whom oath is taken is the Speaker of the Assembly. I have these two issues, which I have observed. With regard to the one for the Secretary General, I think we need to indicate that it is the judge- (*interruption*)

**Ms Muhia:** On a point of information.

**Dr Makame:** Let me dispose of with what I am saying then I will take the information later.

**Mr Kasamba:** Mr Chairman. I stand on a point of procedure to indicate that the Schedule will come as its own entity.

**The Chairperson:** Indeed, we will deal with the Schedules later and you can come with an amendment when we get to that stage. Are you convinced?

**Dr Makame:** Yes.

*(Clause 3 agreed to)*

*Clause 4*

*(Clause 4 agreed to)*

*Clause 5*

**Ms Oda Gasinzigwa (Rwanda):** Thank you, Mr Chairman. I need a clarification on Clause 5(2). It is stated that a person who declines,

neglects or omits to take the oath or affirmation under this Act shall, this moves on to “c” and “d.”

I want a clarification on this because I do not see how this will be determined when a person has neglected or omitted to take oath. I do not see the procedure for doing that, unless it is prescribed in the Rules and Procedures somewhere.

**The Chairperson:** Could you read part 2 of that Section? Sub section 2 of Clause 5?

**Ms Gasinzigwa:** Clause 5(2) reads:

“If he or she has assumed the duties of the office be deemed to have vacated the office from the date of refusal. “

How do you determine the date of refusal? Is it by writing or by the person not attending to duty? I see something missing here.

**The Counsel to the Community (Dr Anthony Kafumbe)(Ex officio Member):** Mr Chairman, the way it is now, once a person is employed in the service of the Community, it is a requirement that they take oath, according to the Regulation 29. Therefore, a date is appointed on when staff must take oath depending on the authority that administers it. There is a mechanism of ensuring that staff take oath. Once you take oath, it is known that you have taken oath. Those who do not take oath are also known.

Upon appointment to the service of the Community, it is a requirement to take oath. In the case of the Secretariat, for example, the Secretary General ensures that oath is taken

within the first few days of appointment. Therefore, it is possible to do that.

**Mr Adan Mohamed Nooru** (Kenya): Thank you Mr Chairperson. This issue has to be clearly spelt out and clarified. I thought that the oath of affirmation is done before one assumes office. The issue of people assuming office and yet they have refused to take oath of affirmation, I do not really know how it arises. The oath should come before one assumes office. That should be clear. How can one assume office when he has not taken oath?

**Dr Kafumbe:** I thank you, Chairperson. There are certain officers who must take oath before they assume office. For example, the Secretary General and the Deputy Secretary General. However, for the professional and general staff, they are first recruited and then they indicate when they will report on duty. The arrangement has been that they should take oaths together, in the first two weeks when all of them have reported. Therefore, we could have a person coming to work for a week before taking oath.

**The Chairperson:** Even after we have the law, will we allow people working before taking oath?

**Dr Kafumbe:** No, I think that will change with this. However, the practice has been that we have been relying on the Staff Rules and Regulations.

**The Chairperson:** We now have the law.

**Mr Habib Mohamed Mnyaa** (Tanzania): Mr Chairman, if that is the case, as Mr Nooru said, then there is no reason to say that the person may be deemed to have vacated from

office. It should be stated that if he is not taking the oath, then he should be removed from office. Why should he be deemed to have vacated?

**The Chairperson:** How do we resolve that?

**Mr Nooru:** Mr Chairman Sir, I think sub section 2(a) should be amended.

**The Chairperson:** Are you moving a Motion?

**Mr Nooru:** Mr. Chairman, I beg to move:-

That, Clause 5(2) (a) be deleted.

**The Chairperson:** Honourable Nooru is referring to a clause that must be deleted. Is the Motion seconded?

*(Mr Kasamba seconded)*

Hon. Nooru, you are moving that we delete Clause 5(2)(a). The Motion has been seconded.

*(Question of the amendment proposed)*

**Mr Gideon Gatpan Thoar** (South Sudan): Thank you hon Chair. I stand to support the Motion that was proposed by hon Nooru. We are coming out of a tradition where people have been assuming offices without going through necessary procedure, which includes taking oath. Now that we are developing a law, this particular item should be deleted and removed. That is Clause 5(2)(a). I support the Motion fully.

**Ms Rose Akol** (Uganda): Thank you Rt hon Chair. Before we take a position to delete part 5(2)(a), I would like to understand what we



mean by assuming duties of office. When are you deemed to have assumed the duties of an office? I need that explanation because at times it is not the physical entrance and sitting in office. There could be circumstances where you will be deemed to have assumed duties of the office but not formally sworn-in. I want to understand from the CTC, when is someone deemed to have assumed duties of office?

**The Chairperson:** Actually whether one can assume office before he or she is sworn-in. That is the question the CTC must help us answer.

**Dr Kafumbe:** Chairperson, as I was saying, especially for the big numbers like the professional and general staff, it is possible for people to report and start working as they wait for the others to come before they take oath. We have been having situations where the Secretary General determines, for example, that the oath will be taken on 30<sup>th</sup> April and yet we have people who may have reported on 15<sup>th</sup> April or 3<sup>rd</sup> April. People report on different days.

**The Chairperson:** Can they be held responsible for regressions that may happen before they are sworn-in?

**Dr Kafumbe:** During that time, they are dealing with induction while others are reporting. People do not report on the same date.

**The Chairperson:** The question is strictly legal. When am I assumed to have taken office? This is not just about showing up and being oriented. A strict beginning must be legally defined from which date or time one

can be held accountable in what they do in that capacity.

**Dr Kafumbe:** Under our Staff Rules and Regulations, the effective date of reporting is when you come to report. You first accept the offer, you then come to report and we effectively say you have started work.

**Mr Simon Nganga Mbugua (Kenya):** Thank you Mr Chairman for the opportunity. I stand to support the Motion by my colleague. I just want to clarify on what the CTC is supposed to clarify. I am taking up his responsibility for now.

You cannot take office before you take an oath, essentially. That is general practice. If you are in office but have not taken oath, then you are there illegally. That is what I think. There are no two ways with regard to taking an oath. For someone to take office, they must take an oath. That is why I support the Motion by hon. Nooru.

**Mr Chris Opoka-Okumu (Uganda):** Thank you Rt hon Chairman. I am having a problem with the Motion for the simple reason that we have already passed Clause 3. When you go back to Clause 3, it does not say the time that these people are supposed to take oath. It simply says that a person appointed to an office specified in the first column of the first schedule shall take oath of allegiance and oath of secrecy to the Community. It should have specified before they assume office but it did not. It is silent on that. Therefore, due to that, I am having trouble with the amendment that has been proposed by my good friend, hon Nooru because it will substantially affect Clause 5(1). It will render it almost nugatory. It says that this action

shall not render invalid any act done specified in column 1 of the First Schedule in the execution of his or her duties by reason only of the omission of that person to take oath. Therefore, there is already a foresight about a possibility of someone acting without taking an oath. Thank you Rt hon Speaker.

**The Cabinet Secretary, Ministry of East African Affairs and Northern Corridor Development (Kenya) Mr Peter Munya** (*Ex Officio Member*): Mr Chairman, I am agreeing with the Member who has spoken before me. The nature of this oath is that it is mass oathing. If we say that one must take office before taking office, we will create chaos. Oath is an act of faith. It does not remove the other laws that hold you to account for what you do while in office. This is an act of faith telling you to be faithful to the rules, regulations and conduct that your office requires. It does not supersede other laws that already in existence if you assume office before taking the oath. This is just an additional safeguard. Therefore, I plead that the Bill remains the way it is.

**Ms Fatuma Ibrahim Ali** (Kenya): Thank you Chairman for allowing me. I am opposed to the deletion. As a Member of the Legal, Rules and Privileges Committee, we debated on this. We had a lengthy discussion. In sequence, one, an officer is appointed, they first sign a contract. The swearing-in may be delayed due to arrangement or other factors. It is assumed that once you sign your contract, you are preparing yourself to be sworn-in so that you safeguard information and any other obligation as it is required.

Mr Chairman, we felt that this clause would provide an opportunity where there are

challenges in court in case swearing-in is delayed or terms of service are concerned. We were quite practical. We looked into realities that happen. We said that this clause should remain the way it is so that it safeguards in terms of challenges in court. At times, people may stay long without taking oath or affirmation because of other arrangements. Somebody could also come, since citizens have become litigants, and sue somebody who is in office without being sworn-in. After taking up the contract, one may go ahead to be sworn in. This is just to safeguard that clause.

**Mr Paul Mwasa Musamali** (Uganda): Thank you Mr Chairman. I am a Member of the Committee on Legal, Rules and Privileges. This is just to inform you, as my colleague, hon Fatuma Ibrahim has put it, that we had a lot of time deliberating on this. I just want to share with the House that I am a beneficiary of this kind of law. We should maintain this Clause as it is. I started working in Parliament of Uganda and took my oath two years after I started working because of a number of reasons. I am opposing the deletion of this sub section of the clause because we need to allow for flexibility in terms of the working of this law. There are others like what the CTC has put it, who are supposed to take oath before they assume office, like ourselves, Members of Parliament and the Secretary General.

I am saying we should maintain this as it is because there are some people who will not need to necessarily take oath before they start working especially the staff of Parliament or much lower cadres. The Secretary General is responsible for administering oath to such

people but these people may assume office when he is in Europe or somewhere else on official work. It may also be the CTC and at the time they report to work, he may be attending to court sessions due to the litigations we have been having here and there. Therefore, he may not be there but someone has been given a contract to start work on 1<sup>st</sup> July. What happens? We should maintain it to allow flexibility of the law and to allow people to work without becoming very rigid.

**Ms Maryam Ussi** (Tanzania): Thank you Rt hon Chairman. First, being one of the hosts, I would like to welcome you to the headquarters of the United Republic of Tanzania. Feel at home. We are here for you.

I stood earlier on a point of procedure on Rule 31 with regard to the manner in which we are supposed to debate Motions and amendments thereto. Rule 31(5) explains exactly what is needed for a Member of this House to amend or delete a clause of the Bill.

I stand here to oppose the deletion. I want to declare that I am a Member of the Legal, Rules and Privileges Committee and we discussed this point as hon Fatuma said. Rule 31(5) says that any amendment to be moved and seconded in the House shall be—*(Interruption)*

**The Chairperson:** Hon Maryam, the requirement to put the amendment in writing is for the convenience of the Speaker and the Clerk. Even when a Member does not announce that he has the amendment in writing, we make sure that we get it. There is a way that we coordinate.

**Ms Ussi:** Thank you for your guidance, Rt hon Chairman. This is a Bill from the Council of Ministers and we cannot have a deletion without debating the issue and the custodians of this Bill accepting the deletion. I am opposing the Motion to delete Clause 5 as proposed.

**The Chairperson:** Thank you hon Maryam. Indeed, we are debating. That is what we are precisely doing.

**Ms Josephine Sebastian Lemoyan** (Tanzania): Thank you Mr Chairman. I am opposing the deletion. Let me first declare interests. I am a Member of the Committee on Legal, Rules and Privileges. We have debated this matter extensively and agreed to have this clause the way it is because this oath will be dealing with staff and members of the EAC and its organs. Within the EAC Organs, we have members of staff of the Community of different cadres. Sometimes, it is not easy for all cadres to take oath at the same time or when they assume office. We took that consideration for the sake of practicality of implementation of this exercise especially when there should be an oath taking celebration.

**The Chairperson:** Thank you hon Josephine. Hon Kasamba and then Ms Mary Mugenyi.

**Mr Kasamba:** Thank you Rt hon Chairman. I want to appeal to my colleagues. I appreciate the work of the Committee. The provisions within Section 5(2) state; “a person who declines, neglects or omits to take oath—“

A day has been gazetted for you to take oath but you decline and neglect. Therefore, provision 5(1)(a) becomes very irrelevant. If he assumes the duties of that office and is deemed to have vacated the office from the day of refusal. However, if he declines and there was an arrangement for the person to take oath but the person refuses, provision “b” holds the water that if he does not assume the duties of the office, he should be disqualified from assuming duty of the office. This one says that someone has neglected. A provision has been given to take oath but you have neglected although you continue to be in office.

Provision “a” is very redundant. I submit.

**The Chairperson:** Thank you hon Kasamba. The interventions by the CTC and hon Munya were based on assumptions that it is a matter of scheduling and that there is no reference to this scenario that the Member has explained.

**Ms Mary Mugenyi (Uganda):** Thank you Mr Chairman. Going by the explanation that has been given by the CTC that one can assume office and take some time before taking oath, what happens between the time when one takes office and the time when one is sworn-in? Supposing there is an offence that is committed, what happens? That brings me back to my earlier submission. Where the oath is important or necessary, those people come in and immediately take oath and they do not assume office. We should either put it in a way that you take oath before assuming office or some ranks of Community are guided by the contracts they signed. I do not see the relevance of taking the oath afterwards since committing an offence can

come in any time. That becomes irrelevant to me. I made the same submission before and I am still wondering.

My mind is not convinced regarding the fact that everyone has to take oath. Some people have signed contracts and this makes it worse for me, that someone can come in, and takes up an appointment without signing a contract which spells out your term and conditions, start work and yet anything can happen. Therefore, what is the relevance of this?

**The Chairperson:** Hon Mary, let me contextualise the status so that we do not deviate from the debate. Clause 5(1) speaks to the scenario explained by the CTC and the honourable Minister. Sub section 2 according to hon Kasamba is an exception to Clause 5(1). That is the issue we need to address.

**Mr Dennis Namara (Uganda):** Thank you Mr Chairman. I also want clarification from the CTC if you permit me. My question is, if for example you sign a contract but you do not take oath and before you take oath you divulge some important information that otherwise, you are not supposed to divulge to the public, who is culpable?

Number two, will the person who allowed you to work without taking oath be responsible for the action? Will the person who has committed the Oaths act, be held responsible? As long as I get that information, I will support.

**Mr Aden:** On a point of information. I can see that colleagues want to debate this issue very much. The reality of the matter is, it is possible that a person is appointed to office, reports to office on the day they are supposed

to take up duty, they start working, but they may also not start working on that same day. As you will see in the schedule, some of the swearing-in requires a ceremony. Some of it should even be witnessed by the Summit. The Summit could be sitting one or two months away from now. Between now and that time, the person who has reported to duty then has the responsibility to continue discharging their duty only awaiting for the opportunity for the ceremony to happen so that they can be sworn-in. Indeed, I very much support the Committee's intention to leave this clause as it is. It is practically possible for a person- *(interruption)*

**The Chairperson:** Hon Abdikadir, the Motion on the Floor is not touching on this one but on sub clause (2). Therefore, we should debate Clause 5(2)(a).

**Mr Aden:** I am actually on Clause 5(2)(a). That is where I am. I am on 5(2)(a). The information I want to give my good friend and colleague, hon Namara, is that indeed, it is possible as the Committee advises us that a person has assumed office, is working and waiting for the opportunity to be sworn-in.

**The Chairperson:** Hon Abdikadir, Clause 5(2) does not speak about someone whose opportunity to be sworn-in has not been arranged. It talks about someone who has neglected. We have to be mindful about the language of the Bill. Hon Namara, could you conclude your contribution?

**Mr Namara:** Hon Chairman, I do not think that hon Abdikadir has sufficiently given me information and clarification regarding this matter. I request the CTC to inform me, someone may sign a contract. However, we

also have the Oaths Act that requires a person to take oath. The purpose of taking oath is not in redundancy. There is a reason why we are legislating for somebody to take oath. I want a clarification, Mr Chairman.

**The Chairperson:** I want to invite the CTC. Hon CTC, when you are providing the information, use the language of the Bill. We are talking about someone who neglects or declines. That is the language of the Bill.

**Dr Kafumbe:** Thank you Mr Chairman. I think we need to have a background. What we have been operating on are the Staff Rules and Regulations. Regulation 24 of the Staff Rules and Regulations that are in force right now say that the appointment of member of staff shall take effect from the date he leaves his home country. That is what is in effect right now. It is possible to have members who leave their country and start working. However, when you sign a contract, the contract says that your appointment is also subject to the provisions of the Staff Rules and Regulations. The provisions of the Staff Rules and Regulations require that you have integrity, you do not disclose information, that you conduct yourself in a manner befitting of an international civil servant.

**The Chairperson:** I will now explain to you how I understood the information that Members want. They want information or clarification on what happens to an employee who has neglected, declined or omitted to take oath. I want you to take into account the language of the Bill. This is not just about someone who has reported and yet a ceremony is yet to be arranged. This is about someone who has neglected, declined or omitted.

**Dr Kafumbe:** I thank you Mr Chairperson. What would happen then is that the person should be subjected to disciplinary proceedings as provided for in the Staff Rules and Regulations. It is a requirement under Regulation 29 for all staff to take oath.

**The Chairperson:** I will take two final interventions then we dispose of this matter.

**Ms Gai Deng** (South Sudan): Thank you hon Chairman. I am very tall. I am not sure you can hear me without me bending. Thank you for the opportunity to respond to some of the questions. I have to declare that I am a Member of the Committee. Now, I think that honourable Members are concerned with the fact that if someone has not taken oath and they commit an offence. The CTC has already explained. You can be a secretary, you report to duty, sign a contract and that contract becomes binding. If before you take oath, through no fault of yours omission or neglect could be due to delay of procedure, or because the person who will give the oath is not available- (*interruption*)

**The Chairperson:** That is about omission, what about declining.

**Ms Deng:** If they decline and they have already signed a contract and reported on duty, it continues to say that they are deemed to have vacated. If they have not assumed the duties of the office, then they are disqualified.

The concern by honourable Mugenyi is; what if they commit an offence? Now, if you sign a contract as the CTC has said, that contract stipulates all the subscribed penalties if you do not prescribe to the rules to which

you have signed. That is clearly prescribed in the Staff Rules and Regulations.

Regulation 88(e) talks about unauthorised use of official property. Official property includes data, confidential information and anything that is prescribed as confidential.

Therefore, if somebody commits an offence that is already taken care of because they signed a contract. Therefore, something there will penalise you. After being given the opportunity to take oath, if you neglect it and are in office, you are disqualified. If you have not taken office, then you leave. I think that is very clear and I object to the deletion. Deleting it will not take care of all the other aspects that have been mentioned.

**Ms Fancy Nkuhi Haji** (Tanzania): Thank you hon Chairman. I do not support the deletion of 5(2)(a). My little understanding of the legal language is that, a person who declines or neglects intentionally is not interested in doing to what he or she is supposed to do according to the law. Sub clause 2(a) already puts a penalty for a person who does not do what he is supposed to do.

**The Chairperson:** Thank you hon Fancy. I think you are being humorous. You have full understanding because you are a lawyer.

Honourable Members, I had said that those were the two final interventions on this subject. I will now put a question.

*(Question, that Clause 5(2)(a) be deleted proposed)*

*(Question, put and negative)*

*(Clause 5 agreed to)*

*Clause 6*

**Dr Makame:** Thank you Mr Chairman. We, as a legislative assembly, represent East Africans. East Africans comprise a wide range of population with a variety of beliefs. Majority are Muslims and Christians. However, we also have to consider the minorities. For that reason, I note that we have been referring to taking oath using the Bible or the Quran and ignoring other faiths or even people with traditional beliefs. For that reason, I would like to propose and amendment.

Mr Chairman, I beg to move:-

That, Clause 6 is amended to read:  
*Whenever a person is required to take an oath under this Act or any other law of the Community, the person taking oath shall hold a sacred symbol in his high held hand and shall utter the words indicated in the oath.*

I will submit this to you, Mr Chairman.

**The Chairperson:** Seconders? Hon Makame, there is no one seconding your Motion. Therefore, it has collapsed. When a Motion is not seconded, it collapses.

*(Amendment by Dr Makame collapsed)*

**Ms Akol:** Thank you Rt hon Speaker. I would like to seek a clarification on Clause 6(2) which says, for the purpose of this Section, where the person taking the oath is physically incapable of holding the Bible or

Quran, whichever the case may be in his or her uplifted hand, he or she may hold a copy or otherwise, a copy may be held before him.

We are talking about the Bible or the Quran. However, as we conclude, we are talking about copies. What is a copy? A copy of what?

**The Chairperson:** At times, the copies are heavier than the original.

**Ms Akol:** Yes, a copy of what? There is no definition here. Is it a copy of the Bible and why a copy anyway? Rt hon Speaker, I am seeking clarification on this one.

**The Chairperson:** Maybe before we proceed, is the Council in a position to provide that clarification?

**The Chairperson:** While they are consulting, hon Wanjiku Muhia.

**Ms Muhia:** Hon Chairperson, it is a copy of the oath.

**The Chairperson:** Even in case one is able to hold these two religious books, a copy of the oath has to be there. How does it address this situation?

**Mr Musamali:** Thank you Chairperson. The answer to this concern is probably in Clause 7, which we are yet to discuss. Those who do not belong to any faith, without probably promoting witchcraft, if you do not belong to Christianity or Islam, traditionally or whatever the case, that is provided for in the Third Schedule. The Third Schedule talks about affirmation. Therefore, you will not swear to God or Allah but you will take that oath to solemnly affirm that you will serve

the institution without necessary divulging information.

**Dr Makame:** Mr Speaker, Mr Speaker.

**The Chairperson:** Dr Makame that is not how you seek attention of the Speaker. You do not call. You should just stand and you catch the Speaker's eye.

**Mr Aden:** Thank you Mr Chairman. I support the inclusion of this Clause. I have heard and seen the concern of hon Rose. I think there is a matter of English here in sub clause 2 where it says; for the purpose of this section where a person is taking the oath and is physically incapable of holding the Bible or the Quran, whichever the case may be, in his or her uplifted hand, she may hold a copy. I know it is referring to the copies of the two books. However, the clarity is lacking here. If we could have an opportunity to wordsmith here and explicitly wherever copy is written we replace with Bible or Quran. -  
(interruption)

**The Chairperson:** Hon Abdikadir, are you moving for the insertion of a particular word?

**Mr Aden:** Yes.

**The Chairperson:** Could you move it properly?

**Mr Aden:** Hon Chairman, I beg to move:-

That, Clause 6(2) be amended by inserting, before the word copy the words the "Bible and the Quran" and delete the word copy. Further in that line, wherever the word copy appears, that should be replaced with the words the "Bible or the Quran."

(Ms Fancy Nkuhi seconded)

(Question of the amendment proposed)

**Ms Francoise Umukiza (Rwanda):** Rt hon Speaker, in holding this copy as the Bible or Quran, we have to define what a Bible is and what is the Quran. The person mentioned here may have disability or impairment and not able to hold the Bible or Quran. By retaining the Bible or Quran, we are not solving the issue of disability because the Bible or Quran will always be a book, which may be heavy to hold.

**The Chairperson:** I think the point that the Member is making is that the copy cannot be assumed lighter or more convenient for someone to hold. Whether the copy is less or heavier than the entire book, what is this copy?

**Ms Mugenyi:** Mr Chairman, I would like to support the amendment by hon Abdikadir but with a further amendment. If not, I would like to seek a clarification. The last part of that paragraph says that a copy may be held before him or her by the person administering the oath. Why does it have to be a copy if the person that does not have disability is the one holding the book? Do we need a copy or the actual book can be held by the individual administering the oath? Unless there are legal implications here that are not obvious to us, I do not see the relevance there or a copy of a Bible or Quran.

**Mr Aden:** On a point of information. I think hon Mary's concern is right. Usually, the Bible and Quran are said to be a copy of the Quran or a copy of the Bible. There is no original book. The original book came from up there and nobody knows where it is. That is true. We always refer to the two Holy



Books as either a copy of the Bible or a copy of the Quran. I think the word copy here should not be misconstrued to mean a physical photocopy from the machine of the Holy Books. It refers to a copy of the book. That is the clarification.

**The Chairperson:** But you see the extend of possible misinterpretation?

**Hon Members:** Yes.

**Ms Mugenyi:** Hon Chairman, all along, we have been using the Bible or the Quran. The word copy becomes completely irrelevant if we go by that argument.

**Mr. Omar Adam Kimbisa** (Tanzania): Thank you Mr Chairman. I also join my colleagues in welcoming you to Dodoma. Dodoma is a new city and apparently, one of the many reasons why the capital city was moved from Dar es Salaam to Dodoma is because the people of Dodoma are very kind and welcoming. Therefore, in short, this is your home away from home.

Hon Chairperson, I am confused. Why did we limit ourselves to three books only? Why did we limit ourselves to the Quran and the Bible? The Buddhists have their book. The Zionists in Israel have their book. Why did we limit ourselves only to two books? That is my first concern.

My second concern is the issue of the copy. As far as I know, I do not know about other books, but the Quran does not have a copy. The Quran is considered original through and through. It does not possess a copy. Therefore, I agree that we do not use the word "copy."

Three, which hand is supposed to hold either of the books? Is it the left or the right hand? I need some clarification.

**The Chairperson:** Thank you hon Kimbisa. By the way, Dodoma is the hometown of hon Adam Kimbisa.

**Hon Members:** Oh, yes.

**Mr Christopher Nduwayo** (Burundi): Thank you Mr Chairman. I just want to propose an amendment on sub clause 2. I want to delete the words she or he may hold a copy otherwise or if necessary.

The Bible or Quran may be held before him or her by the person administering the oath.

**The Chairperson:** That sounds like another amendment, which is another Motion. I will give you an opportunity to move your own because it is not addressing the amendment we are discussing now. It is a different one.

**Mr Nduwayo:** Mr Chairman, it is the same. You will just be removing the word "copy" and replace with - (*interruption*)

**The Chairperson:** So, are you moving an amendment to an amendment?

**Mr Nduwayo:** Yes.

**The Chairperson:** Could you move it properly?

I beg to move:-

An amendment to the amendment to delete the words "he or she may hold a copy otherwise or if necessary" so as to read "the Bible or Quran may be held before him or her by the person administering the oath."

**The Chairperson:** Hon Chris, could you put it in writing so that we examine and see whether it is part of the amendment on the Floor.

**Mr Aden:** Hon Christopher and I are trying to achieve the same thing. What I have done, hon Christopher, is to remove the word “copy”, it should be completely deleted and in its place, we put the Bible or Quran. That solves everything even what you are saying. Remove the word copy and put the words “Bible or Quran” everything else will remain as you are saying.

**The Chairperson:** Someone sent a memo without a name. I do not know who sent it. When you send a memo, you have to write your name.

**The Cabinet Secretary, Ministry of East African Affairs and Northern Corridor Development (Kenya) Mr Peter Munya (Ex Officio Member):** Mr Chairman, I want to support that amendment as an improvement of the original one in the sense that if this person is incapable of holding the Bible or the Quran, you cannot continue to say that he must lift it because from the beginning, he is unable. Therefore, you need to delete the words, beginning from in his or her uplifted hand be or she may be held a copy otherwise or if necessary. We should delete all that so that the sentence reads; “

“for the purposes of the section where a person taking the oath is physically incapable of holding the Bible or the Quran, whichever the case may be, may be held before him or her by the person administering the oath.”

**The Chairperson:** Hon Munya and hon Abdikadir, could you merge the two, do a proper drafting that will constitute the question. He is not moving a new amendment but improving on your amendment. Now, I want a new phraseology that will encompass the two.

**Mr Aden:** Hon Chairman, I beg to take his version, which is more improved than the one I had proposed earlier. It brings in the issue of the inability to lift the hand while solving my problem as well. I think I will take the honourable Council Member’s amendment as a substantive one.

*(Mr Aden withdrew his amendment)*

**The Chairperson:** I will now put the question on the amendment moved by hon Abdikadir and improved by hon Munya.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,*

*put and agreed to)*

*(Clause 6(2) as amended, agreed to)*

*(Clause 6 as amended agreed to)*

**The Chairperson:** Council Member, you have to bring a written version of the amendment.

*Clause 7*

**Ms Ndangiza:** Thank you Rt hon Chairman.  
On Clause 7 - *(interruption)*

**The Chairperson:** Madam Chair, hold on. I have very many advisers here and some of them are- So, what is the situation?

*(The Chairperson consulted with the Clerk-at-the-Table.)*

Hon Chris, proceed. The Chairperson will come after.

**Mr Chris Opoka-Okumu** (Uganda): Thank you Mr Chairman. I would like to propose an amendment. The note that was sent to you had been sent to me ahead of time because I was to propose an amendment to Clause 7.

In Clause 7, a person who is appointed to an office of the Community who does not take an oath as required under section 3, shall in lieu of taking oath make an affirmation of secrecy and allegiance as prescribed in the Third Schedule.

As you can see, in Clause 6, there is an elaborate procedure of those who are taking oath on how they should hold the Bible and with what hand. It is my view that those who are making affirmation should also do an activity to manifest the affirmation. I normally see people raising their right hand.  
*(Interruption)*

**The Chairperson:** Hon Chris, I thought you were moving a Motion. You are now debating.

**Mr Opoka-Okumu:** The Motion I have moved is with the Clerk-at-the-Table.

Mr Chairman, I beg to move:-

That, Clause 7 be amended to read:

A person appointed to an office of the Community who does not take oath as required under Clause 3 shall in lieu of taking oath make an affirmation of secrecy and allegiance as prescribed in the Third Schedule by lifting their right hand with open palm.

**The Chairperson:** Seconders? There is no one to second you Motion. Therefore, it has collapsed.

**Mr Aden:** If a given clause has been amended or a proposal has been pushed by the Chairperson of the Committee, so that we do not end up with the situation of hon Opoka, we should first look at the proposal by the Chair.

**The Chairperson:** Our understanding is that the proposal by the Chair is a completely new clause.

**Mr Aden:** An inclusion of a completely new clause?

**The Chairperson:** Thank you.

**Mr Aden:** I stand guided, hon Chairman.

**Ms Mugenyi:** Hon Chairman, it is my wish that there should be a time perspective within which oath of allegiance or affirmation is taken. When we leave it, open like this, since I can see we are coming to the end, which means that one can get into office and stay without being sworn-in. That really takes us back to Clause 3. However, if that can be inserted within Clause 7 so that there is a time perspective within which a member who has

been recruited to office is able to take oath. That is my request.

**Ms Akol:** Thank you hon Chairman. I need further clarification on this one. The circumstances should be very clear and listed here. Here it says, a person appointed to an office of the Community who does not take oath as required under Section 3. Reasons for not taking oath as required under Section 3 should be listed. They should be very clear. Why should someone not take an oath? That should be very clear. Why should someone not take an oath? The reasons should be listed. I am seeking clarification from CTC, the circumstances that someone takes affirmation and not an oath. This is to support Clause 7.

**The Chairperson:** It seems as if new proposals are being made, not amendments as such. These are new proposals that may need to be substantively considered. Council may need to reflect on that. In those circumstances, I will invoke the provisions of Rule 70(14) to defer the debate on Clause 7 as you reflect on it then we proceed with other clauses. We will come back to that.

Those who have made new proposals should engage with the Council and make your proposals understood.

*(Amendment to Clause 7 deferred)*

**Mr. Akol:** Before we move to Clause 8, Rt hon Chair, I am seeing in my notes here that there should be an insertion of a new Clause 7A which is supposed to be moved by the Chair.

**The Chairperson:** We will come to that at some point.

**Ms. Akol:** Okay, no problem.

*Clause 8*

*(Clause 8 agreed to)*

*(Resumption of Clause 7)*

*Clause 7*

**The Chairperson:** Committee Chair, this is the time for you to bring your new insertions to this Clause.

**Ms Akol:** Thank you Rt hon Chairman. The Committee on Legal, Rules and Privileges proposes a new insertion of New Clause 7A.

*New clause 7A*

Insert a new clause in the Bill, immediately after clause 7 as follows:

“7A. Amendment of East African Legislative Assembly (Powers and Privileges) Act, 2003.

For section 13 of the East African Legislative Assembly (Powers and Privileges) Act, 2003, there is substituted the following-

**“13. Oath or affirmation of allegiance of Members and Speaker**

(1) Every Member of the Assembly shall at the first sitting of the

Assembly take and subscribe to the oath or affirmation of allegiance administered by the Clerk.

- (2) Immediately following the election of a Speaker, the Clerk shall administer to the person elected Speaker, the oath or affirmation of office and allegiance.
- (3) Where a person becomes a Member of the Assembly after the election of a Speaker, the Speaker shall administer to that Member the oath or affirmation of allegiance.”

The justification of this is to remove from Section 13 of the East African Legislative Assembly (Powers and Privileges) Act, 2003, the requirement for the oath or affirmation of Members to be administered by the Speaker, since at the time of convening for the first meeting, a Speaker has not yet been elected.

This is to apply the requirement for oaths or affirmation to both elected and *ex officio* Members instead of only elected Members as currently provided by Section 13 (2) of the East African Legislative Assembly (Powers and Privileges) Act, 2003.

*(Question of the New Clause 7(a)  
proposed)*

*(New Clause 7(a) read the First  
Time)*

**Mr Aden:** Hon Chairperson, I see the justification for the addition of this particular

New Clause. I can also see the effect that this Clause is substantively amending another legislation. I believe that the Council and the Chair have consulted very much on this. I do not know whether the wordings of this new amendment read well. This clause should have read something like the passage of this Bill stands to amend the East African Legislative Assembly Powers and Privileges Act. I wish to seek the guidance of the CTC on this procedurally.

I have no problem with this. I support it. I have no problem with this because it must be amended for the oaths to apply. However, procedurally, is this the way to amend? Should we use a Bill to amend another Bill? Is it procedurally correct to amend an existing law? I thought this amendment should have been moved on its own, separately from this Bill.

**Dr Kafumbe:** We are consulting.

**Ms Akol:** Hon Chairman that was the same confusion that arose in my mind. However, hon Abdikadir has explained it. Just to emphasise, I am here to witness this but I stand to be corrected. Can you bring another Bill to amend an existing law? Well, this can happen but in reference to this, for the other one to be expunged from the other side. We need to understand from the CTC how to do it. However, the CTC is moving in the right direction. We want to bring all issues to do with oaths to one Bill or effectively one law when it is passed, even the section to do with Members of Parliament.

I remember when I was being sworn-in. It was the Clerk who was the presiding officer. I think this amendment is in order. By

removing the other clause from an existing law, they are seeking to put issues to do with oaths together. However, the clarification still stands. What do we do? Should it be to amend the other law or this amendment effectively amends the other one? We want to know from the CTC whether we are moving procedurally in the right direction.

Mr CTC, are you still consulting?

**Dr Kafumbe:** Mr Chairman, what the Committee has done is to consolidate matters of oath under this Oath Bill. Going by our discussions, it is in order.

**The Chairperson:** It is in order according to the Council.

**Mr Opoka-Okumu:** Rt hon Chairman, I personally do not think it is in order the amendment of an Act to be done in another Act. If, as envisioned by hon Rose, you want to bring all matters of oaths together, you can still do it without making reference to the EALA Powers and Privileges Act.

In my view, I think it is not in order for us to amend a different law completely with another law. If the Committee wanted, they could have brought an amendment of that other law, differently.

**The Chairperson:** Hon Chris, is your point that another law cannot amend a law? How else does it get amended?

**Mr Opoka-Okumu:** The amendment cannot be done this way. Of course, you can bring a law, specifically, to amend and repeal an existing law. However, that would be addressing that law, specifically but not in the manner that this one has been brought.

**Mr Aden:** What hon Chris is saying and subsequent to the matters I raised earlier, with concurrence from our two senior colleagues, we need to change the wordings of this amendment. This law should use words such as; that this Act takes precedence or supersedes any other Acts when it comes to the issue of oathing. Very quickly, the Chairperson of Legal, Rules and Privileges in our next sitting should move an amendment to that substantive law to delete that clause. This House can delete that clause in that other law so that this law becomes superior when it comes to oathing. I think that is the right wording for that amendment.

However, as I earlier said, I know that Council has said that it is okay, very quietly without any justification, which, in my view, is far below satisfaction, but this is an amendment. The title here reads amendment of the East African Legislative Assembly Powers and Privileges Act. That, in itself does not sound like a clause of an Act. It looks like an amendment that the hon Chairperson is moving. I think we need to change these wordings in very simple terms and say that this law takes precedence over all other Acts of this Assembly with regard to the issues of oathing. Next week, we could amend the other substantive law. I think that will be the right direction.

**The Chairperson:** I take it that you are trying to convince the Committee Chairperson before you move. Otherwise, if we think it is necessary, we will move a Motion to that effect.

**Ms Ali:** Thank you hon Chairman. I think hon Aden should know that our Committee chair has consulted the legal drafters and the

CTC. I am informed that the EALA system is different from the ordinary national assemblies' systems. Could be this is the system they have adopted and they have advised that this is in order. I think it is not in order to overload the House with many amendments. If this serves the purpose of taking oath for the EALA, then I think it is in order that it stays the way it is and the way it is captured without going around. It does not undermine the Act regarding affirmation and oaths of Members and the Speaker of the EALA. I think we have done extensive consultations both legally and practically and I think this is in order. It is appropriate, it is here and probably this is the language preferred in the EAC.

**The Chairperson:** Next is hon Namara. As the CTC reflects on this, he could also inform us about the general principle that a new law has effect of invalidating an old law when they collide.

**Mr Namara:** Thank you Mr Chairman. I am convinced in supporting my senior learned friend, hon Chris Opoka. In the order of precedence, you have the supreme law, which is the Treaty then Acts of Parliament and other subsidiary legislation. Now, when you say that by amending and trying to consolidate all these laws concerning the oath that the Oath Bill will take precedence over other Acts of Parliament with regard to that, in my knowledge of law, I find that- All Acts of Parliament carry the same effect. You cannot say that one Act of Parliament is greater than another.

Number two, I think that if we are to move and amend an Act of Parliament as we are doing now with the Oaths Bill, if we say that

we want to consolidate and bring the other laws concerning oaths from other Acts to this one, then we have to delete what is in other legislations by amending those legislations and not just by referring to those legislations because they carry some effect in terms of hierarchy of laws. I believe that the CTC and other senior learned friends can advise. However, I think that if we want to amend to ensure administration of oath for Members of Parliament, then we have to amend the substantive law under which it is provided for. When we amend it, we have to do so substantively and not by reference.

**The Chairperson:** Well, it seems as if no one else is willing to debate this further. Mr. CTC, you are supposed to provide some clarification. When we are amending the law, is it true that an Act cannot amend another Act? Is it true that a new law is assumed to be aware of the existing law and therefore when they collide, the new law prevails?

**Dr Kafumbe:** Precisely! Rt hon Chairperson, as you have said, we had sufficient consultations on this matter and it was found necessary to consolidate these matters of oath under one piece of legislation. That is what has happened. The new law that we will pass, the Oath Bill, will inevitably amend those areas in the 2003 Act and the justification is there. I have difficulty in understanding when the justification has been given and the Committee consulted widely, why Members are struggling to throw this out.

**The Chairperson:** No, they have taken positions. You have taken a different one and we will proceed like that.

**Mr Ayason:** Thank you Mr Chairman. I also get confused when the CTC asks why Members are struggling. We are also struggling to understand why this one takes precedence over the other. Could you precisely tell us what is happening and why this one is more important than the other one? You need to justify what is happening. Use the law to justify and not simply telling us that you are struggling. We are also struggling to understand.

**The Chairperson:** I think by using the word “struggling”, he was referring to the effort that each side is putting in place. The position, as updated by the CTC is that the new law has the effect of amending any old law that is in contradiction with it as a principle. A lawmaker is deemed to remember everything that was there before when making a new law. That is the CTC’s understanding.

**Ms Akol:** Rt hon Chairman, I will differ with the CTC’s position because my experience tells me that I should differ with him.

The East African Legislative Assembly Powers and Privileges Act, 2003 as explained by hon Namara is a law in itself. Acts of Parliament are Acts of Parliament. The justification that the Chair is supposed to put here is to consolidate the issues of swearing Members and staff of Parliament. However, in our minds, we should know that there is already a contradiction between these two laws. Now, what we should do in future is to put in mind that we have to bring an amendment as explained by hon Namara to bring this Act, the EAC Powers and Privileges Act, 2003, in line with what we are doing right now because we are

consolidating. We can expunge this clause to do with the swearing in from this Act because we already have it here in the Oaths Bill once it becomes an Act. Once it is signed by the Presidents, it becomes law. Once it becomes law, then we move to bring an amendment specifically to remove it from the other existing law. That is what I believe hon Namara was trying to say. We cannot bring a provision in one law to amend what is existing in another law even if it is on the same issue. That is how I understood it.

**Mr Aden:** Mr Chairman, since I am the one who triggered this issue, I was just thinking that the only thing that is wrong with this new clause is the title and nothing else. Why can the Act we are enacting now, state all the powers that are in this Bill? That will automatically crash it with the other law. Therefore, what will we do as from tomorrow? We will go and amend the other law. I think that is the simplest thing to do. I wish to move an amendment to the title of this new insertion 7A. We do not want to lose what is in here. The provisions that are being provided for are very relevant, valid and we must keep them.

**The Chairperson:** Go ahead and move that amendment.

**Mr Aden:** Mr Chairman, I beg to move:-

That, new Clause 7A be amended:

First, by deleting the word “amend” all the way to the second paragraph the word “following” and thereby replacing the same with a title of “Oath of Affirmation of Allegiance of Members and Speaker.”



I beg to move.

**The Chairman:** Thank you hon Abdikadir. Seconders?

*(Mr Nooru, Ms Lemoyan, Dr Kalinda and*

*Mr Chris Opoka seconded)*

*(Question of the amendment proposed)*

**Mr Nooru:** Mr Chairman, the proposal is in order because we cannot have two affirmations; one for Members of Parliament and another for other institutions. We should harmonise and have one law for the entire Community so that oathing is done under this Bill then we do away with the East African Legislative Assembly Powers and Privileges Act which talks about oathing of Members of Parliament and the Speaker. In doing so, this can be amended at the appropriate time. When you make a new law that contradicts another one, the other one is amended at an appropriate time. However, you cannot talk about the East African Legislative Assembly Powers and Privileges Act under these circumstances. You cannot bring an amendment of a law, which is not even before the House. Therefore, we should agree with the amendment that has been proposed and put 7A as affirmation and allegiance of Members among other things. You should expunge the word “amendment” all the way up to the word “following.”

The amendment of the East African Legislative Assembly Powers and Privileges Act, Section 13 prevents us from substituting what is in another law with this one. We will put a new law that this amendment will come

at a later date so that it is expunged from that Act.

**Ms Ali:** Hon Chairman, I want to request your leadership to give us appropriate an amendment. Hon Abdi should draft it so that we know the wordings and how it will fit into this so that we debate substantively.

**The Chairman:** Are you able to debate this before I read out what hon Abdikadir has written?

**Mr Aden:** Hon Chairman, would you like me to read it verbally to you?

**The Chairman:** Yes.

**Mr Aden:** Hon Chairman, I beg to move an amendment to New Clause 7A as follows.

That, the following words be deleted.

Amendment of East African Legislative Assembly (Powers and Privileges) (Act), 2003 and the words, for Section 13 of the East African (Powers and Privileges Act, 2003, are substituted with the following.

All those words I have read should be deleted and in place, the title of this clause should read;

“of or affirmation of  
allegiance of Members and  
Speakers.”

That is the new title. Everything else thereafter remains the same.

**The Chairman:** Thank you, you had moved and it had been seconded. You were just putting the words on record. The debate had ensued. I will now put the question.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,*

*put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

#### Clause 7

**The Chairman:** Hon Mary and hon Rose, you now need to put properly the proposals you made either by way of amendment of otherwise because they were not captured.

**Ms Akol:** Mr Chairman, I would like to propose an amendment. Clause 8 talks about regulations for effecting the provisions of this Act. I would like to propose that the details I have requested for, regarding a person appointed to an office of the Community who does not take oath, those details, which are required as reasons a, b, c be part of the subsidiary legislation and that should be in the regulations to avoid holding this clause. Therefore, it remains as it is. I am happy that we have members of the Council here. They should take notes and the CTC will effectively advice regarding those circumstances so that they become part of the legislation.

**The Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community (Rwanda) Mr Olivier Nduhungirehe** (*Ex officio Member*): Thank

you Mr Chairman. My proposal is to merge clauses 3 and 7. The way it is drafted, it gives the impression that—(*interruption*)

**The Chairperson:** Hon Minister, it may not be possible for us to touch Clause 3. It is too late.

**The Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community (Rwanda) Mr Olivier Nduhungirehe** (*Ex officio Member*): Thank you Mr Chairman. On Clause 7, a sub clause is at the end of this Bill. Those who do not take oath do not do it because they are neither Christians nor Muslims. It seems as if we are creating two categories of citizens. (*Interruption*)

**The Chairperson:** Are we on Clause 7?

**The Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community (Rwanda) Mr Olivier Nduhungirehe** (*Ex officio Member*): Mr Chairman, yes, it is on affirmation. This is about those who do not take affirmation; they do not do so because they are not Christians or Muslims. Therefore, we are putting Clause 7 at the end and creating two categories of citizens, those who are Christians and Muslims; who cannot take the oath with the Bible or Quran.

Clause 7 starts by talking about a person appointed to an office of the Community who does not take oath. This seems to have been formulated in a negative way. I think it is important to think about it and put both in the same clause. Thank you.

**The Chairperson:** Thank you hon Olivier, Member of the Council. This is your Bill.

Could you consult and enlighten us on how to proceed?

Honourable Members, debate is open on Clause 7. If you want to bring an amendment to your Bill, that is okay.

**Mr Nooru:** Honourable Chairman, the question that was raised by the Member, Council of Ministers is very valid. This can be solved by a very simple word. A person appointed to an office of the Community who does not take oath otherwise, for a certain reason, the reason is that you are neither a Muslim nor a Christian. If you cannot include those two words, then it should read; who does not take oath as required. Other than oath should be included to be clear.

**The Chairman:** At times, it is important to debate before we ask any Member to move a Motion. People should understand the substance of what we are discussing. We have not moved any Motion so far for an amendment. However, honourable Members are discussing.

My understanding of your proposal is that it does not alter anything in this Bill. Therefore, it is taken. Honourable Members, the Council of Ministers is consulting. It is only fair that they consult. We have to be patient. As you consult, honourable Members, it is very important to know who is in the gallery because this touches directly on how we behave at times.

#### VISITING DELEGATION OF MEMBERS OF PARLIAMENT FROM KENYA

I am glad to announce the presence of Members of the National Assembly of Kenya;

Hon Ndindi Nyoro;  
Dr Gideon Ochanda;  
Hon Mathias Robi;  
Hon Abdi Ibrahim; and,  
Hon Nasri Ibrahim; and, they are accompanied by Mr Kefa Omoti.

Honourable Members, it appears as if there is need for consultation on the part of the Council and other Members who may wish to advise the Council. For that reason, I am adjourning the House for 20 minutes.

*(The House was suspended for 20 minutes)*

*(The House resumed)*

*(The Speaker (Mr Martin Ngoga) left the Chair)*

*(The Chairperson (Mr Martin Ngoga) in the Chair)*

In the Committee

#### Clause 7

**The Chairperson:** Honourable Members, we resume the debate on Clause 7.

**The Minister of State in the Ministry of Foreign Affairs, Cooperation and East**

**African Community (Rwanda) Mr Olivier Nduhungirehe** (*Ex officio Member*): Mr Chairman, I would like to move on to request that we delete Clause 7.

(*Clause 7 agreed to*)

*First Schedule*

I will recommit Clause 3 later.

**The Chairperson:** Thank you. That will come at a later point.

**Ms Ndagiza:** Hon Chairperson, the Committee proposes that the First Schedule which is on page 6 is deleted and replace it with the following First Schedule. Thank you.

(*Question of the amendment proposed*)

(*Ms Maryam Ussi and Ms Gai Deng seconded*)

REPLACE the First Schedule with the Following:

#### “FIRST SCHEDULE

*s.3 (1)*

#### **Taking and administering oath or affirmation**

<b>Person required to take oath or affirmation</b>	<b>Administering authority</b>	<b>Organ/Institution/ person before whom oath or affirmation is taken</b>
Secretary General	<b>Registrar</b>	<b>Summit</b>
Deputy Secretary General	<b>Registrar</b>	Summit
<b>Counsel to the Community or Director General</b>	<b>Registrar</b>	<b>Summit</b>
Speaker of the Assembly	Clerk of the Assembly	Assembly
Judge	Registrar	Summit
Member of the Assembly	(a) Clerk of the Assembly at first sitting of Assembly (b) Speaker, where a person becomes a Member after the election of a Speaker	<b>Assembly</b>

Clerk	Counsel to the Community	Speaker of the Assembly
Registrar	Counsel to the Community	Summit
<b>Deputy Registrar</b>	<b>Registrar</b>	<b>President of the Court</b>
<b>Commissioner, Member of a Board or Governing Council or Head of an Institution of the Community</b>	Counsel to the Community or his or her representative	Secretary General or his or her representative
Member of Staff of the Community	Counsel to the Community	Secretary General or his or her representative.
Person performing quasi-judicial functions on behalf of the Community	<b>Registrar</b>	Secretary General or his or her representative.
Witness in the East African Court of Justice	Court Clerk	Judge

**The Chairperson:** Chairperson of Committee, could you justify?

**Ms Ndangiza:** Rt hon Chairperson, I hope that everybody can see the Schedule. I do not want to go into that. Those areas, which are in bold, are new proposals by the Committee. They are areas that have been omitted and we thought it was very important. However, there are also other proposals that came from the East African Court of Justice (EACJ) relating to persons performing judicial functions on behalf of the Community and the register as the administrative authority. The Committee decided to embrace their proposals. Therefore, with regard to the justification to include persons such as Counsel to the Community, Director General, Customs and Trade, Members of Board or

Governing Councils who were not provided for in the Schedule but who are required to take or make affirmation before assumption of office to streamline and rationalise the persons who should administer oaths in accordance with established and acceptable practice and tradition.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Schedule 1, as amended, agreed to)*

So help me God.

*Schedule 2*

**Ms Ndangiza:** Thank you Rt hon Chairman. The Committee proposes and amendment on the Second Schedule as follows:

I beg to move:-

That, the Second Schedule be amended on Page 7, immediately after the Oath of Secretary General or Deputy Secretary General

- (a) INSERT Oath of Counsel to the Community or Director General as follows:

**“OATH OF COUNSEL TO THE  
COMMUNITY OR DIRECTOR  
GENERAL**

I

\_\_\_\_\_ having been appointed COUNSEL TO THE COMMUNITY / DIRECTOR GENERAL of the East African Community do solemnly swear to exercise loyalty, discretion and conscience in the performance of the functions entrusted to me, in accordance with the provisions of the Treaty for the Establishment of the East African Community, and regulate my conduct with the interests of the Community and not to seek or accept instructions in regard to the performance of my duties from any Partner State or other authority external to the Community.

DECLARANT

Sworn before the Summit on the  
..... day of .....  
20....”

**The Chairperson:** Seconders.

*(Ms Maryam Ussi, Gai Deng and Ms  
Francine Rutazana seconded)*

**Ms. Ndangiza:** Mr Chairman, with regard to justification, this is to prescribe the oath for the Counsel to the Community and a Director General.

- (b) Page 9, Oath of Member of Assembly, INSERT the words “Assembly/” immediately before the word “Speaker at the bottom of the oath.

The justification for this is to provide for the oath to be taken before both the Assembly (in the case of an oath at the First Sitting of the Assembly) and the Speaker (in the case of a person becoming a Member after the first Sitting of the Assembly).

- (c) Page 12, Oath of Registrar/Deputy Registrar of the Court, INSERT the words “President of the Court” immediately after the word “Summit” at the bottom of the Oath.

The justification for this is to include the President of the East African Court of Justice as the authority before whom the Deputy Registrar takes oath.

- (d) Page 14, Oath of allegiance for Commissioner of the Organs and Institutions of the Community, DELETE oath and substitute the following:

“OATH OF COMMISSIONER, MEMBER OF A BOARD OR GOVERNING COUNCIL OR HEAD OF AN INSTITUTION OF THE COMMUNITY

I

\_\_\_\_\_ having been appointed COMMISSIONER/MEMBER OF THE BOARD/ GOVERNING COUNCIL/ HEAD OF ..... solemnly swear that I will exercise loyalty, discretion and conscience in the performance of the functions entrusted to me in accordance with the provisions of the Treaty for the Establishment of the East African Community and regulate my conduct with the interests of the Community and not to seek or accept instructions in regard to the performance of my duties from any Partner State or other authority external to the Community.

.....

## DECLARANT

Sworn before the Secretary General on the ..... day of ..... 20....”

The justification for this is to include members of boards and governing councils and heads of institutions.

- (e) Page 17, immediately after oath of witness at the East African Court of Justice, INSERT\_new oath as follows:

“OATH OF PERSON APPEARING BEFORE A COMMITTEE OF THE ASSEMBLY

I ..... do swear in the name of God that what I shall state shall be the truth, the whole truth and nothing but the truth, So help me God.

.....

## DECLARANT

Sworn before the ..... Committee of the Assembly on the ..... day of ..... 20....”

The justification for this is to include the oath for persons appearing before a Committee of the Assembly which is authorised by section 17 of the East African Legislative Assembly (Powers and Privileges) Act, 2003, but which does not prescribe the oath. Thank you Rt hon Chairman.

*(Question of the amendment proposed)*

**Mr Nooru:** Mr Chairperson, I want an explanation on the issue of Commissioners, Governing Councils and Heads of Institutions. According to some of the Bills we are enacting, some of those institutions are supposed to be independent. They are supposed to be independent from the Secretariat and the Assembly. What happens when they are subjected to swearing-in before the Secretariat? Why can they not be taken before the Summit or the Council of Ministers to witness their swearing in once the institutions are independent?

The second issue I have not understood and which I need some clarification is; when somebody swears in the presence of a particular institution, either the Summit, Speaker, or Secretary General, does that person have mandate to endorse or witness that swearing in and the signature of that particular candidate who is taking oath?

**Dr Kafumbe:** Thank you Chairman. The reason why the Secretary General is chosen is because he is the Accounting Officer the Community as provided for in the Treaty. The practice has been, even as we talk, when an Executive is appointed, he has to find time and take an oath before the Secretary General. What we are doing is to regularise the practice.

**The Chairperson:** Thank you. You could also address the issue of independence. The practice vis-a-viz the independence.

**Dr Kafumbe:** There is only one institution, which is self-accounting although we cannot say that it is independent. That is the Civil Aviation Safety and Security Oversight Agency (CASSOA), the security oversight agency is a self-accounting institution and even that one the Executive Secretary

appears before the Secretary General to take oath. In terms of hierarchy, the Secretary General is still a higher office compared to the Executive Secretary.

The higher institutions are not independent because they are institutions of the Community, they are funded by the Council and we cannot say that they are independent.

**Mr Nooru:** I do not see any logic why the Deputy Secretary General of an institution like the East African Monetary Institute we are trying to enact, a separate institution from the Secretary General's is supposed to come and pay his allegiance in the presence of the Secretary General. I do not understand that issue. As much as I understand that the Secretary General is the Head of the Executive in the administration of the Community, he is not the appointing authority of those institutions. The appointing authority is the Summit with the recommendation of the Council. When you are not the appointing authority of those officers and yet they are ranked as Director General (DG), just as the other Director Generals, how do you appear before a DG when you are a DG?

**Mr Thoar:** Thank you Rt hon Chairman. I am now scared that the Council has nothing more to say. However, mine is a clarification on this independence. I seek to know from him whether this is a functional independence or overall independence from the Community? My guess is that it is functional independence. Since it is functional independence, I would argue that they could still be sworn-in in front of the Secretary General.

**Ms Akol:** Thank you Rt hon Chairman. I would like to seek clarification from the Committee on the amendment for oath of witness at the EACJ and the person appearing



before a Committee of the Assembly. I am talking about the wordings. I do not see the difference and the reason they are bringing this other one. The one before the EACJ could as well have been used by a witness appearing before the Committee. This one before the EACJ reads:

I, so and so swear that I shall tell the truth, the whole truth and nothing but the truth. They have restated the one for a witness appearing before the Committee that I swear that what I shall state shall be the truth, the whole truth and nothing but the truth. I do not see the difference between the two statements. Probably the difference is in the words. However, the substance of the two statements is the same. Therefore, in effect, I am trying to say that with the new amendment for a person appearing before the EACJ can be the same just as the one for a person appearing before a Committee should swear. There is no difference. I am seeking clarification. What new substantive item are they trying to introduce here that is different from the one, which is before the EACJ?

**Ms Ndingiza:** Thank you Mr Chairman. The question that honourable Rose has raised, when you look at this Schedule, especially where you see it put in bold, as I said, when it comes to the Judiciary, before you come for second reading, it is practice that you consult stakeholders. Some of the stakeholders are the EACJ. Initially, this was different. This is also an independent organ and, therefore, they provided a language and this is the language we have inserted here. For example, the oath of the Deputy Registrar has to be administered by the Registrar rather than bringing this person in front of the Secretary General. He should also be sworn in before the President of the Court. We thought this was in order because this is an independent institution and, therefore, if they advise accordingly as a Committee, we did

not have a problem. That is why we brought in those amendments. When it comes to swearing-in, the oath you are quoting has to do with witnesses or someone who has to testify before the Committee. I think this is the practice. The lawyers advise us. Having to reaffirm the truth and only the truth, in your consciousness, you are committed to tell the truth. For us, we do not find any problem. That is just an addition that is relevant.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Schedule 2 as amended agreed to)*

### *Third Schedule*

**Ms Ndingiza:** Thank you Mr Chairman.

I beg to move:-

That, the Third Schedule be amended on Page 19, immediately after the Affirmation of Secretary General or Deputy Secretary General by

- (a) INSERTING affirmation of Counsel to the Community or Director General as follows:

“AFFIRMATION OF  
COUNSEL TO THE  
COMMUNITY OR DIRECTOR  
GENERAL

I

\_\_\_\_\_ having been appointed COUNSEL TO THE COMMUNITY/DIRECTOR GENERAL of the East African Community solemnly, sincerely and truthfully affirm that I will exercise loyalty, discretion and conscience in the performance of the functions entrusted to me, in accordance with the provisions of the Treaty for the Establishment of the East African Community, and regulate my conduct with the interests of the Community and not to seek or accept instructions in regard to the performance of my duties from any Partner State or other authority external to the Community.

.....  
DECLARANT

Affirmed before the Summit on  
the ..... day of  
..... 20....”

*(Ms Maryam Ussi and Ms Gai  
Deng seconded)*

The justification for this is to prescribe the affirmation for the Counsel to the Community and a Director General.

(b) Page 21, Affirmation of Member of Assembly, INSERT the words “Assembly/” immediately before the word “Speaker at the bottom of the affirmation.

This is to provide for the affirmation to be taken before both the Assembly (in the case of an affirmation at the First Sitting of the Assembly) and the Speaker (in the case of a person becoming a Member after the First Sitting of the Assembly).

(c) Page 24, affirmation of Registrar/Deputy Registrar of the Court, **INSERT** the words “President of the Court” immediately after the word “Summit” at the bottom of the affirmation.

This is to include the President of the East African Court of Justice as the authority before whom the Deputy Registrar affirms.

(d) Page 26, affirmation of allegiance for Commissioner of the Organs and Institutions of the Community, DELETE affirmation and substitute the following:

“AFFIRMATION COMMISSIONER,  
MEMBER OF A BOARD OR  
GOVERNING COUNCIL OR HEAD OF  
AN INSTITUTION OF THE  
COMMUNITY”

I

\_\_\_\_\_ having been appointed COMMISSIONER/MEMBER OF THE BOARD/ GOVERNING COUNCIL/ HEAD

of .....  
solemnly, sincerely and truthfully affirm that  
I will exercise loyalty, discretion and  
conscience in the performance of the  
functions entrusted to me as a Commissioner  
of ..... of the East African  
Community in accordance with the  
provisions of the Treaty for the  
Establishment of the East African  
Community and regulate my conduct with  
the interests of the Community and not to  
seek or accept instructions in regard to the  
performance of my duties from any Partner  
State or other authority external to the  
Community.

.....  
DECLARANT

Affirmed before the Secretary General on the  
..... day of .....  
20....”

This is to include members of boards and  
governing councils and heads of institutions.

- (f) Page 28, immediately after  
affirmation of witness at the East  
African Court of Justice, INSERT  
new affirmation as follows:

“AFFIRMATION OF PERSON  
APPEARING BEFORE A  
COMMITTEE OF THE  
ASSEMBLY

I .....do  
solemnly affirm that what I shall state  
shall be the truth, the whole truth and  
nothing but the truth.

.....  
DECLARANT

Affirmed before the  
.....Committee of the  
Assembly on the ..... day  
of ..... 20....”

This is to include the affirmation for  
persons appearing before a  
Committee of the Assembly which is  
authorised by section 17 of the East  
African Legislative Assembly  
(Powers and Privileges) Act, 2003,  
but which does not prescribe the  
affirmation.

*(Question of the amendment  
proposed)*

**Mr Thoar:** Thank you Rt hon Chairman. I  
have an observation on the affirmation of the  
Commissioner/Member of the  
Board/Governing Council or Head of an  
institution of the Community. Where it says,  
“I” then somebody has to mention their  
name, having been appointed as  
Commissioner, Member of the Board or  
Governing Council of the Community or  
Head of an Institution or a particular  
institution that will be mentioned in the place  
that is in dash.

My question is, when you come to the second dash where you put the Commissioner before it, I feel that there is no need to mention because you have already mentioned yourself and the institution and here, you may be required to put any of those. If you identify the Commissioner alone, what about the others? It would be good if we maintained consistency just to have the name and the institution that you are appointed to head. That is my observation. Putting a Commissioner again would require you to go for the rest.

**Mr Namara:** Thank you Mr Chairman. Mine is also an observation on the Third Schedule, Page 6 of the proposed amendments on the affirmation of the Counsel to the Community or the Director General. They say I, --- having been appointed Counsel to the Community/Director General of the East African Community. My interpretation is that if you say/Director General of the East African Community, we will have created a new position which does not exist. That is the position of the Director General of the East African Community. That is my observation. The Chairperson should take note of that.

**Ms Akol:** Thank you Mr. Chairman. Hon Gideon has exhaustively deliberated on the issue I wanted to raise. I just want to add by deleting the word “Commissioner of” that will cater for the people mentioned in the oath. I therefore propose an amendment to the affirmation of Commissioner/Member of Board or Governing Council or Head an Institution of the Community. It should read:

I, having been appointed that, solemnly, sincerely and truthfully affirm that I will exercise loyalty, discretion and conscious in

the performance of functions entrusted to me as, and then we put a ----- of the East African Community, instead of what he said.

**The Chairperson:** Are you proposing an amendment?

**Ms Akol:** Yes, I am proposing that we delete the words “the Commissioner of.”

*(Ms Leontine Nzeyimana seconded)*

This is an affirmation of the Commissioner or Member of the Board or Governing Council or Head of an institution of the Community. Therefore, the oath here, when you come down to line 5, where it says, of the functions entrusted to me as, it only mentions the Commissioner and yet here, it is an affirmation of the Commissioner or a Member of the Board or the Governing Council or Head of an Institution or the Community. Therefore, to specifically mention only a Commissioner, means that not all the others are part of this oath. Therefore, my amendment is aimed at removing the word “a commissioner of” so that the oath includes all the positions mentioned. I think that was the intention of the Committee.

**The Chairperson:** I understand you have drafted that. Could the Clerk-at-the-Table arrange to bring me a copy of the draft?

*(Question of the amendment to the amendment proposed)*

**Ms Ndangiza:** Thank you hon Chairman. The proposed amendment by hon Rose can be taken to be a typographic error. We will just add a Member of Board/Governing Council. We can leave it because we have already mentioned the Commissioner/Member and that will cater for both. We will take it up as a typo and can be re-written.

*(Question, that the words to be left out be left out,*

*put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Third Schedule as amended agreed to)*

**The Chairperson:** Debate is continuing on the proposed amendment by the Chair of the Committee.

**Mr Nooru:** Hon Chairman, Page 21 of the original Bill talks about Affirmation of Members of the Assembly. This is supposed to be amended by the Chairperson of the Committee. Affirmation of the Member of the Assembly, insert the word “Assembly” immediately after the word “Speaker at the bottom of the affirmation.

The original Bill reads, affirmation before the Speaker of the National Assembly. If you add the word “Assembly” I do not know what that will be adding. In justification, she was just trying to explain about the First Sitting of the Assembly. In the First Sitting of the

Assembly, it should have been the Clerk to be added and not the Assembly.

Number two, on the affirmation on Page 28, the amendment reads; immediately after the affirmation of the witnesses of the EACJ. If you look at the affirmation itself, you will see that it talks about affirmation of a person who is appearing before a Committee of the Assembly instead of an affirmation of a person appearing before the EACJ. In one way, it talks about the EAC but on the other, it talks about someone appearing before a Committee of the House. I do not know why there is that contradiction. I need clarity on that one.

**The Chairperson:** Chairperson, could you provide a clarification on that?

**Ms Ndangiza:** Thank you hon Chairman. I want to thank hon Nooru for raising this. The reason why the Committee proposed a new Schedule is because where you see “affirmation” before the “Speaker or the Assembly” previously, this was before the Speaker. We even had to use our experience as new Members of EALA where we had to be appointed on the same day as the Speaker. Therefore, if someone is being affirmed before a Speaker who is not there, and of course as you know, before the Speaker becomes a Speaker, he has to be sworn in as a Member, we thought that in that situation—when you look at Schedule one, there are three columns.

The third column is about the institution of the person that you swear. That institution of Schedule One is the Assembly. When you have a new Assembly where you do not have a Speaker and the Speaker has not been

sworn-in and yet the Members have been sworn- in, the Clerk is the administrative authority and the one who administers the oath. However, one swears in before the Assembly. That is the clarification.

**Ms Ndangiza:** What is the other clarification? Could you remind me, hon Nooru?

**Mr Nooru:** The other clarification is the question of witnesses before the EACJ, on Page 28.

**Ms Ndangiza:** On affirmation of witnesses of the EACJ, this language is provided because the Committee assumes that someone who is in front of the EACJ is there as a witness. Therefore, the purpose of this affirmation is to commit the person to speak the truth and only the truth in front of the court. However, again, on the issue of the Committee, we use the same language because for instance, if the Committee on Accounts decides to invite a member of the Secretariat, maybe the Secretary General or the Deputy Secretary General in charge of Finance, to come and explain why some monies are not accounted for, they have to give evidence. Therefore, we thought there was need for harmonisation of these two. That is why we have the same language when it comes to affirmation.

**The Chairperson:** I think there is also a provision that says that certain hearings before the Committee are as good as a hearing in a court of law. That is the same logic.

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(The Third Schedule, as amended, agreed to)*

#### *Memorandum*

*(Memorandum agreed to)*

#### *Title*

*(Title agreed to)*

**The Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community (Rwanda) Mr Olivier Nduhungirehe** (*Ex officio Member*): Thank you Mr Chairman: Mr. Chairman, Sir, I rise to move that:-

Clause 3 be recommitted and Clause 7 be deleted.

**The Chairperson:** Thank you Minister. You will move your Motion after we resume.

**The Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community (Rwanda) Mr Olivier**

**Nduhungerehe** (*Ex officio Member*): Okay, Mr Chairman.

**The Minister of State for East African Community Affairs (Uganda) Mr Julius Wandera Maganda (Ex Officio Member):** Mr. Chairman, Sir, I beg to move that the Committee do report to the House its consideration of The East African Community Oaths Bill, 2018.

*(Ms Ndagiza, Ms Ussi and Mr Kimbisa seconded)*

**The Chairperson:** A brief justification.

**The Minister of State for East African Community Affairs (Uganda) Mr Julius Wandera Maganda (Ex Officio Member):** Mr. Chairman, Sir, the House has debated the Bill and the report that was presented by the Chairperson, Legal, Rules and Privileges. In the debate, we have considered all the amendments and areas that have come from Members. At this stage, we believe that all what has been debated especially the amendments and considerations that were made on the clauses have been agreed on based on the deliberations which have come on the Floor. We should now be moving to the next stage that will process the Bill to the next reading. That is the justification I have.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Speaker (Mr Ngoga) in the Chair]*

*(Debate on the East African Community Oaths Bill, 2018 interrupted)*

## MOTION

### TO EXTEND SITTING TIME

**Mr Paul Musamali Mwasu** (Uganda): Mr Speaker Sir, I beg to move a Motion under Rule 30 of our Rules of Procedure to suspend Rule No.11 on Hours of Sitting.

Considering the importance of the Bill, and seeing that we are running out of time, I move that we suspend this Rule so that we finish the work.

*(Messrs Namara and Kalonzo seconded)*

*(Question proposed)*

*(Question put and agreed to)*

*(Resumption of Debate on the East African Community Oaths Bill, 2018)*

## THE EAST AFRICAN COMMUNITY OATHS BILL, 2018

*(Consideration of Recommitted Clause 3)*

**The Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community (Rwanda) Mr Olivier Nduhungerehe** (*Ex officio Member*): Okay, Mr Speaker. Clause 3 should read as follows. The title is Obligation to take an Oath or Affirmation.

The Clause sub section 1 reads, “A person appointed to an office specified in the first column of the First Schedule shall take an oath or affirmation of allegiance and the oath or affirmation or secrecy to the Community. “

Sub section 2, the Oath and Affirmation referred to in sub section 1 as set out in the Second and Third Schedule respectively. Sub section 3, the Oath or Affirmation shall be administered by the person specified in the second column of the First Schedule and taken or made before the authority specified in the third column of the First Schedule.

Clause 7 should be deleted or removed.

**The Speaker:** Hon. Minister, I request more clarification. I do not really know what you want. Is it an amendment? It is not yet clear to me. Is there a Member who understood what the Minister said? Could you try to explain?

**The Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community (Rwanda) Mr Olivier Nduhungirehe** (*Ex officio Member*): Thank you Mr Speaker. This is a follow up of the debate we had earlier regarding Clause 7. We have a separate Clause regarding affirmation towards the end of the Bill. The Clauses relating to the oath are the first ones after the definitions. I want to merge Clauses 3 and 7 so that oath and affirmations are explained in the same Clause without making a difference between the two.

**The Speaker:** I need to be assisted by Members who have been in this business longer than me. Is this a recommittal? How do we treat the recommittal?

**The Cabinet Secretary for East African Community and the Northern Corridor**

**Development (Kenya) (Mr Peter Munya)** (*Ex Officio Member*): Mr Speaker, we have to go back to Committee Stage. The Committee is supposed to report to the Whole House. Sitting as the Whole House, we cannot do what we are doing. You have to go back for you to recommit the Clauses.

**The Speaker:** But should a Motion be moved and debated before we go there?

**The Cabinet Secretary for East African Community and the Northern Corridor Development (Kenya) (Mr Peter Munya)** (*Ex Officio Member*): Yes, a Motion has to be moved and seconded.

**Mr Kasamba:** Rt hon Speaker, the Chair of the Council, the owner of the Bill should first report about what transpired during the debate. Anybody who has a recommittal will then appeal before you move the Motion to pass the Third Reading. Therefore, the Minister should report what transpired and after that a colleague can rise to say that they want to recommit. He will then be seconded and then we go back to the recommittal stage.

Procedurally, the Council should be on the Floor to report.

**The Chairman:** Now, this is the time for you to recommit the clauses.

**The Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community (Rwanda) Mr Olivier Nduhungirehe** (*Ex officio Member*): Thank you Mr Chairman. I am yet to be familiar with the procedure. I move to recommit Clause 3.

I beg to move:-

That, Clause 3 be amended by combining it with Clause 7.



*(Messrs Opoka-Okumu, Kasamba, Nooru and Kalonzo seconded)*

The amendment is a follow up of the discussion we had before the suspension, which was to delete clause 7, which deals with affirmations because the oaths have already been dealt with in Clause 3. The idea is to combine the two because in the Community, we have those who cannot take oath because they are neither Christians nor Muslims. They could be non-believers. Their affirmations should be taken at the same level as the oath. Therefore, the proposal is to merge the two to a single clause, Clause 3, so that the officers of the Community have a choice between the oath or the affirmation. Thank you.

**Dr Makame:** On a point of procedure. I stand here on procedure No.90(1) and 90(2). I beg to submit a minority report of the Committee of the Whole House.

**The Chairperson:** Yes, Rule 90 states as follows: “Any Member or Members dissenting from the opinion of a majority of a Committee may state in writing the reasons for his or her or their dissent, and the statements of reason shall be appended to the report of the Committee.

The Member dissenting from the opinion of the majority of the Committee shall be given time to present the minority report at the time of the Committee report.”

**The Speaker:** Hon Makame, you are referring to the Committee of the Whole House. I thought we are now debating the Motion by the Honourable Minister? Is the minority report going to target his Motion or what we have transacted in the Committee?

**Dr Makame:** The Motion might be part of it. The submission of the Motion by the honourable Minister may be touching on an area I am interested in.

**The Speaker:** But you do not even know yet what the majority report on the Motion will be. Therefore, how can you predetermine the minority opinion when a majority opinion is not known? Particularly on the Motion by the Minister. We do not know the majority or the minority will say.

**Ms Mugenyi:** On a point of clarification, Mr Speaker. My understanding of a minority report is that it is given by a Member or a few Members of a Committee in which case, this time it is the Legal, Rules and Privileges Committee. I would like to know whether hon Makame is a Member of the Legal, Rules and Privileges Committee.

**The Cabinet Secretary for East African Community and the Northern Corridor Development (Kenya) (Mr Peter Munya) (Ex Officio Member):** Hon Chairman, a minority report is relevant if the Committee is a normal Committee. This is the Committee of the Whole House and doing amendments. Therefore, who will you report to? Therefore, we cannot have a minority report at this stage of the Third Reading. You can only reject the amendment or accept.

**Mr Kasamba:** Mr Speaker, I would like to request my colleague to proceed in the correct way. If he has anything to recommit, he can appeal for a recommittal during the recommittal stage.

**Ms Ali:** Hon Speaker, I would like to draw your attention to annex 8 section 13 of our Rules of Procedures which talks about a minority report.

The section clearly states that a minority report should be submitted at the Committee Stage and I think it is the substantive Committee sitting. The minority report should be appended to the report of the Committee. Hon Makame is already late in doing that because he is taking about a minority report which procedurally is not correct.

**The Speaker:** Could I make a ruling on this? My interpretation of Rule 90 is that a minority report attempts to convince the Whole House on the opinion of the minority during the Committee. It would make no sense for a minority report to be presented to the same House that has made it a minority. It would be achieving no end at all. Therefore, the proper interpretation is that Rule 90 applies to the Standing Committees of the House and not the Committee of the Whole House.

The Motion before the House is that Clause 3 and 7 be recommitted.

*(Question proposed)*

**Ms Akol:** Thank you Rt hon Speaker. With due respect to the Member, Council of Ministers, I understand why he is moving the amendment that he is bringing. He would like to have issues of oath and affirmation put together in one clause but not in separate clauses. However, I want all of us to look at the Bill. If we will move in that direction, that means that as he has proposed, that we delete Clause 7 and include obligation to take oath or affirmation. However, there are other clauses where we will have to do consequential amendments and they are many if we take the position that the honourable Minister is saying.

Under clause 6, we will also amend; the form/manner in which affirmations are taken.

Therefore, we will have to amend Clause 6 and then all other clauses where oath/affirmations appear. That is how I have understood this. Therefore, there will be many consequential amendments and even in the Schedules, they have separated Schedule 3 for affirmations and a separate schedule for oaths. That will also mean that oaths and affirmations will be put together as one Schedule. That will mean a lot of work. We will be going back to reconstruct the whole Bill. Therefore, in the interest of what hon Minister is bringing up, retaining these clauses is not harmful. We should retain clauses 3 and 7 as they are. When the Bill was being drafted, the separate provisions were taken into account. Now, attempting to put them together will again create a lot of consequential amendments and reconstructing the Bill. I do not know whether at this point in time the Council is interested in reconstructing their own Bill.

**Ms Ussi:** Thank you very much Rt hon Speaker. My comments are the same as those of hon Rose. I am not supporting the Motion to delete Clause 7 of this Bill because first, this is a Council of Ministers Bill. Therefore, this is their work. They presented it to us and it is very late for us to delete it. However, when we were discussing and when you gave us time, we talked about the wording.

Hon Minister, together with the CTC, should reconsider changing the wording on Clause 7. The honourable Minister from Rwanda said that the words “do not take oath” are discriminatory. Instead of deleting the whole clause which has consequential effects on other clauses of the Bill and which may take us back. The honourable Minister should humbly reconsider changing the wording so that Clause 7 is not discriminatory instead of deleting it all. I thank you Rt hon Speaker.

**Mr Opoka-Okumu:** Thank you Rt hon Speaker. I stand to strongly support the Minister in his proposed amendment.

**The Cabinet Secretary for East African Community and the Northern Corridor Development (Kenya) (Mr Peter Munya) (Ex Officio Member):** On a point of procedure, Mr Speaker, Sir. I think there is a problem. We are already debating the merits of the amendments and yet we have not passed the Motion of recommitting for us to sit as a Committee. These arguments should come when the clauses have been recommitted and the Speaker is sitting as the Chairman of the Committee. That is when we oppose or support when the Motion for recommitment has already been won. Apparently, not all the arguments are opposing the recommitment. I can see that some are pushing for amendments and that means that we should pass the recommitment Motion. The Speaker should sit as the Chairman and then the arguments will come in.

**The Speaker:** Hon Minister, I noted that. However, there is a thin line between making a decision on whether to recommit or not without minimal debate and what may appear to be a substantive debate on the Motion itself. I do not know what would be a better approach. Should we go into the Committee Stage or we debate a bit to see whether we need to go there anyway?

**Mr Opoka-Okumu:** Hon Speaker, I think the option should be to quickly go to the Committee Stage so that this issue can be substantively debated and if it is defeated, then we resume. If it is won, we will still move on. That is the best option.

**The Speaker:** Hon Chris, there has to be a decision before we move to that stage. The idea of going to the Committee Stage is to allow everyone to debate it substantively. If

we do not go into the Committee Stage, we will possibly be suffocating some very important ideas.

*(Question, that clauses 3 and 7 be recommitted put and agreed to)*

## CONSIDERATION OF RECOMMENDED CLAUSES

*[The Speaker (Mr Martin Ngoga) left the Chair]*

### IN THE COMMITTEE

*[The Chairperson (Mr Martin Ngoga took the Chair)]*

### THE EAST AFRICAN COMMUNITY OATHS BILL, 2018

*(Consideration of Recommended Clauses 3 and 7)*

#### Clause 3

**The Chairperson:** Honourable Members, we have recommitted clauses 3 and 7 of the East African Community Oaths Bill, 2018 as requested by the Minister. The proposal is lengthy, based on which it will be difficult for me to frame the question. However, let me put it like this. The proposal is that clauses 3 and 7 be merged to form one clause. I want the Minister to debate it first so that Members get to know how he wants it to appear.

**The Minister of State in the Ministry of Foreign Affairs, Cooperation and East African Community (Rwanda) Mr Olivier Nduhungirehe** (*Ex officio Member*): Thank you Mr Chairman.

I beg to move:-

That, Clause 3 be amended by merging it with Clause 7.

*(Question of the amendment proposed)*

The newly merged Clause 3 should read as follows: First, the Title, and Obligation to take an Oath or Affirmation. That should be the Title.

**The Chairperson:** Honourable Members, I beg your attention. The Minister is reading verbatim the new phraseology of this clause. That is where the details are.

One, a person appointed to an office specified in the First Column of the First Schedule shall take the oath or affirmation of allegiance and the oath or Affirmation of Secrecy to the Community. That is sub clause 1.

Sub clause 2, the oath and affirmation referred to in section one as set out in the Second Schedule and Third Schedule respectively. Three, the oath or affirmation shall be administered by the person specified in the Second Column of the First Schedule and taken or made before the authority specified in the Third Column of the First Schedule.

The idea here is to have Clause 3 amended and to delete Clause 7 so that oath and affirmation in the same Clause. You may have noticed that Clause 5 already talks about affirmations. Remember the Clause that talks about someone who declines, neglects or refuses to take oath of affirmation and yet he

affirmation had not been explained in that part of the Bill. I think it would be important for those who have a choice to take an oath or make an affirmation because of their religious believes which is elaborated in the same clause without having the first substantive clause of this Bill talking about the oath and Clause 7, which is among the last clause talking about affirmation. It is important to have both in the same Clause.

I will also refer to New Clause 7A which puts together both the oath and affirmation. Therefore, we already have that in Clause 7A. We could also do it in paragraph 3.

**The Chairperson:** Thank you Minister Olivier. Honourable Members. Debate is open.

**Mr Opoka-Okumu:** Thank you Mr Chairman. As I said before, I strongly support the Minister on the proposed amendment. On the usual scheme of things, oath and affirmation stand in *pari passu*. In other words, they stand at the same level. However, the way they have been separated in this Bill, is as if the oath is the most important thing. It is only if you do not take oath as required. Therefore, the requirement is for the oath first and yet in all practices including courts of law, when you go there, the clerk will ask you whether you are taking oath or making an oath of affirmation. Therefore, they are at the same level. When we separate them as we have done, it makes it appear that one is lesser than the other is one and yet that is not true. When you make one appear to be lesser, when you go to court and evidence is being given, the evidence of the person who has made an oath would be taken seriously than the one who has made an affirmation and that should not be the case. Therefore, to ensure that the appointed individuals have choices, making an oath or taking affirmation should be a choice and not compulsion. They should

take either one of them. A major with consequential amendments, maybe the Minister should have added that; this will have this kind of consequential effects so that in other areas which my sister Rose Akol is concerned about, come automatically. The drafters should just do it. I really think we should take this seriously.

The oath and affirmation should rank at the same level. Thank you.

**Ms Gai:** Thank you Mr. Chairman. I will object to the deletion. I am saying this because the honourable Minister is saying that we need to put all the oath and affirmation under one section. However, if you look at the Bill, Clause 3, under obligation to take an oath, Clause 4 is an unnecessary repetition of oath. Clause 5 is about omission to take oath. The whole thing is about oath, when to take it, how to take it and if you do not take it. We then go to the affirmation. It talks about the oath in all these sections. The only thing I may agree with is, yes, we have mentioned in Clause 7A about the affirmation, which is a little bit of a contradiction. However, in terms of discrimination, I do not think it is discriminatory. We are dealing, first, with people who are taking oath; how to take it and in front of who and what will happen if they do not take it. The only diversion from that is in Clause 5(2) where it says; “omit to take the oath of affirmation.”

I think that is the only place with discrepancy. I do not think it is discriminatory because you are only dealing with the oath and immediately after the oath you deal with affirmation. Therefore, anybody who has not taken the oath under those clauses is catered for under clause 7. It is not discriminatory. The fact that it is mentioned means that we are not discriminating.

It is your Bill but I am looking at it in terms of where you are saying that it is discriminatory and we have to put it under one Clause. You have already separated them. You are dealing with the oath, how it is taken, in front of who and then you deal with affirmation. I do not see any issue with that. I, therefore, do not agree with deleting Clause 7.

**Mr Gatpan:** Thank you Mr Chairman. This thing is getting interesting. I believe that finally, the Minister has expressed himself in a very clear way by justifying and delinking it to Clause 7A. Hon Gai has just mentioned that Clause 5 could become a contradiction if we do not take care of it. It is kind of a single whereby we have one word; “oath” and not “affirmation.” That is in Clause 3. The second one is affirmation which stands alone in Clause 7. The rest of the document, the words come together. Therefore, my concern is; is it difficult for us to put them together as proposed by the Minister? What will affect the whole document when we have already passed the words “oath or affirmation” going together.

I concur with the Minister. I did not get it earlier but this time, I think the Minister has a point. They come together and the obligation is to take oath or affirmation.

**Ms Akol:** Thank you Rt hon Chair. I just want to emphasise what I had said earlier in the debate. For me, I do not have a problem with the position that the Minister has taken. However, my problem is the amount of work that we have to redo. Even for the draftsman, it is not as simple as my colleague, hon Opoka, has put. If you say it is oath or affirmation, you must maintain that consistency, even in the Schedules. You cannot say that in the Second Schedule, oath ought to be taken and in the Third Schedule, affirmation should be taken. No! It is oaths or

affirmation. Therefore, we must go back to the Schedules, combine some and delete some and we must do it here. We have to do it as Members of Parliament. That is the kind of work that I am talking about. The Council wishes us to reconstruct this Bill by deleting Clause 7 and maintaining Clause 3 with just a slash of word including the word “affirmation.” We are supposed to do a lot of work. If we agree to go that way, then we have to go to the Schedules and amend. We must also amend the wordings in the body of the Bill where there is the word oath, we put oath/affirmation. That is the amount of work we are required to do now.

Rt hon Chairman, I want to request that we retain this Bill the way it is. There is no harm in oath appearing separately in the Bill and affirmation appearing in another section just like the whole Bill has been constructed. There is no harm in this. Besides that, this is a Bill coming from Council. This is their Bill. They must have considered all these things when the Bill was being written. If it is their position that the Bill be reconstructed, then I believe that the best we can do as a House, which is impossible, is to recommit the Bill back to Council. We have to do it here. This is a full day’s work. We will leave here at mid night, honourable Chairman. That is my submission, that we retain the Bill as it is.

**Mr Gabriel Alaak Garang (South Sudan):** Thank you hon Chairman. Some of us have not been contributing to this debate because we did not have a copy of the Report of the Committee. It was given to us during the break.

**The Chairman:** Were copies not distributed before?

**Mr Garang:** The debate was very good and we had no reason to interfere. The move by the honourable Minister to put together oaths

and affirmations, I thought would be easier than hon Rose Akol has put it. If we agree that they be put together, then that would be the work of the drafter. I thought that would be easy than be a tremendous task where we need the whole House to sit up to the time we finish. I think if we agree, that can be put together by the draftsman. Thank you.

**Ms Mugenyi:** Rt hon Chairman, I would like to support the Minister’s position. I think putting clauses 3 and 7 together is very important. It raised many issues, which have clearly been answered by bringing the two together. The only problem I have is the timing right now. You will realise that there are diminishing returns and we are finding it difficult to do a job that would ordinarily be very small. That is going through and putting together, changing where there is oath and adding affirmation and so on. That ordinarily would not be a lot of work. However, given the time we are at now, I think that is where the complication is. Therefore, I would like to beg that we do the right thing. We should take the Minister’s position, in my view, which is very well justified. However, we cannot finish now. What hon Rose is saying is also true. Once you merge the two, there will be other changes that will substantially come in. Therefore, I do not see us sitting here for another one hour. It is too much, we are tired. I beg to request that we resume this tomorrow. I thank you.

**Mr Aden:** Thank you hon Chairman. I remained quiet for a while looking at the objectives that the Member of Council is trying to achieve in this amendment. I am coming to the conclusion that I do not think it merits for us to have disrupted the progress that this Bill had gone so far to come back and lapse the House to Committee Stage. Clause 3.3 talks about obligations to take an oath, which is completely different from what clause 7, which will no longer be clause 7

because of the other Clause 7 that we brought in. This will probably change to 7 and 7A. However, it seeks the issue of affirmation. The fact that the two are separate apart does no harm at all to the core of this particular Bill. Indeed, if we were to put together, then we would put the obligation to take an oath and the affirmation together. That may not do any harm; putting them together. However, is there any harm in having them the way they are now? I do not think there is. I am also very cautious that if we make that move, what hon Rose has brought to our attention will become a reality.

You will have to give the drafter the leeway to dissect, relook and move things a lot, which he does not have the powers to do, on his own. That means that the House will have to lapse back here again, going by what hon Mary said, to redo and relook the issues that touch on this particular issues again. With that, I wish to seek the consideration of the Council Member. I do not see why this would be a bad law if we do not agree with the amendment he wants to pass right now. We will, indeed, have passed a good law. If that is the case, then there is no need at all to push these amendments, which we are trying to achieve. Given the time and circumstances, I think it will be quite unfair on us and we may step on other as hon Rose has mentioned to us that may require us to relook into, time of which I do not think we have right now.

**Mr Nooru:** Thank you hon Chairman. I do not see the reason why we are taking a lot of time. The first motion raised is that this Bill will take us back. I do not think that this House will come back and debate this Bill again. We have to understand that after these amendments have been adopted, we will pass the resolution of the House together with what we have agreed upon and that will be the end of the Bill. The rest will be left to the

drafter. Therefore, the issue of taking us back to the Bill is neither here nor there.

Honourable Chairman, when you look at the title of the two sections, Clause 3 of the Bill reads; Obligation to take an Oath.” Is it obligatory for one to take an affirmation in the first place? The question I want to ask is; is affirmation inferior to the oath? One of the Members raised that question. Clause 7 talks about affirmation. Is it obligatory for any Member who does not take oath to take the affirmation? We are struggling with that question. If we are discussing oathing under Clause 3 and we have passed clauses 4, 5, 6, and we are now in Clause 7 and are talking about the same oath or affirmation, that does not make any sense. We just want to harmonise this thing and put it under one clause. Most of us have been taking oaths in Parliament, which is written oath/affirmation. You delete oath or affirmation and use whichever you want to use. If a Member wanted to take affirmation and you told him to wait because the people who administer oath are not ready, that is just one and the same thing. Affirmation or oath is the same thing. Obligation to take oath or affirmation is one and the same thing. Why do we have to separate them? That is a very simple issue. Even in terms of costing, it is very simple. In terms of taking it, it is also very simple because any Member would walk in, look at the wordings and cancel or delete the word affirmation and take the oath or delete the word oath and take affirmation. I do not see why we should be debating this matter.

**The Chairperson:** Thank you hon Nooru. One final intervention then I give guidance on how we will conclude this.

**The Cabinet Secretary for East African Community and the Northern Corridor Development (Kenya) (Mr Peter Munya)**

*(Ex Officio Member):* Mr Chairman, I want to take it from where hon Nooru has left. Usually, an affirmation is also an oath without the religious aspect of it. I do not think we should split them so much and that is why there is an attempt to combine. Even in court, we tell someone to take an oath. However, one is told that they can also affirm. The difference is that with regard to oath, you swear but for affirmation, you affirm. However, it is an oath of affirmation. Really, they have been put together and that is why the Bill was drafted that way. You are either swearing an oath or affirming the oath. It is the same oath.

**Ms Ussi:** On a point of clarification, Mr Chairman.

**The Chairperson:** Minister, will you take the clarification?

**The Cabinet Secretary for East African Community and the Northern Corridor Development (Kenya) (Mr Peter Munya)** *(Ex Officio Member):* I was just saying, before my sister who has had a lot of time on this interrupted, that we can argue and argue but the effect is the same. You are either affirming the oath, which is written, or swearing the oath, therefore combining because the body of the Bill talks about the oath. That is the most logical thing to do, the way the Minister moved it.

**The Chairperson:** Thank you. Hon Members, we have two positions. One is to maintain Clause 3 and Clause 7 as they are and another proposal that is contained in the Motion by the minister is to merge them.

*(Question put and the House divided)*

**The Chairperson:** Honourable Members, I am not able to ascertain the voting. I will request that we vote by show of hands. I will

start with those who want to maintain the two clauses to remain separate as they are in the Bill. I will then move to those who want the two Clauses merged to one clause as proposed by the Minister.

*(The Serjeant-at-Arms counted to ascertain the vote)*

Ayes: 15

Noes: 24

The results are such that the two Clauses will remain as they are.

*(Question of the amendment put and negatived)*

*(Clause 3 agreed to)*

**The Cabinet Secretary for East African Community and the Northern Corridor Development (Kenya) (Mr Peter Munya)** *(Ex Officio Member):* Mr Chairman, I think the Council is happy with that decision. I want to ask whether I can move an amendment. I am a Member and I am entitled to move an amendment if I feel like, to improve the legislation. I want to apologise that I did not move it in good time because I had not noticed.

In the oath, there is this line reading; “and regulate my conduct with the interest of the Community.” I am finding that to be very ambiguous and very untidy. Oaths are supposed to be clear and specific. In almost all the oaths we are swearing or affirming, we have the words; regulate my conduct with the interest of the Community. Usually, the words are; act in the best interest of the Community.

Mr Chairman, you could advise if you do not want me to move with it.



**The Chairperson:** That is a fair comment from the Member of the Council. However, there is nothing we can do about it, procedurally.

**The Minister of State for East African Community Affairs (Uganda) Mr Julius Wandera Maganda (Ex Officio Member):** Mr. Chairman, Sir, I beg to move:-

That, the House do resume and the Committee of the Whole House reports thereto, its consideration of The East African Community Oaths Bill, 2018 and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Speaker (Mr Martin Ngoga) in the Chair]*

## CONSIDERATION OF REPORT AND THIRD READING

### THE EAST AFRICAN COMMUNITY OATHS BILL, 2018

**The Minister of State for East African Community Affairs (Uganda) Mr Julius Wandera Maganda (Ex Officio Member):** Mr. Speaker, Sir, I beg to report that a Committee of the Whole House has considered The East African Community Oaths Bill, 2018 and passed it with amendments. I, beg to report.

*(Ms Ussi and Mr Nooru seconded)*

*(Question proposed)*

*(Question put and agreed to)*

**The Minister of State for East African Community Affairs (Uganda) Mr Julius Wandera Maganda (Ex Officio Member):** Mr. Speaker, Sir, I beg to move that the East African Community Bill be read for the Third Time and do pass.

*(Question proposed)*

**Ms Akol:** Mr Speaker, Sir, I do not know whether this is the right time to raise this. However, I know that this is a substantive issue, which I need to put forward to you. This is the East African Community Oaths Bill, 2018 as amended. In the Bill itself, it is written, East African Oaths Bureau Bill, 2017. That is what is on the Bill.

**The Speaker:** I thought we amended it to 2018.

**Ms Akol:** This is what we have. Do we proceed and pass it as Oaths Bureau Bill or what?

**The Speaker:** Hon Rose, is there anything we can do now?

**Ms Akol:** Hon Speaker, I am just bringing this to the knowledge of the House. What we are passing is the East African Community Oaths Bureau Bill. That is in accordance with this. I have not seen an amendment here. What was amended was the year and not the title. It cannot pass without an amendment.

**The Speaker:** The title I have is the East African Community Oaths Bill, 2017 that was amended to 2018.

**Ms Akol:** Look at the inside. All the pages are written, the East African Community Oaths Bureau Bill.

**The Speaker:** But there is the long title. The long title is what carries the citation of the law.

**Ms Akol:** I am seeking clarification, Mr Speaker. If we are doing the right thing, let us proceed. Thank you.

**Mr Aden:** Thank you Rt hon Speaker. I stand to support the Third Reading of this Bill. On the onset, I want to congratulate the Members of the Committee on Legal, Rules and Privileges and the House at large for the good work we have done. The many hours that we have put into this Bill, even today alone, and the many hours that the Committee has put into this particular Bill, show a strong commitment of this House to enact this Bill. I feel very proud because this is our inaugural Bill. This House is passing this Bill.

We have baby-walked through the process. For many people, I am sure it was the first time to see the House lapse into a Committee of the Whole House. Indeed, the whole process was exciting. Of course, there was the extension of sitting time of the House. Indeed, this has been a journey with a lot of learnings and improvements. This is a not a very big Bill passé. It is a small one. However, the amendments that Members have come up with, here and at the Committee, have been a great learning opportunity for us to contribute.

The issue regarding the title of the Bill, there is no doubt for me, as a Member, the Bill I have been looking is the East African Community Oaths Bill, which was initially 2017 but now 2018. Whatever is typed somewhere inside; the only title of the Bill

which the Committee and the House handled is that one.

Hon Speaker, mine is to thank you for taking us through the processes well. I profoundly thank the Chairperson of the Legal, Rules and Privileges Committee. The Committee has done a good job. We must all feel very proud that we have concluded this Bill.

**Mr Nooru:** Thank you Mr Speaker. I want to join my colleague in thanking the Council of Ministers for having brought this Bill and the Chairperson, Legal, Rules and Privileges for having fast tracked and brought this Bill very quickly to the House.

I just want to appeal to the Council of Ministers that I have looked at the records and seen that there are Bills of 2013 and 2015, which are still awaiting assent. We want you to fast track this Bill so that it is assented to as fast as possible. There is no reason why Members should sit here the whole afternoon, we discuss these issues very successfully and yet at the end of the day it takes six years for the Bill to be assented. I want to appeal to the Council of Ministers to follow up and fast track this Bill. At the same time, I would like to appeal to the CTC to harmonise any Bill that contradicts this Bill so that any sections of the law that are in existence are harmonised. We do not want to pass laws that contradict each other and tomorrow it becomes difficult for them to be implemented.

Last, but not least, I would like to thank honourable Members. We are all still in the learning processes. However, this afternoon, I heard hon Makame quoting a very wrong section. That is misleading and should be expunged from the record. Such issues should not be repeated. He is supposed to apologise to the House because he intentionally misled the House. The issue of

procedures of enacting laws are between Rules 60 to 74 of the Rules of Procedure. Therefore, when you go to section 90 and quote a section, which is supposed to supplement the minority report of the Committee of the House and pretend that you are amending an issue of the Committee of the Whole House (*interruption*)

**Dr Makame:** That is a small issue.

**Mr Nooru:** It is a matter of procedure and should not be repeated. We are in a learning process but we have to learn through the right way.

**The Speaker:** Thank you hon Nooru. There is a way he interpreted that particular provision and we handled it in the right way. Therefore, I think we are in order and now we are okay.

**Dr Francoise Kalinda** (Rwanda): Thank you Rt hon Speaker. What hon Rose has said is not the title of the Bill. It is just a heading. There is an error in the heading because there is the word “bureau” but the title is clear and was adopted.

**The Speaker:** At the end, the title will be read afresh for the record.

*(Question put and agreed to)*

*(The Bill was read a Third Time and passed)*

**The Speaker:** Honourable Members, I do not always stand. However, this time, I will stand. I now declare that this Assembly has duly passed the East African Community Oaths Bill. (*Applause*)

I want to congratulate you all, honourable Members. This is our maiden piece of legislation. Therefore, it is historic to the Fourth EALA. For that reason, I want to

thank, most sincerely, everyone who has contributed to this Bill but most especially the Council that initiated it. We are a very lucky Assembly that the first Bills, because we have others that we are processing, originated from the Council. As we have said, repeatedly, those who were there in the previous Assembly know that it was not very common to have Bills coming from the Council.

This Assembly has a Council that is acting in a different and good way. Thank you very much, the Committee, Ms Fatuma Ntangiza, Chairperson of the Committee on Legal, Rules and Privileges for processing these Bills for us. It is amazing how the Committee Chair has mustered the processes very fast. She is not a lawyer but the way she has handled, no one could tell that she is a first time Member and is the one heading the Committee on Legal, Rules and Privileges. I believe that is because she has a very good team working with her. All of you have contributed. The team of the Clerks, when you are dealing with a new Speaker that I am, you have to go through the challenges that I will take you through.

Thank you very much honourable Members. Congratulations on this achievement.

**The Minister of State for East African Community Affairs (Uganda) Mr Julius Wandera Maganda** (*Ex Officio Member*): Thank you very much Mr Speaker. I want to thank the Committee for expeditiously processing this Bill and Members of EALA. It is true that this is the first Bill we have brought to the fourth EALA. However, the speed at which the House has processed this Bill has processed the Council. This was one of the directives that the Summit gave on its 19<sup>th</sup> Summit; that, we fast track this Bill and see that we establish the oaths and other Bills that are coming. I believe that the cooperation

that the Council is developing with the House will have a lot of business that we will transact within this period. I want to thank you for the speedy we have manifested. I believe that we will have a new team that will deliver integration.

Mr Speaker, in your opening remarks, you asked the Council to give clarification on areas that you feel that business is not moving as usual especially with the programme, more specifically on the Audit Report to EALA and the Budget Estimates for the 2018/2019 Budget. We have already processed the Audit Report and it is before the Council. We are ready to table it tomorrow. We believe that this will allow the Committee to begin business very fast. *(Applause)*

We will also be giving you the period and updating your office at what time we will give you the Budget Estimates. I just wanted to make those clarifications. *Asante sana.*

**The Speaker:** Thank you very much honourable Council Chair and the Minsters for helping us in that regard. It was a genuine concern and we are happy that you have attended to it as swiftly as possible.

#### ADJOURNMENT

Honourable Members, although we have another item on the Order Paper, we appreciate the fact that we have been here for a long time. We have to end here and carry on with the remaining item during the next Plenary.

I adjourn the House until tomorrow, 2.30 p.m.

*(The House rose at 7.40 pm to reconvene on Wednesday, 18<sup>th</sup> April, 2.30 p.m)*