



EAST AFRICAN COMMUNITY

IN THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA)

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

112TH SITTING - SECOND ASSEMBLY: FIFTH MEETING – FOURTH SESSION

Tuesday, 17 May 2011

The East African Legislative Assembly met at 2.30 p.m. in the Chamber of the Assembly, AICC Building, Arusha.

PRAYER

(The Speaker, Mr. Abdirahin Abdi, in the Chair)

(The Assembly was called to order)

COMMUNICATION FROM THE CHAIR

The Speaker: Hon. Members, I rise to notify you that the new Secretary-General of the East African Community is present and would like to take his seat in this House. However, in accordance with Rule 6 of the Rules of Procedure of this Assembly, he cannot sit or participate in the proceedings of the House until he takes his oath or affirmation of allegiance to the Treaty as a Member of this Assembly.

Rule 6(3) specifically states that; “when a Member first attends to take his or her seat, other than the first sitting of a new House, he or she shall be brought to the Table by two Members and presented by them to the Speaker who shall then administer the oath or affirmation of allegiance to him or her.”

I, therefore, request any two Members of the House who know the new Member to present him to the Speaker to enable him to take his oath.

ADMINISTRATION OF OATH

The Oath was administered to:

Dr. Richard Sezibera

- (Applause) -

BILL

Second Reading

The East African Community Service Commission Bill (2010)

(Resumption of Debate interrupted on 27 January 2011)

The Speaker: Hon. Members, as you are aware during the Nairobi Session, the Council of Ministers requested and moved a Motion for adjournment of debate on this Bill. I think before we start debate, may be the Council of Ministers can tell us something on what they have done.

The Assistant Minister for East African Cooperation, Tanzania: (Dr. Abdulla J. A. Saadalla): Mr. Speaker, Sir, this Bill was brought forward in the previous meeting and we have said before that the Bill was not in accordance with time. Currently, the Council and the Secretariat is undergoing intensive institutional review and we believe that the input of this institutional review will be very important on forwarding this Bill.

However, all Partner States are for this Bill. Therefore, we suggest and request this House to listen to my recommendations, which I am going to read now.

The Speaker: Hon. Minister, we are already listening to you; anyway, you can continue - *(Laughter)*.

Dr. Abdulla Saadalla: Mr. Speaker, Sir, allow me to begin my contribution by first informing this august House that the Chairperson of the Council of Ministers is unable to attend this meeting. She is indisposed and sent her apologies.

Secondly, I wish to congratulate the Secretary-General Ambassador Dr. Richard Sezibera, upon taking oath as an ex-officio Member of this august House. *(Applause)*

I am confident that given his other role as the Principal Executive Officer of the EAC, the Secretary-General will be a key player in facilitating the EALA in the discharge of its important functions in the advancement of the integration process as provided under the Treaty.

Last but not least, I warmly congratulate Hon. Pierre Damien Habumeremyi upon his recent appoint as Minister for Education in the Republic of Rwanda. *(Applause)*

Although we will miss him and his contributions in this august House, we know that his association with the EAC is not severed. By virtue of his new office, he will be a Member of the Council of Ministers.

Mr. Speaker, Sir, the main objective of this Bill is to establish an East African Community Service Commission for the Organs and Institutions of the Community. The Commission, once established, will be responsible for making recommendations to the Council of Ministers on appointment of all staff of the Organs and Institutions of the Community and/or their terms and conditions of service.

To this extend, the Bill in its part 2 provides for the constitution, membership and functions of this proposed commission. In parts 4, 5 and 6, the Bill addresses relevant aspects on the operations of the proposed commission; financial matters and creates offences. In short, the Bill seeks to constitute an Organ of the Community that will regulate the employment and working conditions of international civil servants who are engaged from time to time by the Community.

Mr. Speaker, Sir, the Council of Ministers therefore regards this Bill to be very important in the development of both the Community statutes book and the Community institutional framework. It is on this basis that the Council of Ministers did, through my colleague, Hon. Monique Mukaruliza, seek adjournment of the Second Reading of this Bill during the Third Meeting of Assembly on 27 January 2011. The adjournment which was granted was meant to enable the Partner States to study, consult and comment on the Bill. At its 21st meeting held on 29th November, 2010, the Council directed the Partner States as contracting parties to the Treaty and key stakeholders in the integration process to undertake such consultations and submit inputs and comments.

Mr. Speaker, Sir, I would like to inform this august House that by the time the Council held its 22nd meeting on 5th April, 2011, all the Partner States had submitted comments on this important Bill. I am happy to inform you that the Partner States appreciate the need to regulate and streamline the international service of the Commission. The Partner States however raised policy issues especially on the timeliness of establishing the proposed Commission within the Community's institutional framework.

The establishment of a service commission is a policy matter that prominently features under the on-going institutional review. The institutional review encompasses a consideration of staffing and job evaluation in all the Organs and Institutions in order to enable the Community access the type of conducive services that it needs for progress ahead.

Once the institutional review is completed, it is envisaged that there will be a major transformation of the Community's institutional framework as established by the Treaty and relevant protocols. It is a transformation that will involve not only the Council as the policy organ, but also the Summit of Heads of State; the organ that gives general directions and input to the development of the Community.

Mr. Speaker, Sir, the institutional review is an important undertaking in as far as determining the course of the Community especially following the establishment of the EAC Common Market. It will also address all matters pertaining the funding of Organs and Institutions and the hierarchy and relationship of Community Organs and Institutions vis-à-vis those of Partner States. For example, in this case, the relationship with Partner States service commissions which are currently enabled to participate in the staff recruitment by the EAC staff rules and regulations.

The completion of the institutional review will also give direction on financial aspects relating to the funding of any new Organs and Institutions.

Mr. Speaker, Sir, the Council of Ministers took the Partner States views and comments. The Council directed the Ministers responsible for EAC Affairs to bring

the Partner States concerns and comments, especially with regards to the timing of establishment of the proposed service Commission to the attention of this august House. This is exactly what I have done now.

The Council of Ministers is of the considered view that establishment of the proposed service commission is not timely at this point in time. Let me also add that in legislating on important transformations of the Community such as the one on the Floor, it is important that this august House moves together with the Council as the policy Organ.

I beg to submit.

The Speaker: Hon. Members, you have heard what the Minister has said. I think we should also say that as much as the Council gives direction and policy of the Community, we are also the legislative Organ of the Community. So, we also have a function to do as an Assembly. So, in essence, Hon. Members, it is for you to decide which way you want to move on this Bill.

Before we proceed, I would like to recognise Messrs. Mark Kela and Gregory Nielsen who are here from the One-Laptop Per Child Foundation. Could they please stand up for recognition? (*Applause*)

Very well, Debate is open.

Mr. Gervase Akhaabi (Kenya): Thank you, Mr. Speaker, Sir. I have listened with consternation to the remarks coming from the Council of Ministers. The EAC is an inter-governmental organisation intending to graduate into an EAC government when there is a federal arrangement in this region. In this respect, the Treaty sets the timelines and the milestones that should be attained in sequence. We have completed the Customs Union phase and we are now consolidating that phase, and we are entering the Common Market and consolidating. The methods of employment or recruitment and retention of the staff of the EAC at the inception in 1999 is materially different from the case today. It ought to be totally different in the next five years. Unless we have in place institutional and legal frameworks to move this Community what we are going to have will be a situation where the Partner States second officers to the Community to work for the interests of the Partner States without any regard for the development of the Community as an intergovernmental and supra-national organisation.

Mr. Speaker, Sir, what the Minister, on behalf of the Council of Ministers, is telling us is that where the Council fails in its duty to give policy direction this Assembly should sit back and watch. This is unfortunate. Under Article 14 of the Treaty, the Council is charged with the responsibility of policy direction in the Community. The policy direction has its foundation in the Treaty itself; and the Treaty does not at any one time contemplate the running of the Community from Partner States. What is contemplated by the Treaty is establishment of institutions that will be above the national institutions, and which institutions will take precedence over those national institutions with regard to the matters pertaining to the Community.

Mr. Speaker, Sir, I agree that a lot of review is going on at the Community in terms of institutional and other reforms. But reforms and reviews are continuous. They cannot

hold back the Community in its progression to its ultimate goal, which is the establishment of a political federation. When these reforms and reviews are completed, we expect that the Council of Ministers will have the presence of mind this time round to bring amendments appropriate to meet those reforms and reviews. But they cannot tell us that that they want to hold on all progress until they have reviewed. What I read in the Minister's statement is that the Council of Ministers is failing in its duties. It is allowing Partner States civil servants to come to Arusha to continue to run their Ministries in Arusha. So, they want to make the EAC small departments or sections of their Ministers. The Council of Ministers should be brave enough to tell these civil servants in the name of Faso to work from their Partner States and let the Community function from here - *(Applause)*.

They should not bring their selfish interests from the Partner States to come and try and share whatever little is at the Community among themselves. This is not the way can develop the EAC. I was shocked to hear the Minister say that the national service commissions are currently not able to participate in the recruitment of staff at EAC. How do they want to participate and why? The staff at the EAC is not the staff of the Partner States. So, on what basis will the national service commissions wish to participate in the recruitment and retention or discipline of staff at the EAC level? These people in the service of the EAC under the Secretary-General must be given a free hand. They should feel free to recruit and run their services within the Community and be beholden to the selfish interests of the Partner States.

Mr. Speaker, Sir, this Bill is a brave attempt by this Assembly, and I thank Dr. Masha; who must be somewhere here... *(Laughter)* This man, Dr. Masha; Hon. Dr. Masha; he has a Doctorate in Philosophy ... *(Laughter)*

The Speaker: Hon. Akhaabi, in this House he is only a honourable Member. *(Laughter)*

Mr. Akhaabi: Thank you, Mr. Speaker. We have to recognise some of these achievements; like his.

Mr. Speaker, Sir, Hon. Masha has a wealth of experience from the old Tanganyika government, the Tanzania government, the UN and now he is here with us. He saw the functioning of the old EAC which had an independent civil service that was never dictated to by the Partner States. From this, we are saying that the civil service at the EAC must be independent. The Treaty itself says it should be independent and the recommendations and views expressed by the Council of Ministers are retrogressive; they are antiquated. I urge this court - *(Laughter)* -

The Speaker: Order, Hon. Members!

Mr. Akhaabi: This House's sitting as it is; it is in a way a court; it judges some issues - *(Laughter)*.

Mr. Speaker, Sir, I urge this Assembly to reject those views coming from the Council of Ministers. We must tell the Council of Ministers to style up. They must style up! We have to be bold to tell them that they are reading these so-called recommendations on the last day; they don't digest them and they should be providing leadership in policy. But they are being dictated to by civil servants from the Partner States.

Mr. Speaker, Sir, I therefore urge the Assembly to pass this Bill so that we give some form of independence and latitude to the EAC civil servants. Without that kind of latitude and freedom and independence, which also gives the people serving in the EAC a certain amount of certainty about their employment, we are not going to retain a civil service that is committed to deliver. Even with the new Secretary-General, who is a distinguished public servant, he will get frustrated by these people from the Partner States.

Mr. Speaker, Sir, I beg to support the Motion and urge the rest of the Members to do the same.

I thank you. *(Applause)*

Dr. Lwanyantika Masha (Tanzania): Mr. Speaker, Sir, let me first say I am extremely humbled by the comments about me by Hon. Akhaabi. He happens to be a good friend and I would have a lot of complimentary comments about him, and I sure appreciate what he said. I am equally in total agreement with him on the Motion.

Before I go into the Motion, allow me also, since this is the first time I am speaking in the presence of the new Secretary-General, to welcome Dr. Sezibera as our new Secretary-General. We have heard a lot about him and his success wherever he has been and we are looking forward to working with him. *(Applause)*

I am told he is a medical doctor, now seated next to another medical doctor. That assures those of us who are starting to lose some hair that we are well protected. *(Laughter)*

I also wish to convey my happy feelings about the appointment of our former colleague Pierre Damien Habumeremyi as Minister for Education in Rwanda. Next time we are in Rwanda at the East African Villas, we will be happy to know that we are staying in the home of a Minister in Rwanda. Please convey my most happy regards to Hon. Habumeremyi.

Mr. Speaker, Sir, on behalf of the Council of Ministers, the Minister has told us a number of things. I was trying to read the way he was saying the comments he made and what he called recommendations of the Council. Allow me to say I felt he was straining to say something negative or sort of to hold off on the completion of this Bill.

He gave us an argument that that there is an institutional review going on and therefore this proposed commission should await the institutional review. Had I known that argument was going to come up I would have come in here with my copy of some of the provisional elements of that institutional review as being discussed. I happen to have read it. If anything, I would think that this Bill would help them in that institutional review rather than that the Bill should await the institutional review.

In the institutional review, they are talking setting up new offices, changing the framework of some institutions, changing the Secretariat into a Commission – wonderful ideas. But I thought an organisation which is talking about changing its structures would be helped by the existence of another internal body whose job is exactly to look at the structures as they change. I do not see how a commission for

civil service should be stopped to await an institutional review whose time we don't know. What is he asking us not to pass?

Mr. Speaker, Sir, the proposed commission, if it becomes law, will deal with appointment of persons to hold or act in offices in the service of the Community. Is he telling us that since the institutional review started, there haven't been any appointments in the Secretariat and that all appointments will be held back until the institutional review is completed? I am aware that some new staff members have already been appointed even while the institutional review was going on. This is a job that we are asking this Commission to do. He says this Commission should not do its functions until the institutional review is complete and we don't know when it will be complete. But this Commission would be making recommendations on promotions, transfers and confirmations in appointment. So, are we telling the staff of EAC that until the institutional review is complete, there will be no promotions or transfers? Or indeed, is that what is taking place?

The proposed Commission will make recommendations on disciplinary control and punishment of persons holding or acting in such offices. Is the Council telling us until institutional review is complete there will be no disciplinary action on any staff? I get the feeling the Council of Ministers is looking for any argument to stop this Bill.

The Proposed Commission will be looking at equitable representation by gender and by nationals from all Partner States. Do we have to wait for institutional review to ensure that there is equitable representation by gender and by nationals in the service of the Secretariat? I am trying to see what the problem is if this Commission is accepted and why it must await this institutional review, which is the major argument that has been put forward.

The institutional review; at least the provisional draft that I have seen, deals with some changes in staffing levels, including changing names and grades of certain offices in the Secretariat. The proposed Commission would be making recommendations on the staffing levels or any changes in staffing levels of all Institutions and Organs of the Community. Would this not be the right instrument to make recommendations, probably as part of that institutional review as to the staffing levels that are needed or that are being proposed to change in that institutional review? I am trying to look for the reason why the institutional review is a block to this Bill. And as I said when I was listening to the Minister, I felt he was straining to argue the relationship between this Bill and the institutional review process going on.

The proposed Commission would be looking at job descriptions for all posts based on proposals by authorised officers. The institutional review; at least the draft I have seen, is proposed changes of posts. Is that not the work that should be done by this Commission or are they trying to pre-empt the work of this Commission through that institutional review?

Mr. Speaker, Sir, I am not convinced that there is indeed, a serious argument from the Council of Ministers to block completion of this legislation. If anything, this Bill would be a help to that institutional review, whose time frame we don't know yet.

The references to the timing – he says the timeliness of its establishment would be a problem. What is the problem? In Clause 2 of the Bill; allow me to read it because it

is only two lines: “This Act shall come into force on such a date as the Council may by notice publish in the Gazette appoint.”

So, when we pass it, it is up to the Council to determine when it comes into force. Should it be that in their wisdom it has to await until the institutional review is completed, for heavens sake, hold it until then.

Mr. Speaker, Sir, I find no justification in the arguments of the Council to hold off further debate on this Bill. Indeed, in all the comments I listened, there was no comment on substance as to something they are against. These are all procedural. If the procedural difficulty has anything to do with the institutional review process, I will not support it. This time, I will not support a postponement on this Bill. I was generous enough last time to support the Chairperson of the Council of Ministers to give them time. We were assured that these matters would be completed in Kigali. They did not bring it up in Kigali and this time, as indeed my colleague Hon. Akhaabi has stated, the Assembly should probably tell the Council that since they don’t want to do their job, we will help them do their job.

I support the Motion and beg and plead with the Council of Ministers to do the same.

I thank you.

Mr. Dan Ogalo (Uganda): Thank you, Mr. Speaker, Sir, for the opportunity to contribute to the Motion.

Mr. Speaker, Sir, let me begin by congratulating the new Secretary-General on his appointment and being sworn in the House.

Mr. Speaker, Sir, whereas Hon. Akhaabi listened to the Minister with consternation, for me, I listened to him with a lot of sadness. There appears to be an abdication of responsibility. This is an abdication of responsibility that we have seen over a length of time. This is not the first time a Bill is coming up and the Council of Ministers, instead of dealing with it as the policy organ; instead of taking a decision, as the policy organ of the Community, it refers it to Partner States, ostensibly for comments and input. The responsibility for policy under the Treaty lies with the Council of Ministers, not the Partner States. As long as the Council continues to refer Bills to Partner States for comments, we are going to have problems with enacting any Bill.

Mr. Speaker, Sir, this House has an obligation. The framers of the Treaty in Article 59, being aware that they had provided the Council as the policy organ, still went ahead and said any Member of the Assembly can bring a Private Members’ Bill. The framers knew that the Council was the policy organ, but at the same time said any Member of this House can bring a Bill and that this House can pass that Bill into law. We are not beholden to the Council of Ministers or the Partner States in determining whether we are going to enact a law or not. If the framers of the Treaty had not wanted this Assembly to express itself on any Bill; if they had wanted this Assembly to subject itself to views of civil servants in Partner States, if they had wanted this Assembly to subject itself to the views of the Council of Ministers, they would not have provided for any Member to bring a Bill. The framers knew that there would be times when it would be necessary for this Assembly to originate policy and enact it into law. They knew that, and that is why they enacted Article 59. It would be a great

failure, an abdication of our responsibility as a House when faced with a Bill and a duty under Article 59; it would be our failure to simply wring our hands and say the Council of Ministers and the Partner States have said this is not a good idea and we walk away from it.

I think we must rise to the occasion. We are here talking for the Community and we must legislate for the Community. It surprises me why every time there is a need for setting up an Organ of the Community, there is opposition. Then, why are we talking about the Community if we cannot build institutions? Why were we set up as an Assembly if we cannot create institutions of the Community?

Mr. Speaker, Sir, the framers of the Treaty, in my humble view, were aware that we as we move and legislate Bills into law, we would be faced with some road blocks; people who would not want us to enact legislation. So, what did they do? They provided in Article 63. They cut out the Council of Ministers; they never provided for the Partner States, but they said our Bills, once enacted, would go to the Summit for assent, and if the Summit was not comfortable with what we have enacted, they can refuse assent. Legislative power is not shared with Council of Ministers and Partner States. It is between this Assembly and the Summit. If the Summit thinks that the East African Community Service Commission Bill should not be enacted into law, it will exercise its power under Article 63 and refuse to assent to the Bill. The alternative for the Summit is to send the Bill back to us with comments and say, we have looked at your Bill, we don't think this provision is okay, and if we feel so, we can remove it. So, there is a mechanism for us to enact this Bill into law.

Mr. Speaker, Sir, I would plead with Members that we should now send out a clear message that this House shall not be held hostage to the views of any individual Partner State or civil servant or the Council of Ministers, but will exercise its duty under Article 59. That message must go out very clear from today so that even – Hon. Members, if we do not enact this Bill into law, we are setting a precedent. The precedent we will be setting is that the civil servants in the Partner States will now say they have a veto over us. The Council of Ministers will say, yes we have set a precedent that whenever there is a Private Members' Bill, it must be referred to civil servants in Partner States. How can a legislature act on the whims of civil servants?

Mr. Speaker, Sir, this is the opportunity for the House to lay down a principle that Article 59 shall not be compromised and that the only Organ which can check this House on legislation is the Summit; and once it does so, we will accept that because it is within the Treaty.

At the beginning of this Session, Hon. Members, you remember what Hon. Kategaya said to us. He said to us you Members, I tell you one thing, which must guide you always, and I quote him "Treaty, Treaty, Treaty." (*Applause*)

That was Hon. Kategaya. Now, the Treaty has said we should do this thing. If a Private Members' Bill comes, we can pass it into law and the veto power lies with the Summit. I don't think that we can be blamed for any reason whatsoever that the Council of Ministers can say we should ignore the Treaty. I don't think that is possible.

Mr. Speaker, Sir, the Hon. Minister gave one of the reasons that this Bill involves serious policy matters. If I got him clearly, the Partner States are saying this Bill has serious policy matters, we need to look at it, it is not timely and so on. My question is this; we have been employing staff as a Community for the last ten years. What is the policy then? What is guiding us in those recruitments we are carrying out? I thought that the Council of Ministers would actually welcome this because it is setting the policy and legislation of how we are going to do things. How can we want to use a method which is undefined? Some people are sent from the Partner States, they come here ad hoc, they sit and say they are now an interview board, then they interview people and then they fly back. Is that the best way we want to do things? Is that better than having a policy in place? I would have thought that the Council of Ministers would welcome this Bill and say, yes, this is going to help us manage the Community affairs. That is why I was saddened when instead the Council was saying put this on hold.

Mr. Speaker, Sir, the date of publication of this Bill; when the whole world knew that there was a Bill in the East African Legislative Assembly is given as 21st May, 2010. That is when the whole East Africa was told there is a Bill in EALA. Today is 17th May, 2011; one year later. This is a disservice to the people of East Africa! That a Bill which they saw in the Gazette of East Africa one year ago is still lying with us because we want to be accommodative, we want the Council of Ministers to refer it to Partner States and in the process the people of East Africa are asking; what happened to that Bill EALA said they were debating one year ago?

Mr. Speaker, Sir, a message must be sent out to the people of East Africa; that this House means business. When it publishes a Bill in the East African Gazette, that Bill is dealt with expeditiously. This Bill has not been dealt with expeditiously because we tried to be very accommodative. This is why at the end of the day; one year down the road, we have not enacted it into law. I plead with Hon. Members of the House that we should send out this message, that when we publish a Bill, we should show them that we are serious by finalising it as soon as possible.

Mr. Speaker, Sir, one reason that was cited by the Minister is institutional review. In addition to the able arguments of Hon. Akhaabi, surely the question of reform is a continuous process. It is helped by existence of a legal framework. In fact, if this Bill was law before then this institutional review, it would have helped the institutional review. The review would have been moulded around the legal framework.

Mr. Speaker, Sir, the institutional review is an internal mechanism. It is something trying to internally see how we reform. This Bill proposes to be a law affecting the people of East Africa. What should take precedence; an internal arrangement within Arusha or a law for East Africa?

Mr. Speaker, Sir, I will end by making a plea which I have made several times before. But while in Kigali, I learnt something else; its called, push, push, push and push. So, I will repeat this for purposes of pushing. My plea has always been to the Council of Ministers that they should relocate and come to Arusha; take responsibility in Arusha; fill the political vacuum, which is in Arusha. When that happens; when we don't have a political vacuum here, then instead of referring these matters to Partner States, the Ministers would deal with them. But as long as the Ministers just fly here a day before any deliberations, sign things and go away, we will continue having the Partner States

running the Community. Because individuals in the Partner States want to retain sovereignty, we will continue to have a child whom the parents are refusing to grow.

Mr. Speaker, Sir, I plead that we rise to the occasion and we enact this Bill into law.

I thank you.

Ms. Dora Byamukama (Uganda): Thank you, Mr. Speaker, Sir. I would like to also take this opportunity to congratulate Ambassador Dr. Sezibera, who has joined us as a Member of this House today. We look to working with him as Secretary-General and I hope that he will be productive and we move the EAC to higher levels together.

Mr. Speaker, Sir, I would like to go straight into the Bill and I have three points I would like to raise. The first one; because my colleagues have talked on this issue before, is on the need to have a law. When you draft a law, there is usually what is called a mischief. So, in this case, I think the question that is before us and should be before the Council is; is there a mischief? My colleagues have articulated the mischief. Let me just give you another ankle of the mischief which is very glaring right now. This is the road map of the integration of Rwanda and Burundi into the Community, because sooner than later, we shall have Somalia coming on board, DRC is on the way and Southern Sudan has already arrived. So, basically what we are saying is that we need a Commission to sit down and articulate, internalise, audit and project so that we as a Community can move forward; so that issues of integration are not further delayed by not having such a Commission in our midst.

Mr. Speaker, Sir, when you talk about the mischief, the main cure for the mischief is found in Clause 10 of this Bill. It says: "Except where it is otherwise provided for in the Treaty or Act of the Community, the Commission shall make recommendations to the Council..." Is there any harm in making recommendations? Is there any entity that would not serve even better with recommendations? How come the Council of Ministers refused to get recommendations from experts? So, it defeats my understanding when the Council of Ministers first pleads that it wants to consult with Partner States and promises to bring it in Kigali and now it is pleading institutional review. Let us be honest with each other. Is the delay coming up because the Bill never came from the Council of Ministers? Is because it is a Private Members' Bill? We need to know. Otherwise, whatever is being brought on board is not rational.

Mr. Speaker, Sir, let us look at the functions of the Commission. Recommendations to Council on: 1. Appointment of persons. 2. Promotions and transfers. 3. Disciplinary control and punishment. 4. Equitable representation. 5. Staffing levels. 6. Job descriptions. 7. Salary scales. 8. Schemes of admission in to the Community. What is harmful in this?

Mr. Speaker, Sir, the Treaty is very clear. Article 49 articulates our function, which is to legislate. Article 14 in its wisdom says that as we legislate, we should not take directives from any entity. Therefore, the recommendations of the Council are well taken. But where they are not rational, then I think we are not obliged to take them on board.

My second point is on the issue of Private Members' Bill. Some of us have experience on this issue. Every time a Private Members' Bill comes up, it is treated with

suspicion. I am pleading with the Council to work with us and have faith that even as we bring up these Bills, they are for the good of the Community. I want to thank Hon. Dr. Masha and those who are planning to bring other Bills because this is one way of keeping us on our feet and keeping Council and other Organs on their feet, too.

Thirdly and lastly, if the Council of Ministers' statement had concluded that they would be willing to own the Bill, or that they would have a time-frame within which to work on the Bill, that would have made better sense to me. But the Council is not willing to commit itself on these two aspects. So, even the argument for institutional review does not hold water because laws are not cast in stone. We can come back here and amend the law accordingly.

What I am saying is that we are duty-bound to make laws. We have a legacy to live behind. What we are doing is rational. There is a mischief to be cured and the Council of Ministers should concede. Next time they come to fetter our powers to make laws, especially Private Members's Bills, they should carefully think through their justifications or recommendations.

I thank you.

The Assistant Minister for East African Community Affairs, Mr. Peter Munya (Kenya): Mr. Speaker, Sir, I wish to move an adjournment of debate on this Bill under Rule 31(c) until next week so that we can have further consultations on this extremely important Bill.

Mr. Speaker, Sir, we have consulted here and after listening carefully to the debate on the Floor, we are persuaded by most of the views that have been expressed by the Members; many of them very positive and forward looking.

The Speaker: Hon. Munya, I think before you go to the justification for your Motion, may be someone should second you.

Mr. Munya: Mr. Speaker, Sir, I will ask the Counsel to the Community to Second. *(Laughter)*

The Speaker: You do not have to ask him to do it!

The Counsel to the Community, Mr. Wilbert Kaahwa: Mr. Speaker, Sir, for purposes of record, the Hon. Minister is not asking me to support the Motion. On my own motion, I feel that the Motion he has moved and for reasons which he will state, requires my support. I, therefore, support the Motion.

Mr. Munya: Mr. Speaker, Sir, I obviously associate myself with the views expressed by my colleague Hon. Dr. Abdullah. But as I said from the very beginning, the views that have been expressed on the Floor are very positive and very constructive and that is why we have seen the need to persuade the House to agree with us to adjourn the debate on this Bill until next week to facilitate further consultations within the Council. If the consultations are allowed, we can see the Bill is contributing very positively to the institutional review that we are considering. *(Applause)*

Mr. Speaker, Sir, with the reasons I have given, I plead with the House to allow an adjournment until next week so that the Council can get time to consult.

(Question proposed)

The Counsel to the Community, Mr. Wilbert Kaahwa: Mr. Speaker, Sir, I rise to support the Motion for adjournment for the following reasons.

First of all, personally as Counsel to the Community, I have always been in favour of a Bill of this nature. I don't introduce Bills in this House; they are introduced by Council of Ministers. Sometime back – *(Interruption)* -

Ms. Dora Byamukama: On a point of procedure, Mr. Speaker, Sir.

Mr. Kaahwa: Mr. Speaker, Sir, could you please protect me from any undue interruptions?

The Speaker: I don't see any procedural issue. He seconded and he is now debating. Proceed, Hon. Kaahwa.

Mr. Kaahwa: Thank you, Mr. Speaker, Sir, for allowing me to proceed without any undue interruptions.

Mr. Speaker, Sir, I was informing this august House that sometime back in 2005, I proposed the initiation of this Bill. I brought this information to my friend Hon. Dr. Masha when he was initiating the Bill. At the time, the Council of Ministers felt it was not the appropriate time to bring this Bill. So, personally, I am in support of this Bill and as the Minister indicated, the Partner States are very positive about this Bill. If you marked his words carefully, the Minister just brought the decision of the Council to the House.

The time requested for is not inordinate. I know the programme of this Session has already been determined. But this is a very important Bill and if the Ministers have committed themselves to consult and then appear before this House only next week, I feel that this august House should consider it enough to grant the adjournment.

I therefore support the Motion.

Mr. Bernard Mulengani (Uganda): Thank you very much, Mr. Speaker, Sir. I wish to add my voice to that of my colleagues in welcoming our new Secretary-General and to congratulate him upon his new tasks and wish him success.

Mr. Speaker, Sir, arising from the period since January when this Bill was supposed to come for Second Reading to-date, is a period of approximately five months. To the extent that the Council of Ministers within that period thought that the only reasons that would be advanced to this House were the recommendations of the Council as have been presented by the representative of the Chairperson of Council in this House, to me it takes further to think the level of seriousness the Council partake what we present in this House. To that extent, I don't want to object to what the Council is requesting this evening, but I would think that if indeed, they are taking the matter seriously, they would initially have given the House the opportunity to give them a date. Asking for next week is rather a lengthy period that possibly I see like defeating

the Bill. So, I would request the indulgence of this House that the reasons advanced by the Council of Ministers and seconded by the Counsel to the community, I have got a bit of question in my mind; that the Council is positive with the Bill and in their recommendations, nothing has been read that the Council is positive with the Bill and the Council is willing to own the Bill. I think our colleagues that have risen to talk to the Bill and why the Motion should be carried have really ably talked that some of us thought they would not rise to talk because they did enough justice to the extent that the Council is now seeing that the recommendations they gave this House possibly if given the opportunity that they presented similar recommendations to the Summit, the Summit would question their credibility. Those recommendations that they gave to this House, to me I see as if they sat one evening and decided to write up something. They did not give the Bill enough attention.

I would therefore request that the next week period they are requesting for, we don't allow this period. If it is in the wish of the House Business Committee to look within this week so that they come back and respond to us.

Ms. Dora Byamukama (Uganda): Mr. Speaker, Sir, I want to thank you for an opportunity to contribute to this Motion. I wanted earlier to move on a procedural matter but let me put in a form of clarification. The English have a saying that once beaten, twice shy. There are some broken promises from the Council of Ministers on the same Bill and some other previous matters. We can forgive them on the others. Our relationship with Council has been marred, so we need to repair it to some extent.

Mr. Speaker, Sir, the Hon. Counsel to the Community is a Member of the Legal, Rules and Privileges Committee, which is the mover of this Bill. We have had his professional advice and participation. I am glad to note that he said the Council supports this Bill, although the Council of Ministers was not very clearly on its support. So, I would like to hear from the Chairperson, Council of Ministers more authoritatively.

Having said this, on a serious note, I think we need to be very clear with ourselves. What is the purpose of one, two or four more days? We can give the four days; it is okay. But what is the whole purpose? The first reason was that there was going to be consultation with the Partner States. There was no evidence that there was any consultation right from the Nairobi meeting. The Legal, Rules and Privileges Committee does not have any form of response on this particular issue. Now, the excuse is institutional review. The next excuse could be anything under the heavens.

My point is this; we can amend this law. Let us pass it, let the Council of Ministers come up with amendments. If they wish to be given more time next week, then let them pay for an extra day for all the Members here so that we do not waste another afternoon deferring issues.

I thank you.

Mr. Mike Sebalu (Uganda): Thank you very much, Mr. Speaker, Sir. I would like to join my colleagues in welcoming Dr. Sezibera to Parliament and to tell him that this is the way we do our thing. You are welcome; you can see how we tussle it out. *(Laughter)*

I can say that you are undergoing a baptism of fire. So, just take heart, this is the way we go about it and at the end of the day, we do some serious production.

Mr. Speaker, Sir, the way the statement was presented by the Minister, whatever was contained in it, and the conclusions which you also commented about, was a little disturbing. Hon. Akhaabi said he listened with consternation and for Hon. Ogalo it was with sadness. Now, you can see the way it is being described. Now, for me, I just respect the guts of the Minister. *(Laughter)* You really need to be a medical doctor to present those views without falling sick. *(Laughter)* So, I just respect him.

Mr. Speaker, Sir, you can never have a second chance to make a first impression. The impression we have of Council in terms of keeping promises is not very good. Definitely, that is something we all know. When you give our Council of Ministers a handshake, they go for the elbow. They are asking for a week but you can never tell what that week will translate into. The Nairobi experience is quite clear. We went to Kigali and we thought we would be able to conclude something, but there was nothing and there was no explanation; not even courtesy to say, look, we are unable to bring the Bill for this or that reason, but it just passed like everything was normal. So, when I hear them making requests, I always treat it with a bit of suspicion.

When I heard the justification, I was more convinced that we need to go ahead, because the reasons he gave were almost justifications for us to continue. When you say that the Counsel to the Community supports it, that is good mileage in itself for us to proceed. Secondly, he did indicate that the Council of Ministers has no problem with it. The Partner States equally have no problem with it. So, where is the problem now?

My view would be that if I had my way, we would continue, but the Speaker is the one with the way. I think this matter is indeed serious and our colleagues put very serious arguments for support of this Bill to proceed and to avoid a precedent that can be used against us institutionally. We have always suffered from those kind of contradictions. You give in to gain mileage and then thereafter it is used against you when you have another issue being raised on the Floor.

Having said that, I will go with what the entire House decides, but I have my views.

Ms. Patricia Hajabakiga (Rwanda): Thank you, Mr. Speaker, Sir. I also wish to congratulate the new Secretary-General for his appointment by the Summit last month and for taking oath today in this House. I wish him good work and great collaboration between the Secretariat and this Assembly.

Mr. Speaker, Sir, after listening to my colleagues this afternoon in relation to the importance of this Bill, and taking into account the request from the Hon. Minister to adjourn debate for the second time, I wish to get clarification from the same Minister as to whether the adjournment which they want is for another consultation or is for looking for amendments to the Bill. From there, I will then be able to support and urge my colleagues to join me to support this Motion to adjourn until next week, or to oppose the Motion.

Mr. Speaker, Sir, listening carefully to first Minister who stood in on behalf of Council and the second Minister who also stood in on behalf of Council, there is a

contradiction. If the request for the adjournment means that they have accepted the responsibility that they were wrong in the first place and that they were wrongly advised by whoever advised them that this particular Bill should be deferred until the institutional review.

I thank you.

Mr. Frederic Ngenzebuhoro (Burundi): Mr. Speaker, Sir, first of all, I would like to congratulate the new Secretary-General and wish him the best in his new responsibilities.

Mr. Speaker, Sir, I would like to get information from the Council of Ministers. I have with me an official document which is a report of the 22nd meeting of the Council of Ministers. The second decision taken by the Council of Ministers on page 6, part 1 says: "The Council advised the Ministers responsible for EAC Affairs to take into account the Partner States comments on the EAC Service Commission Bill (2010) especially with regard to the timing of the establishment of the proposed service commission during the 2nd and 3rd Reading of the Bill in EALA."

As I said, this was the second position they took. Is it possible to know now the new kind of consultations they want to have? If this decision has already been taken, it means that the consultations have already taken place. Now, I would like to know exactly what they need to do again.

I thank you.

The Minister for EAC Affairs, Dr. Abdullah (Tanzania): Thank you, Mr. Speaker, Sir.

I have the great honour to inspire all the contributions given to this House by esteemed Hon. Members. Again, I have to admit that we the Council of Ministers appreciate that the EAC is stepping into the second stage. Furthermore, we also agree that there are many reviews and reforms undergoing within the Community for the benefit of East Africans.

However, I would like to strongly differ from the views of the some of the Members that Partner States are interfering negatively with the Community issues, specifically EALA's decisions.

Some accusations have been made here that we lack credibility and that it is good that two of us here are medical doctors and we could tolerate that. (*Laughter*)

Mr. Speaker, Sir, we seek adjournment of this Bill for one week. We first believed that the input from the institutional review would be good tools and instruments to enrich the Bill itself.

One of the Members said that we have been plenty of time to have our inputs. But there were two inputs to be precise. There was one input that we needed recommendations from Partner States about the harmonisation of the individual service commissions in their respective countries. That is over and it is within our hands. There was a second one which was this institutional review which I believed could be a very good tool and instrument to enrich the Bill.

Therefore, I plead with the House to give us that time, let us adjourn debate on this Bill up to next week so that we can sit down and see how the inputs which we have and how the institutional review affects the progression of this Bill to be accepted.

I beg to support.

Mr. Munya: Mr. Speaker, Sir, I am very gratified by the views that have been expressed by Members in relation to this Motion. I would like to guarantee the Members that this Motion has been brought in good faith to allow wide and deep consultations in view of the very many positive and noble ideas that have been expressed by Members on this very important Bill.

So, the Motion really, is to help us as Council, especially given the fact that you can see several Members of the Council are not in this city, time to talk. I believe the consultations will only contribute to the positive outcome of this Bill.

Mr. Speaker, Sir, there is no contradiction whatsoever between what I said and what my colleague said. Doctors are very special people. If we did not have them, many of us would not be very comfortable in this House; some of us would be having many ailments and staying away from contributing to this very important Motion.

In history, there are many great doctors who have also gone on to become very great politicians and leaders in the world.

In this spirit, I don't want to continue beyond there. I humbly plead with the Members to allow this adjournment.

I beg to move.

(Question put and agreed to)

(Debate on Motion adjourned for one week)

ADJOURNMENT

The Speaker: Hon. Members, we have come to the end of business today. I only want to say that I hope the Council of Ministers will be ready next week.

(Loud consultations)

Order, Hon. Members; we have not adjourned yet!

When we were in Nairobi, they told us they would come in the next Session which was in Kigali. They did not come. I would also like to say that they did come to my office and said that they were not ready and that they were going to wait for the meeting of Council. So, I think we should also give them the benefit of doubt. They came to my office and said Council had not sat. So, Council has sat now. But I think after the debate here, they have seen that what Council had agreed to--- I think they needed more consultations. So, we will give them room to have more consultations.

Finally, I would like to congratulate Hon. Sezibera for his appointment as Secretary-General and for taking his place as an ex-officio Member of this House. *(Applause)*

As Hon. Sebalu said, today was a mild day. *(Laughter)* But if we work together, we can get things moving for the EAC and we hope that we have better--- I think as a Member of EALA, this is the third Secretary-General I am working with. Every other Secretary-General gets better and better, so I hope this one will be the best and we can move together.

Hon. Members, with those few words, I now adjourn the House until tomorrow at 2.30 p.m.

(The House rose at 5.30 p.m.)