



EAST AFRICAN COMMUNITY

EAST AFRICAN LEGISLATIVE ASSEMBLY

Official Report of the Proceedings of the East African Legislative Assembly

35TH SITTING - FIRST ASSEMBLY: FIRST MEETING - THIRD SESSION

Tuesday, 2 December 2003

The East African Legislative Assembly met at 2.30 p.m. at the Chamber of the Assembly, Ngorongoro Wing, Sixth Floor, AICC Complex, Arusha

PRAYERS

[The Speaker, Mr. Abdulrahman Kinana in the Chair]

The Assembly was called to Order.

COMMUNICATION FROM THE CHAIR

The Speaker: Honourable Members, I would like to make the following communication regarding the time of our sittings for the Plenary today and other related matters concerning our work as an Assembly:

WHEREAS, Clause (1) of Article 55 of the Treaty provides that the Assembly shall be held at such times and places as the Assembly may appoint;

AND WHEREAS Sub- rule (1) of Rule 12 states that, "Sittings shall, unless the Speaker otherwise directs, ordinarily commence at 9.00 o'clock in the morning up to 1.00 o'clock in the afternoon, and resume at 4:00 o'clock in the evening and conclude at 6:00 o'clock in the evening; on Tuesday, Wednesday and Thursday;

NOW THEREFORE, the Speaker having taken cognisance of the foregoing and yet having regard to the nature of the business to be transacted by the Assembly, has in the exercise of the mandate vested in the Speaker, pursuant to the provisions of sub-rule (8) of Rule 11, directed as follows: -

That the Assembly shall hold its plenary sittings today Tuesday, December 02, 2003 commencing at 2:30 p.m. in the afternoon and conclude when all the business appearing on the Order Paper has been disposed of.

2. Decisions of the House Business Committee

Honourable members, the House Business Committee held a sitting today Thursday, 27 November 2003. As previously agreed upon, I now wish to notify you of the major decisions

taken in so far as the business of the House is concerned:

(i) Honourable Members, I have no doubt that you are all aware that H.E. Benjamin Mkapa, President of the United Republic of Tanzania is currently unwell and hospitalised in Zurich. The House Business Committee decided that we formally send him our well wishes. May I, on your behalf, wish him the quickest recovery possible and continue to pray that the almighty gives the medical staff attending to him the wisdom they require while treating him.

In addition, I have also formally written him a letter informing him that the Assembly stands with him during this discomfoting time and that we are confident in the treatment he is getting. We are therefore firm that he will soon be back home to continue to provide the people of the United Republic of Tanzania with his much cherished leadership.

(ii) We have been informed that the Summit of EAC Heads of State will meet on 16 January 2003, here in Arusha to sign the Protocol on the East African Customs Union. This is an important event in our integration process. The House Business Committee resolved that the Assembly ought to be present to witness this remarkable achievement. When the details are finally worked out, the Clerk will issue you the notice and programme of activities. You should therefore be prepared to travel to Arusha around the 15th – 17th January 2004.

(iii) Related to that, I asked the Secretary General to officially brief the Assembly on the outcome of the negotiations so far which would climax into the signing of the Protocol on the

Customs the Union. The Secretary General has appointed Mr. Peter Kiguta (Economist) to brief us. I will accordingly suspend the proceedings of the House at 3:00 p.m. to allow Mr. Kiguta brief us. We will then resume the House immediately after his brief, to continue with the remaining items on our Order of Business. Thank you.

**BILL
FIRST READING**

THE EAST AFRICAN TRADE
NEGOTIATIONS BILL, 2003

*(Bill referred to the relevant
Committee of the House)*

QUESTION FOR ORAL ANSWER

**QUESTION
NO.EALA/PQ/OA/021/2003**

Mr Dan Ogalo (Uganda): Mr Speaker, sir, I beg to ask the Chairperson, Council of Ministers the following Question:

“In March 2003, the Assembly led by the Hon. Speaker met H.E. President Yoweri Museveni in Gulu, Uganda who welcomed the intervention by the East African Legislative Assembly in the 17-year conflict in Northern Uganda.

In May 2003, the East African Legislative Assembly passed a resolution recommending that the Summit set up an East African Peace Committee for Uganda, and required that the Council of Ministers do report to the Assembly on the progress within one month from the date of passing this resolution etc. (copy of Resolution attached). The Resolution was forwarded to the Council of Ministers through the Secretary General but the Council has refused, failed and/or

neglected to report to the Assembly as required.

Can the Hon. Minister inform this House: -

1. Why the Council thinks that the death and suffering of the people of Northern Uganda is not worthy of the attention of the Summit?

2. Why the Council has very low regard for Resolutions of the Assembly?"

The Speaker: Any Member of the Council of Ministers here I note that the Chairman of the Council of Ministers is not here and neither are the other two Members of the Council of Ministers.

I wish to express my disappointment on the continued absence of the Members of the Council of Ministers who have decided to boycott the activities of the Assembly on many occasions. I will bring this embarrassing situation to the attention of the Chairman of the Summit of the East African Community so that he may decide to take the necessary action.

With this disappointment, I suspend the House and we will reconvene here to get a briefing from Mr. Kiguta on what transpired during the negotiations on the Customs Union. After the end of the briefing, I will resume the House again.

(The House was suspended at 2.45 p.m. and resumed at 4.30 p.m.)

[On resumption_]

[The Speaker in the Chair]

MOTION

FOR THE RECOMMENDATION FOR APPOINTMENT OF OFFICERS OF THE ASSEMBLY

Mrs. Beatrice Shellukindo (Tanzania): Mr. Speaker, on behalf of the House Business Committee, I beg to move:

THAT this House;

PURSUANT to the provisions of Article 49(2) (f) of the Treaty do recommend to the Council of Ministers the appointment of Mr. Justine Nthiiri Bundi as Clerk of the Assembly.

Mr Speaker, Article 49(2) (f) of the Treaty states that: "The Assembly shall recommend to the Council of Ministers the appointment of the Clerk and other officers of the Assembly." It is in that respect that I make this proposal basing on the recommendation of the House Business Committee after it received and considered results of the interview panel from the Secretariat.

The advertisement for these posts was run in all major newspapers in East Africa between March and May 2003. Mr Speaker, people responded and there was a short-listing done by a Committee in the Secretariat. Further, there was an interview panel from the Secretariat with panellists from the three National Assemblies. Following the interview, the Secretariat made recommendations to the House Business Committee, which evaluated these recommendations and came up with a conclusion. I now, on behalf of the House Business Committee, bring this recommendation for your approval. Mr Speaker may I now give

you a little background on whom Mr. Justin Bundi is?

Mr Justin Bundi is a 46-year old Kenyan national and currently employed as a Deputy Clerk in the National Assembly of Kenya. This is a post he has risen to after 10 years of successful service in the office of the Clerk.

Prior to that, Mr Bundi was employed in the office of the President as a District Officer (1983-1989) and later (1990-1993) promoted to the post of Senior Assistant Secretary, before joining the Parliamentary Service as a Senior Clerk Assistant.

He holds a Bachelor of Arts Degree from the University of Nairobi (1981). He also holds certificates in Advanced Public Administration, Human Resource Management (ESAMI), and in Ethics and Professional Standards in Public Services. Mr Bundi is widely travelled and has had a lot of training and attachment programmes to other Parliaments in the world.

Mr Speaker basing on his qualifications and the positions he has been holding, while weighing them against the requirements of his respective job, the House Business Committee strongly recommends that this Assembly do recommend to the Council of Ministers the appointment of Mr Justin Bundi as Clerk of the Assembly. Mr. Speaker, with those remarks, I beg to move.

Mr. Yonasani Kanyomozi (Uganda): Mr. Speaker, sir, in seconding the Motion, I would like to give a more thorough attention to the qualifications, scope and role of Mr. Bundi in qualifying to give us the service as a qualified East African.

Mr Speaker, sir, Mr Bundi, as my colleague has already said, has had exposure that will be of great relevance to us. First, he has had training in ethics, which we really require at this critical time of our development. Further, he has served in various ad hoc and departmental Committees in the National Assembly of Kenya; for example, the Standing Committee on Defence and International Relations, Legal and Administration of Justice, Powers and Privileges and several others.

He has had attachments to relevant Commonwealth Countries, especially in Zambia, Ghana, Australia, Canada and Nigeria. In addition to that, he has been the co-ordinating officer for Commonwealth Parliamentary Association in the region. He is, therefore, well aware of the nature of things we are going to handle.

He is also still in his youthful age, as they say life starts at 40. He is exactly 46 years old. Therefore, he has the ability and style to handle the things that we require him to handle. With our able Principle Clerk Assistant, the job that will be done in this House will be great.

Mr Speaker, sir, in recommending him to the House, we have taken this into account and we think he will perform the duties of the Clerk's office ably, efficiently and to the best interest of East Africans. Thank you.

Mr Mabere Marando (Tanzania): Mr Speaker, sir, I have the greatest respect for my honourable colleagues who have just spoken, and you know that. I also have the greatest respect for the entire House Business Committee. Before I cast my vote, I would like to know a few things.

These two individuals who were recommended to us by the interviewing panel had undergone very rigorous interviews and questions. The highly respected interview panellists in their very great wisdom made the finding that one Ibrahim Mzee Ibrahim led the group; he scored the highest marks.

If it is a question of age, Ibrahim Mzee Ibrahim is even younger, having been born in 1966. The age is more robust and possibly, he would be able to serve longer than Mr Bundi. If it is a question of proficiency in languages, Ibrahim Mzee Ibrahim commands three international languages; English, Kiswahili and Portuguese. If it is the question of learning and high qualifications, it seems that Mr Ibrahim has a Masters of Philosophy in Public Administration. We really need those qualifications.

Mr Speaker, sir, may I know the criteria on which Mr. Bundi was taken other than taking the first person that led the group in the interviews? Thank you.

Mr Med Kaggwa (Uganda): Mr Speaker, sir, I just want to use the very words which my learned brother has used, that he has the highest respect for the panel that interviewed the persons whose curriculum vitae are before us, and that he has the highest regard for the House Business Committee. In that vein, I want to refer to the Motion on the Order Paper.

Mr Speaker, sir, while moving the Motion, Hon. Shellukindo was very categorical that she was, on behalf of the House Business Committee, recommending Mr. Justin Bundi as Clerk to the Assembly. I therefore, think that it will be improper and irregular to start holding another

interview here as to how a decision was reached.

Mr Speaker, sir, I request this august House to go ahead and support the appointment of Mr Justin Bundi as the Clerk of the Assembly, with the proviso that this time, the Speaker of this Assembly shall put it squarely to the Secretariat and the Secretary General that the new Clerk will be expected to do the work of the Assembly under the guidance of the Speaker as stipulated in the Treaty. With those remarks, I support the Motion.

Mrs. Mahfoudha Hamid (Tanzania):

Mr Speaker, sir, I just want to bring to the notice of the House that I am puzzled a little bit when I look at these documents. I find that Mr Justin Bundi has a Bachelor of Arts Degree, Second Class Honours, Lower Division and Ibrahim Mzee Ibrahim has a Bachelor of Arts Degree, Second Class Honours, Upper Division. I am puzzled as to the criterion that was adopted.

Mrs. Lydia Wanyoto Mutende

(Uganda): Mr Speaker, sir, first of all I would like to congratulate the Secretariat for having gone through this process of interviewing candidates for the post of the Clerk, which in my opinion has been overdue. This Assembly has been operating under very difficult circumstances in the absence of a substantive Clerk. I would also like to congratulate the House Business Committee for having taken it upon itself to put this appointment in the prime agenda of our business so that this House can have a Clerk.

Mr Speaker, sir, this is the first time, since we begun approving staff in this House, to have had a full document like this to look at the other candidates who were before the panel. In the past

we entrusted this responsibility of getting the rightful candidate in the House Business Committee. I would like to support this Motion and thank the House Business Committee for having scrutinised the candidates and whatever documents were before them, and for having given us the candidate whom we are approving today for the post of Clerk. With those remarks, I support the Motion.

Mr. Jared Kangwana (Kangwana):

Mr Speaker, sir, I would like to thank the House Business Committee which, in its wisdom and in accordance with the responsibility that this House has charged it with, has recommended Mr Bundi to be appointed as the Clerk to this Assembly. All we are required is to recommend to the Council of Ministers that this gentleman be appointed to the post of the Clerk.

Mr Speaker, sir, I think it would be a serious omission on my part if I were to shy away from stating very categorically that it has always been the understanding of this House that the post of the Clerk belonged to Kenya. If there is any doubt about that, I am willing to debate. I think we have always had an understanding that in this Community, there has to be a balance. This is an international body supported by three Partner States. When it comes to employing people, there has always been an understanding that certain positions were reserved for certain countries. Those positions were negotiated outside the House. Mr Speaker, sir, in accordance with that understanding, the person who qualified is Mr Bundi.

If you look at the points, Mr Ibrahim is leading by 0.009, which is totally insignificant. I am sure the House Business Committee in its wisdom must have ignored this insignificant

fraction and taken into account the general understanding we have in moulding and building this Community on the basis of accommodating each other. I do not want to say anything about Mr. Ibrahim whose qualifications speak for them. He appears to be a very highly educated gentleman. But I am sure when the opportunity arises and my learned friend, Hon. Marando brings a suitable candidate I can assure him of our support. Thank you.

Mrs. Rose Waruhiu (Kenya):

Mr Speaker, sir, I would like to celebrate that we are now moving towards having a Clerk for this Assembly. There are few Parliaments in this world that can survive in this world without a Clerk. The Clerk is the principal officer of the House. What has gone on for the last one year is very clear to us. Fortunately, we had in place an Acting Clerk who was able to steer this House.

Mr Speaker, sir, as we evolve as a House and create our own style and customs of doing things, we need to take professional advice occasionally. In other words, I was looking at the criteria for appointment and it occurred to me that points could only be one criteria. Besides my many other qualifications, one was being a human resource consultant for ten years. What people do is to sit down and every individual gives you points depending on their own perception. It is a very old-fashioned way and if it is still in operation within the Community - it is certainly very helpful as one criterion but in the end, the Clerk is a very senior person in his office. What should be concerning us is the ability to settle in that position.

We need to declare right from the beginning that the Clerk is very

welcome because this House has been without a Clerk. As we stated earlier this year, we should look into ways of preserving the autonomy of this Assembly and work more closely with our own officers to ensure that Parliament continues to get the space that is entitled to it within this Community.

Secondly, I do not want to be drawn into the so-called balancing but it is a fact of life that we cannot ignore our diversity, and it is clear that our own approach is to have a mix of all East Africans in this organisation. It has been whispered very loudly for the last one year that Kenya could wait, after all the position of the Clerk belonged to Kenya! Speaking as an East African from Kenya, I am very proud that we had such a long list of qualified East Africans who could have filled this position. It could have been a sad occasion if we did not have a qualified person to fill this position.

So, to me, this is a day to celebrate. We now have a chance to start again and run the Assembly with the autonomy it deserves. We hope that in Mr Bundi we shall find an officer who understands very clearly the separation of powers and he will arrive at his job with that understanding and with our co-operation. Thank you.

Mr. Calist Mwatela (Kenya): Mr Speaker, sir, I would like to thank the House Business Committee for its wisdom in choosing Mr. Bundi to be our Clerk. Mr Speaker, sir, I would like to appreciate your efforts as well as that of Mr Madete in trying to run this institution with such a big gap. I would like to request all the Members of this House, and those who are not in this House, to welcome the new Clerk and show him what to do. We do not have to start with hostility because

once beaten twice shy. I request that those who will come into contact with the new officers should give them the much-needed co-operation.

Maj. Gen. Mugisha Muntu (Uganda): Mr Speaker, sir, I rise in support of the Motion.

Mr Speaker, sir, in view of the circumstances that do prevail within the Assembly and the Community, I fully support the recommendation and confirmation of Mr. Justin Bundi as the Clerk to the Assembly. But I would also like to comment on an issue that was raised a year ago, with regard to the position of the Clerk to the Assembly.

Some of us believe that there are positions that are political in the East African Community, but there are also other positions that are professional and technical. On the political positions like the Secretary General and his Deputies, political considerations should take the upper hand but we should move away from politics when it comes to positions like that of the Clerk. We should start shifting away from using political considerations as the main criteria. I hope our future Parliaments will concentrate on looking for a professional and competent Clerk to serve this Assembly, and those should be made the main criteria rather looking at which country the individual will be coming from.

Mr Speaker, sir, we are really trying to accommodate Kenya since it was promised the position of the Clerk, but I am not contesting that at this particular time. What I am saying is that in future, we should not use this as the main consideration. There is going to be a time when a position like this

will not attract qualified people from particular countries.

We are fortunate now to have Mr Justin Bundi who has the experience and qualifications at the same time. But what I have heard informally is that a number of Kenyans who have this experience in the Kenyan Parliament and much more are not willing to leave their positions to come and serve in this Assembly. If Mr Bundi had not applied, our hands could easily have been tied, and we could have ended with someone who would be incompetent. That is one aspect of these matters. That is why I am saying we should not tie ourselves to political considerations. We are lucky that we got a suitable candidate based on these arrangements. In future, we should consider professionalism and competence with regard to positions like those ones.

Dr. Harrison Mwakyembe (Tanzania): Mr Speaker, sir, I do not doubt the wisdom of the House Business Committee, but I do also appreciate a much wider wisdom of this plenary. If we start to create a precedent here that once a matter has been discussed in the House Business Committee, nobody can ask a question here, then we will be negating the very reason for holding a plenary which constitutes all Members of this House. I believe this plenary is endowed with a much broader wisdom.

Mr Speaker, sir, the question raised by Hon. Marando is very important because the records of this House are public. But if something goes into the *Hansard* that a person who was number two was recommended for appointment instead of the person who was number one, without reasons, that would not reflect positively on this

House. That is what made Hon. Marando to ask that question.

Mr Speaker, sir, I did not want to contribute but there are two comments made by colleagues which prompted me to contribute. The question that this position was promised Kenya is unacceptable. That is not the kind of language that should go into the records of this House! We advertised this position that all East Africans should apply and it is wrong to say that this position was reserved for Kenyans. Why did we not invite applications from Kenya only? Why did we have to go for the second? This means that even a mediocre would have been recommended for this post because he comes from Kenya! I do not think this is the line of argument that we have to take – (*Interjection*).

Mr. Kangwana: Mr Speaker, sir. Is Dr. Mwakyembe right in implying that those who spoke in favour of Mr. Bundi did so because he is Kenyan but not because he is qualified?

Dr. Mwakyembe: Mr Speaker, sir, the Hon. Member whom I respect so much has just missed the point. I am not talking about the presentations made by Members but about a principle. We advertised these position and 40 East Africans applied, and today we want them to feel cheated! There are expenses involved in sending applications and now we are playing tricks on them! We should not do that again because it is not proper – (*Interjection*).

Mr. Kanyomozi: Mr Speaker, sir, the criteria followed in organisations like this one sometimes bend the strict rules for harmony and conscious confidence building, especially at the nascent stages of the formation of an organisation. It is not only the points

that are considered. We look at other factors in arriving at a decision that the marks are not the only thing that matters – *(Interjection)*.

Mr Marando: Mr Speaker, sir, is the Hon. Member in order to give a speech instead of giving information?

Mr Kanyomozi: Mr Speaker, sir, the reason why I went in detail is to clear the air. I am saying these things need to be taken in totality in making a decision until we have established ourselves firmly on the ground so as not to look at these matters.

Dr Mwakyembe: Mr Speaker, sir, maybe I should try as much as possible to conclude, otherwise – *(Interjection)*-

Mrs Waruhiu: Mr Speaker, sir, is the Hon. Member in order to say that the House was playing tricks on applications? Those words are un-parliamentary and he should withdraw them.

Dr Mwakyembe: Mr Speaker, sir, I also understand that it is un-parliamentary to misquote a fellow Member of Parliament!

Mr Speaker, sir, I simply said that if we are involved in such a delicate balancing act, then we should be clear in our advertisement that we need applications from Kenya alone. If we invite all East Africans to apply and yet we know that the position is preserved for Kenya, Tanzania or Uganda, then we are tricking East Africans!

Mr Speaker, sir, I want this House to note that Mr. Ibrahim Mzee Ibrahim is not only a Tanzanian but also a Zanzibari. I am saying this because we in Tanzania are in a serious balancing act – *(Interjection)* -

Mr Kangwana: Mr Speaker, sir, is my learned friend and Hon. colleague right in implying that there is another Partner State outside the United Republic of Tanzania?

Dr Mwakyembe: Mr Speaker, sir, every Member is knowledgeable that two parts constitute Tanzania: Zanzibar and the mainland. What I am saying is that we in the United Republic of Tanzania are engaged in a delicate balancing act, and I had hoped that the House Business Committee would have taken that into account to give the best East African this job but not the politics of “now it is the turn of so and so.”

With these remarks, I do not support the Motion.

Mr. Haither Abdi (Kenya): Mr Speaker, sir, I would like to commend the House Business Committee for bringing this name. The person who brought this document to the House Business Committee was a mischievous one.

We have never had two names brought to the House Business Committee for consideration. I do not understand why this has been done in this case! The only reason why he brought two names to the House Business Committee is for us to have a fight here over this position. I would like to inform him that the politics of divide and rule is over. If we start questioning the decisions of the House Business Committee, we should also go back to all appointments of this Assembly and see how they were done. I request Hon. Marando to yield to the wishes of the House that the name brought here by the House Business Committee be approved.

Mrs Kawamara Mishambi (Uganda): Mr Speaker, sir, I stand in opposition to what is being debated this afternoon because we have become too emotional. I feel that we are not listening to reason. I think what Dr. Mwakyembe and Maj. Gen. Muntu are trying to bring to this House is that we should listen to reason.

Mr Speaker, sir, when we appointed Murumba Werunga as the Clerk of the Assembly, we were seriously lobbied. Some of us had our misgivings about the former Clerk and we pointed this out. We were told to hold our horses because the post was reserved for Kenya, and the same reasons are being advanced. If we continue like that, what is going to happen? Next time a position will come up, we will say it is time for Ugandans! We are going back to the politics of eating! We are not appointing people because –
(*Interjection*) -

Mr Kangwana: Mr Speaker, sir, if what Hon. Kawamara is saying is right about eating then it is Uganda that has been eating!

Mrs. Kawamara Mishambi: Mr Speaker, sir that is very un-East African! But I think we are degenerating. The spirit of East Africa is slowly going down the drain, and I think that as leaders, we are promoting that. If the person they have shown us here scored highly, then who are we to change the results? I know that the House Business Committee is made up of men and women of integrity. We had a very capable interview panel that presented these results.

I was not intending to contribute to this Motion but when I was told privately that we are approving a Kenyan, I asked why. I was informed that it had been decided. To me, that was very

undemocratic. Somebody else scored highly during the interviews but we are recommending somebody else for the post because it is time for a Kenyan to be Clerk? I really feel that in the spirit of East Africa, we are being very unfair if we continue advertising posts and then rigging them.

Mr Speaker, sir, as long as we continue like that, fellow East Africans are going to lose confidence in this House because they will know that we do things behind their backs! We had the Secretary General and his Deputies sitting on a panel according to this Report. They interviewed some people, recommended to the House Business Committee and then we come here and say, in our wisdom as an Assembly, we shall take the second person simply because he is a Kenyan; I think that is not acceptable!

Mr Speaker, sir, I appeal to this House that in the interest of the East African Community, we should stop looking at ourselves as Ugandans, Kenyans and Tanzanians, trying to protect those petty interests which will not assist the East African federation. With those remarks, I will not support the appointment of Mr. Bundi as the Clerk of this Assembly, and the Motion before the House.

Mrs. Lydia Wanyoto Mutende (Uganda): Mr Speaker, sir, I think this House needs to know that the recruitment of staff does not end at the panel. Otherwise we would not be here to discuss the appointment of these officers. It is a process, and I think we would be shooting ourselves in the foot if we did not know this information. This is a process that will end with the Council of Ministers. So, the issue of points and the line up of candidates does not arise. I think we are assuming too much power when we say who

should be in the line-up of things. We should play our role and push it to the next organ to do their role. I would be very uncomfortable to leave this House and say we have approved so and so for employment because the same has not been signified to by the Council of Ministers.

Prof. Margaret Kamar (Kenya): Mr Speaker, sir, first of all, I would like to give information to Hon. Abdi who had wondered why two names were presented to us. We have always had more than two names, and this House has handled three cases; for instance, Mr. Werunga was second during the interview and the House approved his appointment; the Hansard Editor was fourth during the interview and the reason why we took her was because we were searching for a Ugandan.

I am giving this information to help us because we seem to forget very fast. Unfortunately at that time, this full document did not come to the House. I am the one who moved the Motion on the Hansard Editor and I elaborated on why we chose her. We saw her qualities and experiences against the person who was first during the interviews, who also happened to be Ugandan.

I am giving this information to help us not only in making this decision, but it will form a foundation for us in the decisions that we make so that we do not have different standards when dealing with different people.

Mr Speaker, sir, I would like to highlight that out of the two curriculum vitae the difference between the two people are self-explanatory. At the time when Ibrahim Mzee Ibrahim was graduating in 1992, Mr Bundi who had graduated ten years in 1981 had been in Parliament. I

imagine that the panel and those of us who sat in the House Business Committee saw an experience gap. When Ibrahim Mzee Ibrahim graduated in 1992, he went for a postgraduate Diploma and spent some time doing his Masters Degree up to 1998. That means the experience of this man is extremely low compared to the experience of Mr. Bundi. I am saying this so that our friends who have been named Zanzibaris can be comfortable. Mr. Bundi was significantly different from Mr. Ibrahim Mzee Ibrahim.

When I reported on the Hansard Editor last time, I showed quality difference on the person we are presenting here. I think it was in good faith that the House Business Committee analysed their curriculum vitae. We have done this before, we did it for the third time and the reason we are doing it for the time is because we are looking for quality. So, I do not believe that we have picked on this candidate simply because of being a Kenyan.

We have looked at the 0.009 as very insignificant in any experimental design. We have gone further to look at the reasons why the panel may have sat the way they sat and why they came up with that very small difference. When you look at the experience of Mr Bundi, it overweighs those of Mr Ibrahim. I hope Hon. Marando will be satisfied by the explanations I have given.

I am not saying this on behalf of the House Business Committee, Mr Speaker, sir, I just wanted to highlight the differences in quality out of the experiences which I believe came from the panel and the House Business Committee. So, Dr. Mwakyembe should not be worried that we just picked a Kenyan. We looked at the

quality of the person we are employing.

Mr Marando: Mr Speaker, sir, when I stood up, I sought that type of information. Such powerful information could have convinced me earlier, and I could not have said what I said!

Mr George Nangale (Tanzania): Mr Speaker, sir, reading through the two curriculum vitae presented to us, I am 100 per cent convinced that Mr Justin Bundi is more qualified than Mr. Ibrahim Mzee Ibrahim, but the notion that we are appointing somebody because he comes from a certain country gives us a very bad precedent. What will be the position of Mr Bundi come the year 2006 when we might have another Speaker, coming from Kenya? Will he resign? Those are questions that keep coming to me. We should withdraw the statement that we are recommending Mr Bundi for appointment because he is a Kenyan. He has been appointed because he qualifies.

The Speaker: Hon. Nangale, are you trying to imply that the current Speaker will not be returned?

Mr. Daniel Ogalo (Uganda): Mr Speaker, sir, there are certain things which are beyond the Assembly and which make us look the way we are being portrayed in this debate. This House does not know the issues of the gentleman's agreements that have been referred to, but we know that they were there. As ladies and gentlemen, we ought to honour those agreements until such a time that they are changed. I overheard Hon. Kate Kamba say that it was unfortunate that we have had to debate this way. This has now been brought to the stage of country positions, which is very unfortunate.

But these are things that we were not party to!

Mr Speaker, sir, the House Business Committee met in Kampala in January 2002 and the then Chairman of the Council of Ministers brought this to the attention of the House Business Committee. At that time, the name of Mr. Werunga was coming up as to whether to confirm him directly or whether the post should be advertised. The then Chairman of the Council informed the House Business Committee about this gentleman's agreement which was reached before we came into existence. The best we could do is to go the way Maj. Gen. Mugisha Muntu suggested that we now recommend to the Council of Ministers that that gentleman's agreement should be reviewed because it is causing us some problems!

Mr Speaker, sir, I would like to support the position taken by Hon. Abdi. In the past we have come to the Assembly with one name and that is the position. But the recommendations from the panel and the Secretary General were couched in such a way that we had no alternative but to bring the two names to this Assembly.

M. Speaker, sir, I think we are going too far when we start saying East Africans will see us as rigging and playing tricks on them. What we are doing here is a simple recommendation. We may send names to the Council of Ministers and it refuses to endorse. We are behaving here as if we are making the final decisions. We are not! We may send names there and they are rejected! So, in our debate we should not make this a very big issue because it is a mere recommendation, which is not binding!

Lastly, in view of the comments that I overheard Hon. Kate Kamba make, I request that if the Speaker considers it prudent, he could invoke the provisions of Rule 25 of our Rules of Procedure that says: “The Speaker may direct any matter which in his or her opinion, is of a confidential nature to be excluded from the journals of the House and from the verbatim report of the proceedings of the House and to be the subject of a separate verbatim report, which shall be kept in the custody of the Clerk and made available only to Members and Clerks.”

Mr Speaker, sir, the reason is that the way we have conducted this debate is such that it has really gone, in my humble view, a little below what East Africans could expect of us. For example, if you come up and say this House is rigging results and that it is a trickster that amounts to misleading the people of East Africa! If all those were said with justification, it would be worth it.

Dr. Mwakyembe: Mr Speaker, sir, what did the Hon. Member expect from us since the information coming from the House Business Committee was not complete and convincing? Most of us have become convinced after Prof. Kamar spoke!

Mr. Ogallo: Mr Speaker, sir that is the exact reason why you should not jump up and say the House is a trickster and it is rigging results before you get the information – (*Interjection*).

Mrs. Hamid: Mr Speaker, sir, the information given to this House by Prof. Kamar should have come from those who moved the Motion and all the confusion would have been cleared!

The Speaker: That is not a point of information; it is a statement!

Mr Ogallo: Mr Speaker, sir, it is evident that we put the position of this House into disrepute by calling Members tricksters and fraudsters. In my view, I think a verbatim report of that is unfortunate. That is why I am appealing that if the Speaker feels in his wisdom that we should exclude this then we should exclude it. Mr Speaker, sir, the same people who are debating this Motion from the point of view of being East African are in fact being very un-East African. Thank you.

Mrs. Shellukindo: Mr Speaker, sir, I thank all those Members who contributed to this Motion. I would like to specifically thank Hon. Marando, Mahfoudha, Wanyoto, Kangwana, Waruhiu, Mwatela, Maj. Gen. Muntu, Dr. Mwakyembe, Abdi, Kawamara, Prof. Kamar, Nangale and Hon. Ogallo.

Mr Speaker, sir, as the mover of the Motion I would like to apologise that in moving the Motion I did not state the reasons that led to the hot debate in this House. However, I do thank Prof. Kamar for having responded to those concerns effectively.

Mr Speaker, sir, the position of the Clerk in this Assembly has given us many wounds. It has been highly politicised and the appointment of a Clerk will heal those wounds. I felt a bit uncomfortable that after moving this Motion, the debate degenerated to what we saw. I expected all of you to support this Motion with one voice so that the Clerk will enjoy his stay within the Assembly. I was worried that the Clerk might not enjoy his work, but after Prof. Kamar cleared the air, I am convinced that all those who were against the Motion will support it.

Mr Speaker, sir, the other thing that I would like to say is that the general understanding within the East African Community and EALA had started long before but I would like to concur with some of the Members who said that we should maintain the general understanding within the political appointments but the technical posts should be filled on merit.

Mr Speaker, sir, within the Community, you can see that the Council to the Community comes from Uganda, the Registrar of the Court comes from Tanzania and it is only fair that the Clerk comes from Kenya!

Finally, I would like to say that the difference in points is very little. I would like to assure this House that the appointment of Mr. Bundi would not let this House down. He has the ability to handle the business of this House. With those remarks, I request all Members of this House to support the Motion. I beg to move.

The Speaker: Hon. Members, whereas the House Business Committee is full of eminent persons elected by you, all its recommendations must be debated and passed by the House.

(Question on the motion put and agreed to)

Mr Nangale: Mr Speaker, sir, now that we have appointed a new Clerk, I would like to thank Mr. Madete for his tireless efforts – *(Interruption)* -

The Speaker: Under what Rule of the House are you moving? However, Mr. Madete has heard you.

ADJOURNMENT

The Speaker: Hon. Members that concludes the business on the Order

Paper. This House stands adjourned until tomorrow.

The House rose at 5.00 p.m. and adjourned until 3 December 2003