



EAST AFRICAN COMMUNITY

Official Report of the Proceedings of the East African Legislative Assembly

32ND SITTING – FIRST ASSEMBLY: FOURTH MEETING - SECOND SESSION

Wednesday, 30 July 2003

The East African Legislative Assembly met at 2.00 p.m. at the Chamber of the Assembly, Ngorongoro Wing, Sixth Floor, AICC Complex, Arusha

PRAYERS

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

The Assembly was called to Order.

BILLS SECOND READING

THE ACTS OF THE EAST AFRICAN
COMMUNITY BILL, 2003

**The Chairperson of the Committee
on Legal, Rules and Privileges (Mr
Jared Kangwana (Kenya):** Mr.
Speaker, sir, I beg to move:

THAT, the “Acts of the East
African Community Bill, 2003”
be read for the Second Time.

Mr Med Kaggwa (Uganda):
Seconded.

Mr Kangwana: Mr. Speaker, sir, I
thank you for giving me the
opportunity to present the Report of
the Standing Committee on Legal,
Rules and Privileges to this House with
regard to the Bill before the House
now.

Mr. Speaker, sir, this House has made
enough noise concerning the absence
of ministers in this House for the past

one and half years. It is a matter of
regret that up to now, the Members of
the Council have not seen it fit to take
the remarks that have been made by
the Members of this august House
seriously; and to avail themselves
during the sittings of this House.

Mr. Speaker, sir, it is a great shame
and embarrassment that we were
forced to adjourn the proceedings of
this House yesterday because there
were no ministers to answer questions
from honourable Members. The House
has been a very generous organ in that
on the very few occasions that the
ministers have made themselves
available, the House has had to adjust
its programme to accommodate their
presence in the House. Even that
presence has, on those very few
occasions, happened without due
notice. In other words, they do not give
us adequate notice of their intentions to
be present in the House.

We have had to suspend the normal
business of the House to accommodate
them. It is embarrassing, even when

they have indicated that they are coming here and the House, through the Chair, has made provisions in the Order Paper for them to be present, to find that none of them has turned up and no adequate notice has been given for their absence.

We shall continue as a House to decry the conduct of the Council of Ministers in relation to their inability to attend the proceedings of this House; to bring Bills to this House; to guide the House as to the policies that they have in mind concerning the development of the Community, and many other matters.

Mr, Speaker, sir, in this Community there is an attempt to develop parallel legislation. That is legislation that is done outside this Assembly. That process is through what has now become notoriously known as “protocols”. Before the birth of this House, one could understand the reason why it was necessary to conclude protocols to yield legal framework for action and for creating institutions, as well as giving authority to officers to create administrative structures so that things would be done for the betterment of the Community. But that was before this House was born.

After the birth of this House, and except for protocols that the Treaty has specifically said they have to be negotiated, neither the Council nor the Secretariat should arrogate to themselves the authority to legislate because that authority under the Treaty is clearly vested in this august House. We would be failing in our duty if we allowed any other organ to take away that function from us. The reason why we exist is primarily to legislate!

There are many protocols that are being negotiated, but the Assembly is kept ignorant of those negotiations and, consequently, when this House asks for those protocols to be brought before it, we are told that that is a matter, which the House cannot touch; We are told that that is a matter for the Partner States to negotiate, to the exclusion of this House. The officers of this Community tell us that they have no authority to disclose what they are negotiating to us! The time for such tactics has unfortunately come to an end.

Mr. Speaker, sir, I have been authorised by my Committee to state very categorically that they require, as a matter of urgency, other Committees of the House to bring to this House, by way of Bills, all the protocols falling under their mandate that are being negotiated by the Partner States through the Secretariat.

There are many protocols, which are being negotiated, including the most recent one, which is about to be signed, on the Customs Union. There are many others, which have been signed; some of them as far back as 2001, and no actions have been taken on them.

It is a matter of regret that we keep giving East Africans an illusion that we are developing a Community for them while in fact we are stumbling blocks and are doing everything possible to hide what we are doing from them so that we do not open ourselves up for criticism and correction. That must change.

Mr. Speaker, sir, the work of this Assembly continues to be hampered by many roadblocks, and I would like to mention a few. We do not have a draftsman for the Community and, consequently, what has happened is that we have spread what is basically a

two-person horse. We have thrust all the work of drafting to the Counsel to the Community and another legal officer in his department!

Drafting even one protocol like the Customs Union Protocol takes a lot of time. It has taken them four years to draft the Customs Union Protocol! That has been a full time job for the Counsel to the Community and his deputy, so that they have had no time to polish the other protocols that have come up recently. This is happening because we do not have a draftsman.

We were lucky that we were able to persuade the Government of Uganda, under very difficult circumstances, to avail Mr. Obel to us for three days. Frankly speaking, if he had not been present, it would have been difficult today for my Committee to bring the Bill that is before the House now. So, I would like to thank the Ugandan Government and Mr. Obel in particular for availing himself for this onerous task.

Mr. Speaker, sir, we are still concerned as a Committee about the inability of the Council of Ministers to bring Bills to this House. The Bill we are going to discuss today should have been the first one to be brought here by the Council of Ministers.

The only Bill that the Council of Ministers has ever brought to this House is the Appropriations Bill, which they took from this House. They have never initiated their own Bills. The Bill they brought here was our Bill; it was not theirs because they took it from us! So, we are still concerned about the seriousness and commitment of these ministers to serve the Assembly.

I have already alluded to the other problem, which is of concern to this Assembly: the reluctance of the Secretariat to disclose protocols that are under negotiation so that the House can debate and pass them. There is no need at the moment for any organ other than the Assembly to legislate. So, I urge the Secretariat to bring all the protocols they have that are under negotiation to this House so that we can debate and enact them into law.

We have to give clear legitimacy to this House by allowing it to enact laws. We have been denied the opportunity to discharge our rightful duty. I wonder whether there is a conspiracy to deny the House its legitimacy to enact laws. I would like to appeal to the organs concerned to arise to the occasion and bring Bills to this House.

Having made those introductory remarks, I would now like to go to the comments I have on the Bill that is before the House.

Mr. Speaker, sir, on behalf of the Standing Committee on Legal, Rules and Privileges, I have the honour to present to the House, the Report of the Committee on the Bill entitled the "Acts of the East African Community Bill, 2003".

This piece of legislation lays the foundation for the procedure of preparing Bills: the layout, the style, the division of Bills into parts and chapters. It is short and straightforward. It is my sincere hope that Members will not find it difficult reading through it.

The Committee held its sitting on 29 July 2003 and considered in detail, clause by clause the Bill, and agreed that the Bill be tabled for Second Reading.

Mr. Speaker, sir, it is just the preliminary that contains definition of words that are used in the Bill. Part II provides for the forms that the Acts of the Community shall take. It also provides for the enactment formula that shall precede the provisions of the Acts.

Part III lays down the procedures to be followed on passing the Bills. It was pertinent to provide for a time frame so as to be within the time limit of the legislative process. As you know, a Bill is said to have been passed when it is assented to by the Heads of State. That is when the legislative process is said to be complete. In the Treaty, there is a time frame for this process, which is ninety days.

What we have proposed is that, after the Bill has been passed in the Assembly, within fourteen days the Clerk must have sent the Bill to the printer, and the printer must have printed a fair copy within 30 days and returned the same to the Clerk for proof reading. The Clerk takes another ten days for proof reading, and by that time the Bill would be ready for assent. In total, those are 54 days. If you subtract from the 90 days, you will remain with 36 days, which are allocated for the assent. We hope that within 90 days the Bill would have got assent, if this will strictly be observed.

Mr. Speaker, sir, this part also provides for the submission of the Bills for assent. The Treaty states categorically that the Speaker shall submit the copies of the Bill to the Heads of State for assent. In fact, what the Bill does is to repeat the words of the Treaty in order to operationalise them. It was the view of the Committee that this work should be done by the Speaker personally. We considered this also to be an opportunity for the Speaker to

meet the Heads of State and exchange views between the Summit and the Assembly.

The Committee also considered the modalities of assenting to the Bills. We know that the Heads of State are not in the same place, and it may take time for a Bill to move from one Head of State to another. We thought it would be practical, before the Speaker submits the Bill for assent, to send dummies for them to go through so that when the authenticated copy comes, they sign immediately.

The rest of the Bill provides for publication, commencement of Acts, reprint and date of passing the Act. It is straightforward.

Mr. Speaker, sir, having considered and deliberated on the Bill in detail, the Committee wishes to present this proposed Bill to this House.

Mr. Speaker, sir, in conclusion I would like to record my own gratitude and that of the Committee to you and to the House for allowing us to introduce this Bill. I beg to move.

Mr Daniel Wandera Ogalo (Uganda): Mr. Speaker, sir, on looking at the Report, the issue of assent to Bills is very crucial. It is possible that because of the limitation given by the Treaty that assents must be given within 90 days that the Bills will lapse. It is possible that if this is not dealt with by way of timeframe, the work we do may come to nothing. All the Bills we pass may not reach the Heads of State within the time limit and will therefore lapse. I think the Committee has addressed a crucial issue and provided an answer by setting a timeframe.

Mr. Speaker, sir, the other crucial issue, which the Committee has tackled, is the issue of submission of Bills for assent. It is possible to argue that the process of submission could be taken as administrative, but I do not think so because the Treaty provides that the Speaker would submit these Bills for assent.

By stipulating that, I want to agree with the view of the Committee that it was intended that the Speaker would do this, and that the best way to do this is for the Speaker to deliver it personally to the Heads of State. So, it is important that when you are faced with difficult conditions, those matters that we would ordinarily consider administrative should be taken on as legal matters.

We have, for example, passed some Bills early this year, 90 days have elapsed and these Bills have not reached the Heads of State. So, it is very dangerous to rely on administrative measures without the backing of the law. It is not expected that the Speaker will carry the Bills to the Heads of State and expect them to sign there and then. It is expected that the time will be stipulated, and the Speaker will only seek an appointment for the ceremonial occasion to have them attended to. But that will give an opportunity for the Speaker to address some of the problems we have in the Assembly.

Mr. Speaker, sir, Hon. Kangwana hinted on the issue of the draftsman again. Difficult times require extraordinary measures, and these are difficult times. They are difficult times because we are expected to be draftsmen and yet we are not. We are expected to do what people take extra time to gain experience in and even get qualifications for. I think we

should let East Africans know that we shall not let them down despite the difficult times. We should even let them know that Members of the Assembly would be willing to set up a fund to pay for a draftsman for this Assembly – *(Interjection)*.

Mr Yonasani Kanyomozi (Uganda):

Mr. Speaker, sir, I would like to inform the Hon. Member holding the Floor that there is even a more urgent matter that we need to handle. Our Speaker has no secretary up to now. Even the Clerk has a secretary who is on loan to the Assembly. Should we not, as a matter of urgency, start with the Speaker and the Clerk having secretaries and then recruit a draftsman? Even when the draftsman has drafted Bills, they need to be typed. Who will type them when we have no secretary?

Mr Ogalo: Mr. Speaker, sir, the information given by Hon. Kanyomozi goes to show the many difficulties we have. It will be up to the Members of this House to decide whether we should begin by contributing for the recruitment of a secretary for the Speaker – *(Interjection)*.

Mrs. Kawamara Mishambi (Uganda):

Mr. Speaker, sir, is it in order for the Hon. Member holding the Floor to assume that the Members of this House have agreed to pay salaries for the Secretariat, and even to take up responsibilities that are in the hands of the Partner States?

Mr Ogalo: That is another way of letting East Africans out there understand our plight. But if we are willing to contribute and employ from our own resources, then we really feel for them and demonstrate that we are being let down.

Hon. Kanyomozi thinks a secretary to the Speaker is a priority while I think it is a draftsman that is a priority. But honourable Members may also have other views on which should be a priority. I will leave that to honourable Members to determine what the priority should be, but at least it is proposed that we should show the people of East Africa that although there are roadblocks on the way, we would not let them down.

Mr. Speaker, sir, indeed, part of our mandate is representation and in order to fulfill that mandate, we have visited many parts of East Africa, and talked to East Africans who said they expect a lot from us. We will try to do what we can do in the area of representation. I think the issue of fishermen is a good example that we are fulfilling our representation function. But we must also deal with the other function of legislation and oversight. For legislation, we will definitely need assistance.

Mr. Speaker, sir, I wish to reiterate that all the Standing Committees of this House want to bring Private Members' Bills to this House. There are protocols that have been signed in their areas of jurisdiction, but they cannot legislate on them because of the many barricades on their way.

We should encourage also individual Members of this Assembly to come up with Private Members' Bills. Nobody has the monopoly to bring here Private Members' Bills. So, I encourage individual Members and all the Committees of this House to do this so that we can fulfill our legislative function, so that at the end of five years we will be judged, not by the wailing and lamentations against the Council, but also by what we have

done despite the roadblocks placed on our way.

With those remarks, I beg to support the Motion.

Mrs. Rose Waruhiu (Kenya): Mr. Speaker, sir, I would like to commend the Standing Committee on Legal, Rules and Privileges because the amount of work that this Committee has been undertaking is commendable, and the speed at which they are producing Bills for this House should be applauded.

Mr. Speaker, sir, I know that the Bills we have been looking at are long overdue because the Council of Ministers has not done the work they should have done to prepare Bills for the House. That work has fallen on the Committee, but looking at Clause (6) (2) of this Bill, the Mover should state when the Bill should be taken to the Printer.

I have in mind the current situation, which is that when the Committee drafts a Bill, they then bring it to the House, and Clause 6(2) provides that when the Assembly has passed a Bill, the Clerk shall, within 14 days, cause the text of the Bill to be sent to the Community Printer. If that is read against the Secretary General publishing the Bill as provided for in Article 64 of the Treaty, then that necessitates that the Mover of the Motion should explain the process so that it is clear to us.

Mr. Speaker, sir, if we are representing the 80 million East Africans, then we have to provide for the timeframe to publish a Bill. In other words, if we draft a Bill and we debate it here, then we have not actually opened up that discussion for the public. But as I said,

maybe that is something that the Committee has taken into account.

Mr. Speaker, sir, the other concern I have is with regard to the assent of Bills. It is provided that:

“Where a Bill has been returned to the Assembly under paragraph (b) of Clause 6(2), the Assembly shall reconsider it, and if passed, it shall present it for a second time to the Heads of State.”

We should be told whether the time schedule would follow the procedure provided for in the Bill. It occurs to me that we are leaving it open on the time that we will be required to start the process again. In other words, if the Bill comes back again, does it go through the 54-day period provided for in the earlier process?

Mr. Speaker, sir, I think we should build in the process of informing our national Parliaments. As the hon. Member has said, difficult times provide for innovation. I have in mind that it is in our interest that while the Act provides that an Act of the East African Community shall be a law in the Partner States, would it not be possible that while we have a Bill, it should be brought to the attention of the public through a period of publication?

We should also provide in this Bill how our Acts go to the national Assemblies. The Act provides now that we shall deposit copies of the Act with the Heads of State. Do we need then to go forward and say what they do with them, or we will say we will have done our work by passing an Act in this Assembly, and that our work is finished? What ensures that an Act emanating from this Assembly

becomes recognized as law within East Africa as provided for by the Treaty?

With those few words, I want to congratulate the Committee, and hope that they will continue with the hard work, which they have begun.

Mrs. Lydia Wanyoto Mutende (Uganda): Mr. Speaker, sir, I would like to join my colleagues to thank the Committee on Legal, Rules and Privileges for a job well done.

Mr. Speaker, sir, I would like to comment on the modalities of assenting to Bills. We should be more practical and ensure that our Bills are assented to. I want to give an example of what has been going on in the Parliament of Uganda.

A lot of Bills go for assent, and the public gets to know through the media what has been going on, and many times when they are brought back to the House, either they have been assented to or thrown back to the House for review and people get to know.

We have been passing Bills but we do not know whether they even reached the Heads of State or they have been thrown back to the House. In the past few months when I was in Uganda, we heard that the Finance Bill was thrown back to the House for review; their Land Bill was also thrown back to the House for review. Earlier on, the Political Organisations Bill had also been thrown back for review.

Some of these debates on Bills happen through civil society organisations, the private sector and they end up in the media, but you will also find Members of Parliament and other interested parties talking about such issues. So, these issues filter into the public and

people get to know what is happening, which is not the case with our Bills. So, it causes a lot of frustration but also communication gaps.

I would like to request my hon. colleagues that when we get back home, we should get the list of Bills that we have passed and then pass them on to the public through whatever channels of communication are available so that the public gets to know that we have been able to pass certain Bills. I think we should get a formal communication from the Council of Ministers as to where these Bills are. We need that answer so that the people know how far we have gone. I am sure that a lot of people within our Partner States might have interest and cause debate when they get to know how far we have gone with these Bills.

With those few remarks, I support the Motion. Thank you.

Mr Mabere Marando (Tanzania):

Mr. Speaker, sir, I also stand here to support the Motion as presented by the Chairperson of the Standing Committee on Legal, Rules and Privileges, which I am privileged to belong to.

Mr. Speaker, sir, this law ought to have been passed as the first statute of the Community because it is the law that establishes the procedure for enactment by this Assembly. It is coming now, regrettably, after this House has passed four other Bills. The reason is the same – the failure of the Executive to deal with the day-to-day work of the Community. This is one area where we will not shy away because of its necessity.

Yesterday we had to adjourn the work of this Assembly for want of

attendance of the ministers to answer questions. The reason manifesting itself here is that this work could not be undertaken at the appropriate time because there are no ministers to attend to important matters of the Community. We shall not tire of repeating this as and when necessary because we know that it is by doing so that the Summit will have its ears bothered, and will take steps to remedy the situation.

Mr. Speaker, sir, there are two things I need to mention here in relation to the printing of the Bills and the publication of the Acts of the Community. The Secretary General has wisely designated and gazetted the Government Printer for the United Republic of Tanzania to be the Community Printer.

One of the reasons that has caused the delay of the Bills from being forwarded to the Heads of State is that the present Community Printer is in the administrative process of dealing with first come first served, so that much as the Community work has gone there, there is also some work, which had been submitted earlier by the Government of the United Republic of Tanzania and other people. So, he cannot jump the queue and print our work.

We have looked at the Treaty and we are satisfied beyond reasonable doubt that there is no problem in designating and gazetting all the Government Printers of the Partner States to be Printers for the Community, so that if the Secretary General goes to Dar es Salaam and finds that man busy, he can go to Nairobi, and if that one of Nairobi is also busy, he can go to Kampala. And I am sure this work is being paid for, and not all of them can be so busy at the same time as to refuse

our work. In that respect, we can have our work done within the timeframe that is embedded in the Bill before the House.

Mr. Speaker, sir, we also looked at both the Treaty and other legislations. Much as we do not encourage it now, it is possible to designate a private printer to print work for the Community. The law does not prohibit us from doing this, and we should look at that possibility. But the Committee is inclined towards the appointment of our Government Printers to do the work for obvious reasons. We could try this but if it fails, we could go to other private printers if necessary.

The position of the Committee is that passing and assenting to Bills should be within 90 days. The Chair should consult with the Counsel to the Community with a view to getting an interpretation to Article 63 of the Treaty as to whether the three months will start to run after the Bills have been presented to the Heads of State for their assent. After such consultation, the Chair can make a pronouncement, which can be recorded in the *Hansard*, and that will be the law. Alternatively, the Heads of State may look at it, and have their opinion.

Mr. Speaker, sir, I would like to comment on the issue of a draftsperson for this Community. The Chairperson of Trade, Communication and Investment Committee has availed to me, among others, a memorandum of understanding of the Capital Markets of our Partner States. I just got it from my pigeonhole this afternoon, and I do not know whether everybody has it, or it was distributed to Members of the Committee only. I have just noticed something very interesting in Clause 10 of that memorandum of understanding. It states as follows:

“This memorandum of understanding constitutes a statement of intent of the Capital Markets Authorities of Kenya, Uganda and Tanzania with respect to their organization and operations herein, and shall have legal effects as such.”

This is a pretension at legislating. This can only have a binding effect on the contracting parties. But for it to have legal effect, it must be legislated. If we had a draftsperson here, the relevant Committee would have instructed the draftsperson to come up with a law relating to Capital Markets for the entire East Africa, and such pretensions would not occur. These pretensions are here because people found out that there was no law that they could take recourse to, and so they pretended to be legislating for themselves.

With those remarks, I beg to support the Motion before the House. Thank you.

Mr Ochieng-Mbeo (Kenya): Mr. Speaker, sir, it is sad that whatever needs to come from the Council of Ministers is actually coming very painfully from Members of this House. We are tired of belabouring the issue that we are putting more burdens on the Members of the Committee, which will be out of office in the next one year, and another group who might not be lawyers might be in that Committee. It is going to be a very sad thing.

Mr. Speaker, sir, I join my colleagues in decrying the lack of presence of the Council of Ministers in the House. In as much as I blame them, I wonder loudly where the Secretary General is. According to the Treaty, the Secretary

General is also the Secretary to the Summit and he handles all the activities that take place in the Council. So, you can see that if the Secretary General is not here, you do not expect the Council of Ministers to have been informed to make their presence here! It means we have to struggle every time to inform Members of the Council to be available in this House! Mr. Speaker, sir, I believe that things go wrong because somebody is not doing his job.

When you look at the provisions of Article 62 of the Treaty, you will appreciate the struggle that the Committee has gone through. But as I have always said, every article in this Treaty needs an Act of Parliament, but we struggle to bring Bills here belatedly. But what happened to the Bills we passed in this House?

I have been looking at the provisions of the Bill with regard to assent to Bills by the Heads of State, and everything to the naked eye looks okay. If one Head of State withholds his or her assent to a Bill, the Assembly may reconsider the Bill and if passed, the Bill shall be presented to the Heads of State for assent.

If one Head of State amends a Bill and that amendment is not favourable to the other Heads of State, we will be engaged in a vicious cycle. But if it is amended, will that amendment be circulated first to the Heads of State or will it come straight to the House? But if the other two Heads of State reject the Bill, what then happens to the Bill? You can see the paradox. There is something explosive here that we must look into and agree on.

Mr. Speaker, sir, I would like to talk about certain things here which are of great concern to this House. The

Standing Committee on Regional Affairs and Conflict Resolution made a report to this House some time back with some recommendations on the stages of integration in the East African Community. I have always said that in this Community, the left hand does not know what the right hand is doing. Right now, there is a committee chaired by the "Acting Secretary General" dealing with –
(Interjection) -

The Counsel to the Community (Mr. Wilbert Kaahwa) (Ex-Officio): Mr. Speaker, sir, may I inform the hon. Member holding the Floor that at this point in time, we do not have an Acting Secretary General. In the absence of the Secretary General, Counsel to the Community has been assigned the role of being in charge of the Secretariat, not in the capacity of the Secretary General, but to play the role of *primus inter pares* among the other professional staff.

Mr Ochieng-Mbeo: Mr. Speaker, sir, I think the Counsel to the Community has made himself clear that he is the Acting Secretary General.

As I was saying before I was interrupted, there is a committee from the three Partner States right now in Arusha dealing specifically with the Munanka Report, the Treaty and the Strategic Plan of the Community, to look into the stages of integration in the East African Community. Our committee has got a report, which has not been funded up to now. It is still gathering dust in the shelves of the Secretariat and yet the Secretariat, through the office of the Secretary General, saw it fit to invite East Africans to discuss the same paper without reference to the committee –
(Interjection).

Mrs. Beatrice Shellukindo (Tanzania): Mr. Speaker, sir, I would like to inform the hon. Member that the said officers finished today and they have come up with a report, which they are going to work upon and come in September to discuss.

Mr. Ochieng-Mbeo: Mr. Speaker, sir, I get mesmerized by these powers which keep building within certain corners in EAC. It is high time we divided work here so that the responsibilities of this Assembly are clearly demarcated.

It is not wrong for one to assume certain roles and responsibilities as stipulated by the Treaty, but when the Assembly has touched on an issue, it should be allowed to continue with it to the end. It is amazing that the Secretariat, through the leadership of the Acting Secretary General, has been discussing that Report!

I have been looking at the *Hansard* of June, 2002 and 21 to 25 January 2002, and the Acting Secretary General participated very effectively in the debate that produced this document, which is rotting in his shelves. But he saw it fit to chair a meeting of East Africans discussing the same without any regard or due consideration of what the Committee on Regional Affairs is doing. I find that to be out of the way.

Mr. Speaker, sir, I want to emphasize the fact that a draftsman is urgently required in this House. In as much as it sounded like a joke when Hon. Kanyomozi suggested that we should explore ways of employing a secretary for the Speaker, there is urgent need to employ a draftsman. All honourable Members who have taken the Floor during this sitting have alluded to this.

It is very urgent that if there was any provision for a Supplementary Budget, it should now be made very clear to the Council of Ministers that as much as we are postponing a lot of other activities within the East African Community, maybe the time for a fundraising for a draftsman is now.

Maybe we need to reduce the number of trips in the Secretariat. In fact, I am told that the Secretary General is now in Brussels working for the Community, one of his deputies is somewhere in Addis Ababa representing the Secretary General while another deputy is somewhere in Indonesia representing the Secretary General and the Acting Secretary General will be in Kisumu soon to represent the Secretary General in another function down there!

Mr. Speaker, sir, I was of the opinion that looking at the urgency of the need for a draftsman, something has to be done. If it means tightening our belts a little bit in order to have a draftsman on board, then this is the time. If it needs re-adjusting the activities of this House, let it be so. But it only requires one donor to have the entire office of a draftsman in place.

I know that what they are doing is actually raising funds for the activities of the Community, and I believe that is what the three gentlemen are doing out there. While they are doing that, I appeal to them to look at this issue seriously. If we will have to depend on the Standing Committee on Legal Rules and Privileges to bring Bills to this House, we might find ourselves shortchanged.

With those remarks, I support this motion.

Mrs. Kawamara Mishambi (Uganda): Thank you very much, Mr. Speaker, for giving me the opportunity to add my voice to that of my colleagues who have already contributed to this Motion. I commend the Committee on Legal, Rules and Privileges, together with the draftsman from Uganda for rendering a lot of support to this Assembly. I also commend the Counsel to the Community for his wise guidance to the Assembly.

Mr. Speaker, sir, there are a number of issues that came up during the course of this debate. One of the issues is on the lapsing of Bills that have been passed by this House but are not assented to by the Heads of State.

I remember that during the time the Treaty was being drafted, civil society organizations and a number of people in East Africa proposed that there should be power of veto vested in the Assembly so that any Bill passed by the Assembly becomes law automatically if the Heads of State refuse to assent to the Bills. However, we had many technical people who used to come to Arusha to draft the Treaty and they had their say and their way. So, they overrode what the people of East Africa would have wanted - not to let the powers of assenting to Bills lie in the hands of three individuals in the names of Heads of State. In that case, we are playing into the hands of the legal people who were acting as the technical experts at that time.

Mr. Speaker, sir, I am a bit uncomfortable about the mood of suspicion in this Assembly. We are now beginning to draft laws with a suspicious mind. We are looking at the Secretary General, Hon. Amanywa Mushega, who is the occupant of the

office right now. I am getting uncomfortable because to me, when legislation begins to be personalized, there are a number of dangers.

In our Partner States for example, there were legislations made to put in place certain offices because certain individuals were holding those offices. Once those individuals were out of the way, amendments were moved so that other people would not be allowed to enjoy the same privileges. I am seeing that mood coming to this Assembly slowly.

Mr. Speaker, sir, we have been informed that we are working under extraordinary circumstances, which require extraordinary measures. I get scared when lawyers advocate for extra judicial measures to be taken because we are under extraordinary circumstances. It is my prayer that we become more objective when legislating in this Assembly so that we are not blamed – *(Interjection)*-

Mr. Ogalo: Mr. Speaker, sir, I would like to seek clarification from the Member holding the Floor as to what she understands by “extra judicial” measures.

Mrs. Kawamara Mishambi: Mr. Speaker, sir, as somebody who is not learned in the learned sense, when I talk about extra judicial, I mean when people begin to take things into their own thinking. That is how I interpret it as somebody who is not legally trained.

Mr. Speaker, sir, I am also worried when we are not so specific, and yet we personalize issues in this Assembly when legislating. I would take an example from the communication made by the Chairperson of the

Standing Committee on Legal, Rules and Privileges where he says:

“It was the view of the Committee that this work of presenting the Bills for assent to the Heads of State be done by the Speaker personally. We consider this also to be an opportunity for the Speaker to meet the Heads of State and exchange views between the Summit and the Assembly.”

That worries me because it amounts to us breeding sycophancy – *(Interjection)* -

Mr Kaggwa: Mr. Speaker, sir, is the hon. Member holding the Floor in order to mislead this House to say that when the Chairperson of the Committee said that the Speaker would personally be taking the Bills, he is not in compliance with the provisions of Article 62(2)?

Ms. Kawamara Mishambi: Mr. Speaker, sir, Article 62(2) of the Treaty reads as follows:

“When a Bill has been duly passed by the Assembly, the Speaker of the Assembly shall submit the Bill to the Heads of State for assent.”

I have not seen where it is stated that he will do it personally. To me, I read that as the office of the Speaker. When the Committee goes on to elaborate that this would be a grand opportunity for our Speaker – *(Interjection)*-

Mr Kangwana: Mr. Speaker, sir, I would like to refer the hon. Member who has been holding the Floor to the definition of the Speaker in the Treaty, which states as follows:

“The ‘Speaker’ means the Speaker of the Assembly as provided for under Article 53 of the Treaty.”

Article 53 of the Treaty states as follows:

“The Speaker of the Assembly shall be elected on a rotational basis by the elected Members of the Assembly from among themselves to serve for a period of five years.”

Mr. Speaker, sir, that person as of now is no other than you!

Mrs. Kawamara Mishambi: Mr. Speaker, sir, I think I should not prolong my contributions because it is putting your office into question. But that is my opinion and I should be allowed to have a say in this House while the rest can have their way. I feel the idea of our Speaker trotting around the Capitals carrying Bills for assent is demeaning and it is wrong. We should not encourage it because it is tantamount to promoting sycophancy – *(Interjection)*.

Mrs. Waruhiu: Mr. Speaker, sir, is the hon. Member on the Floor in order to even imagine that the Speaker is capable of sycophancy? She should withdraw that remark.

Ms. Kawamara Mishambi: Mr. Speaker, sir, I said we are likely to promote sycophancy.

With those remarks, I support the spirit of the Bill.

Mrs. Waruhiu: Mr. Speaker, sir, I think hon. Kawamara should withdraw that statement.

Ms. Kawamara: I oblige, Mr. Speaker, sir.

Mr Med Kaggwa (Uganda): Mr. Speaker, sir, in view of the immediate past, I would like to reiterate that there is need for this Assembly to get fully sensitized on the Treaty. Unless we fully understand the Treaty, our debates will always run into some problems.

Mr. Speaker, sir, I also say this, taking into account what hon. Mbeo said earlier on. I think it is very important for each of the organs of the Community to understand its roles. I stand to be corrected, but I was uncomfortable when I heard hon. Mbeo say that the Secretariat had engaged people to look into the integration process. I do not see any problem with that because I take the Secretariat as the executive arm of this Community.

Article 14(1) of the Treaty says that the Council shall be the policy organ of the Community and my interpretation of that is that the Secretariat acts on behalf of the Council and, therefore, it is fully within their mandate to initiate such a process. I however agree with him when he says that when the Assembly is doing something similar, then it is only fair and fitting that the Secretariat also looks at what the Assembly is doing.

Article 49 (2)(d) says that the Assembly shall discuss all matters pertaining to the Community and make recommendations to the Council as it may deem necessary for the implementation of the Treaty. I do not think the Secretariat has barred us from submitting our recommendations to the Council. Mr. Speaker, sir, in view of this, I want to call for sensitization of

the Members of this House on this Treaty – *(Interjection)*.

Mr Calist Mwatela (Kenya): Mr. Speaker, sir, when we were in Kisumu, we expected somebody from the Secretariat to come and enlighten us on the Protocol on the Sustainable Management of Lake Victoria, which they declined to do. We have further requested as a Committee that they bring somebody to the Committee tomorrow, but they have refused to do that and I have a letter to that effect. So, I would like to inform hon. Kaggwa that the Secretariat is doing exactly what hon. Mbeo is saying.

Mr Kaggwa: Mr. Speaker, sir, with due respect, I think we are addressing two different matters.

Mr. Speaker, sir, it is the duty of the Council of Ministers to bring Bills to this House, and I assume that the Secretariat could be doing this job on behalf of the Council of Ministers. I do not know whether the Secretariat does not assist the Council, or it is the Council that does not ask the Secretariat to initiate these Bills, but the end product is that there are no Bills, and accordingly, we have had to resort to Article 59 of the Treaty to bring Private Members' Bills. But what concerns me here is that even when this is done, there is no appreciation from the Council.

I am saying that because Members of the Council are never in this House. I think we need to have this matter brought to the attention of the Summit. I get irritated when people feel I come here to collect money, and yet there are so many things that have to be done by way of legislation. But those who are supposed to do it do not take the initiative!

Mr. Speaker, sir, on the issue of the protocols, I would like to say that there are specific protocols that are mentioned in the Treaty, and I have no problem with that, but I am disturbed when interpretations are made to the effect that each and everything will be a protocol in this Treaty.

I think it is true that no two lawyers will ever agree or disagree most of the time. In the collegial spirit that I always talk about, I request that the Counsel to the Community should sit with the Standing Committee on Legal, Rules and Privileges and identify those areas for which legislation can be brought, and those that could go for the protocols.

I am saying this because the Secretariat is under the illusion that protocols are top-secret documents, and yet when we go to seminars, we get the same documents. I find this strange. Articles of the Treaty must be operationalised by law. It is only prudent that the House gets sensitized on protocols before they are signed. If we do not do this, we are going to find ourselves in the situation which we have found ourselves in time and again, in the Committee on Legal, Rules and Privileges, where we want to make a good law but our hands are tied by the Treaty.

Once the protocols are signed, they form part of the Treaty, and we are *functus officio* on this. There is nothing we can do once the signatures have been appended. I happen to have been a Member of Parliament in Uganda, and I knew that whenever a minister had a Bill to bring to the House, a workshop was organized for Members of Parliament to get them on board so that they could not shoot down the Bill as entitled.

Mr. Speaker, sir, possibly the Protocol on the Customs Union will be signed in November, but it still remains a secret document to this House and yet it is flying around in the hands of businesspeople within the region. Where is the logic in this?

Mr. Speaker, sir, I recall that a resolution was passed in this House to try and bring together the Speaker, the Summit and the Secretariat. If that is correct, I think it is more than urgent that it does take place, and notes are compared on the matters of running this Assembly and the Community for the good of the people we represent in East Africa.

Mr Calist Mwatela (Kenya): Thank you, Mr. Speaker, sir, for giving me the opportunity to contribute on this Bill. The other day I said that our job is to talk, but I think it reaches a time when everybody gets tired of talking, particularly when you talk about things to a person and the next day he repeats the same mistake. I think this House is getting tired of talking about the failure of the Council of Ministers to perform its duties.

Mr. Speaker, sir, it was stated in the Report of the Select Committee, which was tabled in this House, that we need ministers whose specific duty is the East African Community. We will repeat that a thousand times. We need ministers whose docket is to handle matters of this Community.

I support the recommendation of the Committee on Legal, Rules and Privileges that the Speaker presents the Bills for assent to the Heads of State. That would give the Speaker the opportunity to air some of the things we are talking about. I do not agree with the assertion that this would breed sycophancy. I highly doubt that the

Speaker has got the ability and capacity to be sycophantic!

Mr. Speaker, sir, the Chair of the Committee on Legal, Rules and Privileges and the entire Committee deserve a pat on the back. If it were not for them, we would not be here today, because there would have been no work. It is a shame that we had to suspend the business of the House yesterday because this House could not handle what was listed as the business of the day because ministers were not present in the House.

We were supposed to get answers to the questions asked by honourable Members. We do not know why the ministers could not be available in the House. In your own wisdom, you decided to suspend the proceedings of the House. I think time has come for us to have ministers responsible for the East African Community, and this is the message which we expect the Speaker to carry along whenever he meets the Heads of State.

Mr. Speaker, sir, on the issue of protocols, I think it has been ably explained by Hon. Kagwa and other Members of the Assembly who have contributed that these protocols are laws in themselves. It is unfortunate that this Assembly, which represents East Africans, is kept ignorant on a subject that will become law for East Africans under the pretext of Article 16 of the Treaty, which states as follows:

“Subject to the provisions of this Treaty, the regulations, directives and decisions of the Council taken or given in pursuance of the provisions of this Treaty shall be binding on the Partner States, on all organs and institutions of the

Community other than the Summit, the Court and the Assembly within their jurisdictions, and those to whom they may, under this Treaty, be addressed.”

Mr. Speaker, sir, I am quoting that Article of the Treaty because after we failed to get the Protocol on the Sustainable Management of Lake Victoria explained to us by the Secretariat when we had a seminar in Kisumu on Lake Victoria, we wrote a letter last week to the Secretariat that they send an officer to come and brief Members of the Committee on that Protocol. We even allocated Thursday morning so that we could listen to the said officer.

We told the Chair of the Standing Committee on Natural Resources to write a letter requesting for the brief in good time. The Chair did exactly that. She wrote, but as you usual, the response was that it was not possible. There was a letter from the Counsel to the Community, who is a Member of this House, stating that that would contravene Article 16 of the Treaty. Maybe he should shed light when he makes his contribution as to how this will contravene the Article 16 of the Treaty; and he has signed that letter for the Secretary General – (*Interjection*).

Mr Yonasani Kanyomozi (Uganda):

Mr. Speaker, sir, I think the most logical thing is for the Hon. Mwatela to lay the letter he is referring to on the table so that it becomes a property of the House. Could he be prevailed upon to lay that document on the Table so that we could refer to it?

Mr Mwatela: Mr. Speaker, sir, I thank hon. Kanyomozi for making that request. The Chairperson of our

Committee is going to table the document – (*Interjection*).

Mrs. Waruhiu: Mr. Speaker, sir, is the hon. Member in order to talk about documents and a Chair, which we do not understand? He needs to substantiate.

The Speaker: Hon. Mwatela, I gather from the two interventions that the honourable Members are just requesting you to make the document available to them through the House. Would you like to table that document?

Mr Mwatela: Yes, I will do so straightaway.

(Mr Mwatela laid the document on the Table)

Mr. Speaker, sir, I consider the refusal by the Secretariat to furnish the Assembly with important information so that we do our work according to the provisions of Article of 49(2)(d) - how do we discuss issues when important information is denied from us? Without appearing to be – (*Interjection*) -

Mr Kaggwa: Mr. Speaker, sir, I wish to give information to the Member holding the Floor that Article 71(1)(f) says:

“The Secretariat shall be response for the general promotion and dissemination of information on the Community to stakeholders, the general public and the international community.”

Mr Mwatela: Thank you very much hon. Kaggwa. The Secretariat is even duty bound by the Treaty to give us the information! I was going to say this is

sabotage to the process of regional integration because anything that is made intentionally to slow down the process of integration cannot amount to anything less than sabotage.

Mr. Speaker, sir, I have already alluded to the issue of personal service by the Speaker to the Heads of State with regard to assent to Bills. What is of concern to me is synchronized action of assent to Bills by the Heads of State. If one Head of State proposes an amendment, how do we address that confusion? Is there a remedy to such a situation? I hope when the Chairperson of the Legal Committee responds, he will enlighten us on that.

The other problem we have is on the period that the Speaker has to submit the signed copies of the Bill to the Heads of State for their assent. I have some reservations about that. What does the word “immediately” mean? We should specify the period within which the Speaker should submit the Bill for assent to the Heads of State. With those remarks, I beg to support the motion

Dr. Harrison Mwakyembe (Tanzania): Mr. Speaker, sir, we had lively discussions in the Committee on Legal, Rules and Privileges in respect of Article 63 of the Treaty and Clause 7 of the Bill. The two presuppose that the Heads of State would always do two things: They could simply assent to the Bills we take to them, or the other measure they can take is to return certain Bills with reasons. These two provisions do not envisage a situation whereby the Heads of State simply elect to keep mum. This was discussed exhaustively in our Committee, and I thought our colleagues should know why we reached certain positions.

Mr. Speaker, sir, there was a feeling among the Members of the Committee that if the Heads of State decide within the 90 days to keep mum, the Bill should become law automatically as is the case with Uganda. But there were a lot of wise statements from Members of the Committee, who said that that would spoil the harmony we have.

Our feeling was that while most treaties would allow Member states to opt out of certain provisions, the Treaty for the Establishment of the East African Community does not allow for a Member to opt out of certain provisions. Of course we have got the principle of subsidiarity, which indirectly imports certain elements of reservation, but it is true that the Treaty we have is a very advanced international agreement, which goes to the extend of declaring the laws we pass to take precedence over our national laws.

These are enormous powers which may even provoke narrow nationalistic interests or narrow sovereign feelings among Partner States to plunge the Community into disharmony if we misuse that power. So, the Committee felt that we could follow the spirit in Article 63(4) of the Treaty. With remarks, I support the Motion.

Mr Maxwell Shamala (Kenya): Mr. Speaker, sir, I would like to thank the Chairman of the Standing Committee on Legal, Rules and Privileges Committee for taking upon themselves the responsibility of initiating Bills and submitting them to this House for debate. If it were not for their commitment, creativity and resourcefulness, this House would not be having any business before it. I also want to thank the draftsman from the Parliament of Uganda for responding to our distress call, by coming in time

to help us bring these Bills before the House.

Mr. Speaker, sir, the Bill before the House is a procedural one: It sets out the stages to be followed when enacting Bills. Members will not find it difficult to pass the Bill with minor amendments during the Committee stage. I think what the House has done today is that it has operationalised Articles 62 and 63 of the Treaty.

I am a little bit disturbed because when we had a seminar on Monday, Dr. Odera told us that they found in their research that people still think in terms of belonging to their national countries. They do not seem to have engaged themselves in thinking as East Africans. It is necessary that this Assembly set the example. I am saying so because there are certain things that are happening in some of our organs that need to be addressed seriously. If they are not addressed seriously, this is the cancer that is going to cause the collapse of the second Community.

Mr. Speaker, sir, when we say the Council has failed, it is because they are bound by the Treaty to initiate and submit Bills to the Assembly, but they have not done so. Why have they not submitted these Bills to the House? Are they for the Community? It is unfortunate that the Council of Ministers has not submitted Bills to this House for the last one and half years. Do they expect the Community to thrive?

Secondly, the Secretariat is supposed to forward Bills from the Council to this House but it has failed. But I am surprised that some of our colleagues are defending individuals. We are not looking at the holder of the office of the Secretary General but the office itself.

Mr. Speaker, sir, a resolution was passed in this House that we should have a joint meeting with the Secretariat and the Council of Ministers so that we understand ourselves better. As things stand now, I do not know how the Secretariat takes this Assembly. I do not know whether they rate us very highly. I do not know how the Council of Ministers takes this House. I do not know if the rating is high. If they rate us highly, why have they not brought Bills here for us to debate?

If the Secretariat rates us highly, why is it that they do not communicate with us? These are issues that must be looked into and handled properly. We must be East Africans here. If it is a Kenyan who is failing, we must say so! We should not defend inefficient Kenyans, Tanzanians or Ugandans! This must be the way forward!

Mr. Speaker, sir, the people who set up this Assembly knew that the Assembly would not function without legislators, and the Assembly cannot function without a Clerk. On the same note, the Assembly cannot function without a draftsman. The executive organ of the Community should be the one sourcing for human resource for the organs of the Community. If they do not do so, we will say the Secretariat has failed. That to me is a fact!

Mr. Speaker, sir, I can see that the Council of Ministers has decided to delay the coming into being of the Customs Union. I am saying so because we cannot sign and operationalise the Treaty the same day! The Treaty provides for a Customs Unit within the Secretariat, and that unit should have been taken care of in the Budget. We should now be recruiting officers for this unit so that by July next year, we shall be in

business. At this rate, they will say we have to wait until July 2005! Those organs are not functioning in the interest of this Community. The sooner the Assembly and the Secretariat harmonize their working relations, then the better for us.

Mr. Speaker, sir, we discussed the matter of political federation in Kampala in the year 2002, when Hon. Maj. Gen. Mugisha Muntu was really fervent on this subject. The Speaker in his wisdom ruled that the Standing Committee on Regional Affairs and Conflict Resolution would look into the matter. Why were we not given the finances to do that job? (*Interjection*)

Mr Ogalo: Mr. Speaker, sir, I would like to inform the Hon. Member holding the Floor that the House Business Committee created an for the Standing Committee on Regional Affairs and Conflict Resolution for that purpose and asked for USD50,000 and forwarded the same to the Council of Ministers through the Secretariat, but it was removed.

Mr Shamala: Mr. Speaker, sir, as you can see! There are some people sabotaging this Community. Who else is qualified to talk about the Munanga Report? Members of the East African Legislative Assembly wrote that report and we, as the sitting Members of this Assembly, are best qualified to look into this matter.

Hon. Mbeo was right when he said that there has been a Committee sitting in the Secretariat, and they have wound up their meeting. I met two of those fellows last night, and confirmed that they were considering that report.

Mr. Speaker, sir, I want to emphasize that we must do everything possible to

hold a dialogue with our partners in this Treaty. I support the Motion.

Ms. Irene Ovonji-Odida (Uganda):

Mr. Speaker, sir, I believe that this Bill is an important law for this Community once it is passed. I hope this Bill will be assented to by the Heads of State within the stated time. This law, once passed, will provide the framework for the other laws that are supposed to be passed by this Assembly.

Mr. Speaker, sir, there should be no fear that when we have change of Membership in our various Standing Committees, the Standing Committee on Legal, Rules and Privileges may be left with non-lawyers.

Hon. Shamala and hon. Prof. Kamar are non-lawyer Members of the Standing Committee on Legal, Rules and Privileges and they are doing very well. If anything, I believe they enrich the work of the Committee. I am a lawyer, and I know that the training of lawyers, unfortunately, is legalistic and focused, which in some cases becomes narrow. So, they enrich the work by helping us to see the effect of these laws on the 80 million East Africans. So, there should be no fear about the new Membership of the Committee that will come after this one.

The issues raised by hon. Shamala are very important. I would like to urge all the Members of this House to see what form of leadership we can provide to take the Community out of this impasse. We have several governance organs of the Community, and fortunately the Assembly is one of them, and is by Treaty, independent. So, let us provide some leadership to find the way forward.

I believe what is being proposed about the Assembly and the Secretariat coming together to sort out this impasse is a good step forward. We need to look at the issue of separation of powers, and indeed, in our Committee we saw the gaps in the Treaty. While it provides for the separation of powers, there are areas where some of the powers that would reside in the legislative body are not fully catered for.

The Article relating to assent comes to mind. I pray that when the issue of the amendment of the Treaty is looked at, that would also be taken into account, of course bearing in mind that any amendments to the Treaty would have to be agreed upon by the Summit. We have to think in terms of co-operation coordination while we have separation of powers in separate areas of responsibility. So, let us provide leadership in how to co-ordinate our work with the Secretariat as the implementing organ of the Community.

Mr. Speaker, sir, we have allocated three months to the issue of assent to Bills because all our decisions in the Community are by consensus. I believe that since consensus is the way in which the Summit operates, we should allow adequate time for consultations. At the moment we have three Heads of State, but we know that the Treaty allows for more. What will happen if Rwanda, Burundi, DRC and so on enter the Community? Consensus will not suffice because it may slow down the process considerably. This is another area that needs to be looked at when amending the Treaty.

Mr. Speaker, sir, given the national commitments that we have seen exhibited by different officials, and possibly within the different organs of

this Community, the fact that issues of national concern tend to take priority, this is perhaps the reason why we see the Council of Ministers giving priority to their business within the Partner States compared to the business of the Community.

My request to the Speaker is that whenever he meets with Members of the Council and the Summit, he should impress upon them to take seriously the issues of this Community. They should consider themselves first as Members of the Summit and heads of their respective states second. That way, we shall move forward the integration process. With those remarks, I support the Motion.

Mr. Mohammed Zubedi (Kenya): Mr. Speaker, sir, I would like to congratulate the Committee on Legal, Rules and Privileges for bringing this Bill to the House.

Mr. Speaker, sir, the constituency for the Members of the East African Legislative Assembly is East Africa. We are answerable to the 80 million people of East Africa, unlike the Council of Ministers, which is answerable to their individual constituencies, or the Secretariat which is not answerable to anyone. Therefore, after five years, we shall be judged as to whether we have taken the 80 million East Africans forward in the integration process, or have failed and done nothing.

Mr. Speaker, sir, I want to reiterate here that we have no problem with the Secretariat, or the Secretary General. We would like to work cohesively and perform the duty we were sent here to do. We have to inform, educate and take the people of East Africa through the process of integration.

Mr. Speaker, sir, as I speak now, there have been cases within the Lake Victoria where Kenyan fishermen were arrested and other incidences where fishing gear was stolen from fishermen. This is because people living within the borders of East Africa do not know what is legal and what is illegal. People are breaking the law everyday innocently. They think the borders are already gone!

It is clear that the people of East Africa have taken it upon themselves that there are no barriers any more. But by doing so, they are breaking the law, and they get arrested and we have to appeal, like we did, to His Excellency the President of Uganda who is the Chairman of the East African Community Summit. In his wisdom and magnanimity, he agreed to set those people free. But that does not mean that those people did not break the law! (*Interjection*)

Mr Ochieng-Mbeo (Kenya): Mr. Speaker, sir, I just wanted to enlighten hon. Zubedi that two days ago, another 35 people were arrested, and the situation has gotten out of hand because the Kenyan fishermen have now retaliated by seizing the fishing gear of the Ugandans. But the situation was saved by the Kenyan police patrol in the Lake.

Mr Zubedi: Mr. Speaker, sir, as I have been saying, these things will continue happening. These events are not in any way promoting integration. They are promoting animosity and division. The Members of the Assembly should, therefore, be fully informed and fully aware of the protocols negotiated between the Partner States. If we are not part of the process of those protocols, we should be briefed so that we can inform the people of East

Africa whom we are answerable to. That is what we are asking.

Mr. Speaker, sir, I ask the Counsel to the Community to be at the forefront of facilitating this Assembly so that we can work effectively for the people of East Africa. The Counsel to the Community should not look at who his superiors are, but the 80 million East Africans. With those remarks, I beg to support.

(The House was suspended at 4.30 p.m. and resumed at 5.00 p.m.)
[On resumption...]
[Mr. Speaker in the Chair]

The Counsel to the Community (Mr Wilbert Kaahwa) (Ex-officio): Thank you very much, Mr. Speaker, sir, for giving me the opportunity to elucidate on a few matters, which have come out of the debate on this Motion, and also to contribute, in my own way, to the debate on the Bill before the House.

Mr. Speaker, sir, I would like to thank the Chairperson of the Committee on Legal, Rules and Privileges to which I am proud and honoured to be co-opted, for tabling this Bill before this House. I also feel a bit flattered to see that this Bill has come before the House. If you trace its origin, you will find that it is in the office of the Counsel to the Community.

Mr. Speaker, sir, allow me also to thank hon. Ogalo, Waruhiu, Marando, Mbeo, Mishambi, Kaggwa, Mwatela, Dr. Mwakyembe, Shamala, Ovonji-Odida and Zubedi for making very useful contributions, not only on the Bill before the House, but also on the way forward as far as the needed cohesive relations between the organs of the Community and the progression of the implementation are concerned. Allow me to comment on the useful

sentiments that have come from the Floor of this House.

Mr. Speaker, sir, Members have talked about the need for the Council of Ministers to fulfill its role under Article 14(3)(b), of initiating Bills for the House. In other words, we are talking about a legislative programme. This is a matter that has come up before this House, and the House has stressed the belated fulfillment of this function. I cannot say much on this one.

The initiation of Bills is not the work of the Counsel to the Community; it is the role of the Council of Ministers. The Secretariat has been arranging for the Ministers responsible for Foreign Affairs to meet and consider the legislative programme of this Assembly. I have already indicated that these Ministers are scheduled to meet next month from 18 to 21 August 2003. One of the things they are going to discuss is the legislative programme. As the Chairman of the Council of Ministers promised, they are going to look into the initiation of Bills and how to fulfill their role.

Mr. Speaker, sir, the other matter that was raised was with regard to ex-officio Members of the executive arm of the Community. I want to stress the fact that I sit here as Counsel to the Community. I do not want to assume the role of Acting Secretary General. In my family, we have had a problem where my own brother –in-law was deemed to have assumed to be acting in a very high position in one of the Partner States, and he lost his job. When you talk about the executive wing of the Community, all I can do is to pass on the message to the relevant quarters, which is the Chairman of the Counsel and the Secretary General.

Mr Ogalo: Mr. Speaker, sir, I would like to seek clarification from the Counsel to the Community on this matter. If the Secretary General and his Deputies are away and there is some communication to be dealt with by the Secretary General, who deals with the matter? If they are away for two weeks, will that matter be put on hold until they return?

Mr Kaahwa: When the Secretary General and his Deputies are not here, and a matter of importance comes up, the professional staff members of the Community act within their provinces. If it were a legal matter, the office of the Counsel to the Community would handle it. If it concerns Lake Victoria, the programme officers would handle it. The signing of cheques is a different matter. There are alternate people who sign them. I happen to be one of those people.

Mr. Speaker, sir, with regard to the draftsperson, I would like to say that this is a matter, which touches my office. When you were being sworn in here, you must have realized that I was bigger and well nourished than I look now. The fact that I am losing weight indicates that I am overwhelmed by work, when I am not even a qualified draftsperson! The idea of the draftsperson was proposed in the Budget but for some reason, the idea was not driven very far. But this is a matter that I should be passing on to the Council and the Secretary General.

Mr. Speaker, sir, on the issue of passing information between the Secretariat and other organs, there is doubt that under Article 71(1)(o), the Secretariat is supposed to establish co-ordination between the organs of the Community, especially between the Assembly and the Court because these

are new organs within the institutional framework.

Under Article 71(1)(f) as hon. Kaggwa ably pointed out, the Secretariat is supposed to disseminate information, but sometimes we are held back because we walk a tight rope. This is a matter that will be addressed in the forum, which was created by this House.

I am proud to say that my office has passed on all protocols and agreements that have been signed to the Standing Committee on Legal, Rules and Privileges. But there are certain other documents that are in the offing in respect of which we get different instructions. Those are not yet public documents.

Mr. Speaker, sir, on the Draft Protocol on the Sustainable Development of Lake Victoria, the request was made to me - in fact, there was a verbal indication before the request came that I would be required to present this Protocol. I discussed this matter with the hon. Speaker and indicated the practical problems I was experiencing. I request the Committee to appreciate that position.

The Secretariat was instructed by the Sectoral Council to pass on this document to the Council of Ministers. Once any Sectoral Council has decided, then within the terms of Article 14(3) (i) that becomes a directive. I want the House to bear with us on matters like this one, including the Customs Union Protocol. These are matters, which will be discussed in the forum.

I entirely agree that these are matters, which should be discussed by the House because eventually, they will come to the House when the House is

legislating on the necessary statutes to implement the protocols. I would like to say that the problem I had was that of taking instructions from two different organs. The only way we can resolve this is to sit in a forum – *(Interjection)*.

Mr Mwatela (Kenya): Mr. Speaker, sir, is the hon. Member in order to insinuate that the Assembly is subordinate to the Sectoral Council.

Mr Kaahwa: Mr. Speaker, sir, it is not my intention to make any insinuations along those directions. In fact, I should have started by saying that the Secretariat rates the Assembly as highly as it should. I am saying this very solemn point of view. When you see these things which may appear as insinuations, it is because we are lacking administrative procedures, which we should bring up when we sit in the forum. I request hon. Members to bear with me on this one – *(Interruption)*.

Prof. Margaret Kamar (Kenya): Mr. Speaker, sir, when we were preparing for the Kisumu workshop, we received information that the Secretary General had said that it was important that the Counsel to the Community presents the document. It was with that understanding that we invited him to come and brief us. I do not know whether he has held consultations with the Secretary General who might have changed his mind to that effect.

We were also informed that the Sectoral Committee Members informed the Secretary General that he should not touch the Protocol because it was only the Counsel to the Community who was empowered to discuss such issues. I was expecting the Counsel to the Community to tell us the way forward. I know that it is

possible for us, as the Kenyan Chapter, to go through the Protocol. Is that the best way forward?

If there is any law that is prohibiting him from briefing us on that Protocol as opposed to the view of the Secretary General that he should discuss it with us, then he should say so. He should tell us that since our respective Attorneys General can discuss it with us, we should go ahead and do so. But that is unfortunate because we shall be coming here as Kenyans, Ugandans and Tanzanians. If that is the best way forward, so be it. We will have to reduce the business of Arusha to coming to endorse, but have a chance at our country levels to discuss the documents in our own countries.

Mr Kaahwa: Mr. Speaker, sir, it is true that hon. Prof. Kamar indicated to me about two days ago that the Secretary General had indicated to the Committee that I would be going to Kisumu to present the Protocol. That was the first time I was hearing that I was supposed to do that. I was coming to the Kisumu seminar to participate as a Member, but not to present any document. I only learnt here that the Secretary General was of the view that I should have presented the Protocol. Since the time Hon. Prof. Kamar indicated that message to me, I have not been able to talk to the Secretary General because he is not around.

Mr. Speaker, sir, with regard to the way forward, I am kindly requesting that we take this matter to be one of those matters where we are having a problem. We will then discuss exchange of information, passing on of documents from the Assembly to the Council and vice versa, without any misunderstandings. As I have already indicated, when it comes to documents, which have been signed, I willingly

pass them to the Committees or to any other office of the Assembly – *(interjection.)*

Mr Mwatela: Mr. Speaker, sir, is the hon. Member in order to suggest that we take matters of this House elsewhere when we know that these things could be resolved here? May I request him to refer to the provisions of Article 49(2)(d)!

Mr Kaahwa: Mr. Speaker, sir, I am sorry for appearing out of procedure. Article 49 is very clear on the executive and oversight powers of this House, but that should be read together with Article 16 of the Treaty.

In my office, just like in the other offices of the Secretariat, we are walking a tight rope in the absence of administrative procedures on how we should be relating. That is a matter, which I will keep on stressing. I am not suggesting that we take these matters out of this House. I am only suggesting that for administrative convenience, we should use that forum – *(Interjection)-*

Mrs. Waruhiu: Mr. Speaker, sir, is it in order for the hon. Counsel to the Community to keep referring to a forum outside this House? There is a ruling from the Secretary General that the Assembly must not desire to go to the kitchen, but to wait for the food to be cooked. I wish I could refer to the actual date when he made that statement. But is the Counsel to the Community in order to mislead the House, when a decision has already been made and communicated to this House?

The Speaker: Hon. Kaahwa, could you be specific about the forum you are referring to?

Mr Kaahwa: Mr. Speaker, sir, I am referring to the forum which was established by this House upon a Motion moved by Hon. Ogalo in February. This is a forum where all organs of the Community will sit together and establish practical working mechanisms on how to exchange documents and pass information. When I was contributing on the Select Committee Report, I said our panacea on all these matters remains the forum, which was established by a resolution of this House, and not any other forum inferior to this House.

Mr. Speaker I now want to comment on other memoranda of understanding like the one on the Capital Markets Authorities, which my senior colleague, hon. Marando referred to as a pretension.

That document was concluded with the participation of the Attorneys General at a time when we did not have a legislative organ in the Community. But now that the Assembly is here, this matter will have to be rectified so that we come up with a Bill on the Capital Markets Authorities. This is one of the matters, which will be presented to the Ministers responsible for Foreign Affairs when they meet next month.

Mr. Speaker, sir, Members were also concerned about the handling of matters, which are being ably handled by the Committees of this House. This was with regard to the work of the Standing Committee on Regional Affairs and Conflict Resolution.

It is true that from Monday to today, there was a taskforce drawn from the Partner States and the East African Community. The taskforce was made of experts drawn from the offices of the four Clerks. The origin of this task

force is this: When the four Speakers met as an Inter-Parliamentary Committee for East Africa in September last year, they composed this taskforce together with representatives from Members of our four Assemblies, including Hon. Kate Kamba.

When they met in Dar es Salaam, they established a sub-committee to advise them on the framing of a comprehensive programme on co-operation on political matters. This sub-committee comprises Members drawn from each of the three national Assemblies, and Hon. Kate Kamba from this House.

When the sub-committee met to discharge its function, it realized that there was need for a taskforce of experts to work on this matter, and it directed these experts in preparation of its own meeting.

So, this task force was invited here, they met and among the things they considered was the Munanka Report, and also the Report of the Committee on Regional Affairs and Conflict Resolution, with the authority of the four Speakers. They will be reporting to the sub-committee and the sub-committee will report to the four Speakers. We thought this was in order. There was no attempt to – *(interjection)* -

Mr Ochieng-Mbeo (Kenya): Mr. Speaker, sir, is the hon. Member in order to mislead this House that the task force has access to the Report of the Committee of Regional Affairs when they have not even seen it?

Mr Kaahwa: Mr. Speaker, sir, I said that when this task force met, they considered, among other sources, the Report of the Standing Committee on

Regional Affairs and Conflict Resolution because they are trying to avoid working from parallel angles.

Mr Shamala: Mr. Speaker, sir, I was in Dar es Salaam when the honourable Speakers addressed this matter. What was agreed in that meeting is that there would be another meeting in Kenya in September to consider the matter of federation. They never arrived at a conclusion that they will have a committee of experts.

Mr Kaahwa: Mr. Speaker, sir, records will bear me out. The Inter-Parliamentary Committee at its meeting where the hon. Speaker participated and some hon. Members of this House established a Committee consisting of Members drawn from this House and the other National Assemblies to work on a comprehensive programme on co-operation on political matters, which incorporates progress towards political federation. I stand by what I have said here. In short, this task force was only discharging the work assigned to it by the sub-committee, which is also discharging the work assigned to it by the Inter-Parliamentary Committee for East Africa.

Mr. Speaker, sir, there was another question on the amendment of the Treaty and separation of powers. Last week I said these were very important matters to address, and the sooner we start the better.

Hon. Marando and other Members in their contributions talked about the Gazette of the Community and I have already indicated the administrative problems we have had. It is in that light that I will seek, before the hon. Speaker, to indicate what will happen to the Bills, which have not been presented for assent.

The Government Printer in Dar es Salaam has had problems as already indicated to this House. I am glad that a suggestion has been made that we should designate all the three government printers the printers of the Community.

Mr. Speaker, sir, I would like to point out that the sentiments which have been made before this House are very important, and I will pass them on to the Secretary General and the Council of Ministers for the necessary action.

Mr. Speaker, sir, it has always been my belief that the achievement of the objectives of the Community will depend on how cohesive and coordinated its organs and institutions are in the discharge of their respective obligations. The introduction and sustenance of a mechanism for cordial and collaborative interfacing and interrelationships between the organs and institutions will always remain unassailable. It is on that basis that I reminded this House of the need to actualize the forum that was established by a Resolution passed by this House upon a Motion moved by Hon. Ogalo. That remains our panacea on what Hon. Ogalo calls lamentations.

Mr. Speaker, I suggest that before we come to the Seventh Meeting of this Second Session of the House, let us try to push for this forum and where we will iron out all that stand in our way in our pursuit towards the attainment of our objectives. The said forum will guide us on how we can exchange protocols that are unquiet. As Hon. Shamala pointed out, it is very important for this House to look at the Customs Union Protocol in its unquiet stage, rather than after it has been signed and become an annex to the Treaty. The same should apply to the

Protocol on Lake Victoria and so on – *(Interjection)*.

Mrs. Mahfoudha Alley Hamid (Tanzania): Mr. Speaker, sir, I was wondering whether it was going to be possible for the Council of Ministers to avail itself in a less important forum when they do not take the business of this House seriously?

Mr Kaahwa: Mr. Speaker, sir, as I have always said, my position is not a very enviable one. I want to believe that after all the sentiments expressed during this sitting and previous sittings, the hon. ministers who are ex-officio Members of this House will take the message seriously in view of the fact that in their meeting in August, these matters will be stressed to them by the Secretary General and the Secretariat. I am positive that we are within the tunnel and we about to see the light at the end.

Mr. Speaker, I have appreciated the sentiments expressed by the hon. Members, and having promised to take them on, let me comment on the Bill. I am extremely happy that this Bill has found its way to this House. If you trace its origins, you will find that it was my desk. I thought of this Bill because I realized that there was need to actualize the provisions of the Treaty on legislative matters. Articles 59, 62 and 63 of the Treaty are of substance with regard to the powers of this House to legislate. So, we needed a procedural translation for the exercise of the powers of this House in order to enable this House effect that function. So, I am very happy that this Bill has come here, and that the relevant provisions of the Treaty are now being translated into a procedural practical mode.

Secondly, I want to appreciate what the House is doing in these matters. What the House is doing is very positive, and I appreciate it.

As Counsel to the Community, and also as an East African, I believe that legislation is the most potent source of lawmaking in the modern times. I do not want to be drawn into the paradigm between legislation and precedent because I fear that I will not succeed with hon. Dr. Mwakyembe around. But I would like to say that legislation is the most potent source in modern times.

Salmon in "Jurisprudence" recognizes that the growth of law through human agency - that is through legislation - is the most effective instrument of legal growth. As a legislature, we are trying to equip the Community with sufficient legislation. So we are playing a very positive role by taking it upon ourselves through our able Committee on Legal, Rules and Privileges to enact the necessary Bills to implement the Treaty.

It can also be said that legislation is the closest approximation to the general will in a world where we depend on representative institutions like this House. We are playing a very effective role, and I think that while we are trying to emphasize to the Council of Ministers the need to initiate Bills, we should not lose sight of the fact that what we are now doing is actually translating the expression of the people into law. With those remarks, I beg to support the Bill. Thank you.

The Chairperson of the Committee on Legal, Rules and Privileges (Mr Jared Kangwana) (Kenya): Mr. Speaker, sir, I would like to thank all the hon. Members of this House who contributed to this Motion for the

complementary statements about the Committee on Legal Rules and Privileges.

Mr. Speaker, sir, the absence of Members of the Council of Ministers has caused a lot of concern in this House. All honourable Members who took the Floor commented about their absence here, and that has prompted me to go back to our Rules of Procedure to check the definition of a Member of this House. A Member is defined in the Rules as follows:

"A "Member" means a Member of the Assembly elected pursuant to Article 50 of the Treaty by the National Assembly of each Partner State, and includes ex-officio Members provided for under Article 48(1)(b)."

Mr. Speaker, sir, I also looked at Rule 84(2) of our Rules of Procedure, which state as follows:

"Except with the permission of the Speaker in writing, a Member shall not absent himself or herself from seven consecutive sittings of the House during any period when the House is continuously sitting."

Mr. Speaker, sir, this Rule has been continuously flouted by the Council of Ministers, and a remedy must be found! I went through the Rules to find out how we could deal with this situation and found a remedy under Rule 84(3), which states as follows:

"Where any Member is alleged to have infringed Rule 84(2), the conduct of such Member shall be referred by the Speaker to the Standing Committee on

Legal, Rules and Privileges, which shall consider the matter and report to the House.”

Mr. Speaker, sir, we do not want you to walk a tight rope like the hon. Counsel to the Community. We shall be the last people to wish you to walk a tight rope because we know that you are above that. I assure you that the day you will refer such a matter to the Committee on Legal, Rules and Privileges, which I chair, the matter will be dealt with expeditiously.

Mr. Speaker, sir, most of the comments made by honourable Members were very supportive of the Bill, but honourable Members pointed out certain areas of the Bill that need clarification, and with the permission of the Chair, I wish to clarify those concerns.

Mr. Speaker, sir, Clause 9(1) of the Bill states that:

“The Secretary-General shall, within 14 days, cause every Act of the Community to be published in the Gazette.”

Mr. Speaker, sir, hon. Rose Waruhiu also wanted to know the procedure to be followed in sending the Bills that have been resubmitted to the House by the Heads of State in publishing them and also in having them printed and submitted back to the Heads of State. We will be bringing an amendment at the appropriate moment to clarify that issue.

She also talked about the process of informing our national assemblies, and I would like to refer to Article 65(a), which states that:

“The Clerk of the Assembly shall, as soon as it is

practicable, transmit to the Clerks of the national assemblies, copies of the records of all relevant debates of the meetings of the Assembly, to be laid before the National Assemblies by the respective ministers responsible for Regional Co-operation, for information. The Clerk shall also, as soon as it is practicable, transmit to the Clerks of the national assemblies, copies of the Bills introduced into the Assembly and Acts of the Community, to be laid before the national assemblies for information.”

All we are required to do is to ensure that our Clerk sends the Bills to our national assemblies. What they do with them is their problem. But I would like to allay the fears of the Members of this House that we have confidence in the Clerk, and to the best of my knowledge, he has been sending copies of the *Hansard* and Bills passed in this House to the Clerks of our respective national assemblies.

Mr. Speaker, sir, hon. Ochieng-Mbeo raised an issue on the possibility of differences between the Heads of State as to whether a Bill should be assented to or not. In this regard, we have to be guided by the provisions of Article 12(3), which states as follows:

“The decisions of the Summit shall be by consensus.”

The import of that provision is that if there is any difference amongst the Heads of State as to the assent of a Bill, then that Bill cannot become law. It will have to lapse. But as hon. Dr. Mwakyembe stated, the Committee on Legal, Rules and Privileges is working on modalities of amending the Treaty.

Once that is done, we will bring it to the House for debate, and this is one of those areas that we will address. Members will have the opportunity to debate whether they want to retain the residual power to pass a Bill, whether or not the Heads of State have assented to it. It is an issue we have to look into. It happens in other jurisdictions, and it could also be applied here.

In Kenya for instance, if the President resubmits a Bill to the House, the House is empowered to debate it and send it back to the Heads of State, and if he does not give his assent after two weeks, the House will pass it into law. In other words, the House has reserved the residual power to pass the Bill into law even when the President has refused to give his assent.

This is an important issue because we do not want the Community to find itself in future in a situation where presidents disagree on other matters and Bills emanating from this House are not assented to. Should we allow three individuals to hold at ransom all the 83 million East Africans? But for the time being, if there are any differences, the Bill elapses.

Hon. Mishambi also raised the same issue. There was a statement from the Floor of this House that the Speaker takes the Bills personally to the Heads of State, but hon. Mishambi appeared not to be comfortable with it. I want to reiterate the position of the Committee that the fact of physical delivery should be brought to your attention. It was also our view that it is not demeaning to meet the Heads of State. There is no individual in this world that would feel demeaned to meet even the Head of State of a Banana state!

We were worried that we may submit our Bills and for some reason it may

not reach the Heads of State because the Private Secretaries of the Presidents may deem it less important, and the 90 days elapse without the President knowing of its existence. One of the reasons why we recommended that you meet the Presidents personally is that you will be able to explain to this House if a Bill is not assented to.

Mr. Speaker, sir, there was the issue raised by hon. Mwatela concerning Clause 6(2)(d) which states as follows:

“The Speaker will send the signed copies of the Bill immediately to the Heads of State for their assent.”

But hon. Mwatela was of the view that we put a time limit within which you must submit the Bill. We are talking about the office in that respect, but at the moment, we have no doubt in your ability, integrity and competence to handle this matter. If Members want to put a time limit, they can move amendments at the Committee stage.

Mr. Speaker, sir, there was the issue of relations between the Assembly and the Secretariat. Hon. Ovonji-Odida and the hon. Kaahwa raised that point, and all I can say in response to their concerns is that this Assembly took the initiative towards that direction when it realized that there was a problem in the Community. What we are waiting for is a response from the Secretariat. When is the forum that the Counsel to the Community talked so passionately about going to be? It is the within the mandate of the Secretariat to arrange and advise this House as to when that function will take place! We have a resolution in place, and it is up to the Secretariat to respond to it. We will be there to make useful contributions. We are all out for good working relations

in the Community for the sake of East Africans.

Mr. Speaker, sir, the hon. Counsel to the Community has said that the origins of this Bill can be traced to his desk. That is partly true because the Bill as it exists now is substantially different from what he gave us. I would also like to correct the impression he gave that the Bill was intended by his office to come to this Committee.

When we requested for it, we were informed that it had been passed on to the Council of Ministers. So, we gave the office of the Counsel to the Community three months to bring it back from the Council of Ministers. But there was no response and the Committee decided to bring this Bill to the House. Without this Bill, we cannot know the process through which a Bill becomes law, and the record will prove me right.

Mr. Speaker, sir, the issue of the Community Printer is a straightforward affair. Credit should go to the Committee on Legal, Rules and Privileges for having woken up the Secretariat. It was through the decision of this House that a decision was made that a Community Printer should be appointed and that a Gazette of the Community should be established. It was not the initiative of the Secretariat.

When the Secretariat responded to the recommendations of Members of this House and established a Gazette and a Community Printer, it said the official Printer of the Community would be the Government Printer of the United Republic of Tanzania. At that time we had no problem with that because we did not realize at that time that the Community Printer of the United Republic of Tanzania is overloaded

with work, and that it works on a first come, first served basis and that the backlog of work runs beyond six months!

Mr. Speaker, sir, yesterday when we met, the Committee recommended that I write to the Secretary General and request him to also appoint other Printers as Community Printers. I would like to confirm to this House that the Secretary General tomorrow would sign that letter.

I would also like to inform this House that there is no reason why we cannot use private printers. In fact, private firms print most security documents in East Africa. In fact private firms print our currencies. But if that is not possible, the National Assembly of Kenya has a Printing Press of its own and I can assure this House that they are more than happy to assist us. And from their record of performance, we are assured of having a Bill printed within two days.

Mr. Speaker, sir, the Government Printer of the Republic of Kenya, which is totally different from that of the Kenya National Assembly is also efficient and does not have a backlog, especially these days when we are using soft copies. In the case of Uganda, I also know that the Government Printer does not have a backlog.

It is our humble submission that the Secretary General will act fast enough so that we do not have a situation where we have our Bills falling behind schedule in all respects.

Mr. Speaker, sir, I thank the Members of this House for supporting the Motion. Thank you.

(Question on the Motion put and agreed to)

MOTION

FOR THE EXTENSION OF SITTING TIME OF THE ASSEMBLY

Mr Mabere Marando (Tanzania): Mr. Speaker, Sir, I beg to move:

“THAT this House do resolve to extend work beyond 6.00 p.m. until such a time that the business before the House has been disposed of.”

(Question put and agreed to)

BILLS

COMMITTEE STAGE

The Acts of the East African Community Bill, 2003

[The House in the Committee of the Whole House, the Chairperson presiding]

(Clauses 1, 2, 3, 4 and 5 agreed to)

Clause 6

Mr. Mwatela: Mr. Chairperson, sir, I beg to propose an amendment to Clause 6(2)(d) as follows:

“Send the signed copies to the Speaker who shall immediately, and in any case not later than 14 day, submit copies of the Bill to the Heads of State for their assent.”

Ms. Kawamara Mishambi: Why does hon. Mwatela pick 14 days as the period within which the Bill must be

submitted to the Heads of State? Is there any justification for that?

Mr Mwatela: Mr. Chairperson, sir, I would like us to make laws for their practicability. It is a fact that 14 days is two weeks. We could have decided on one week, but I am looking at a situation where the Speaker may be absent from office. So, I have taken two weeks to be a reasonable time.

Mr Kaggwa: Mr. Chairperson, sir, I want to dissuade hon. Mwatela on the amendment he is making on two grounds. I heard him applaud when the Chairman of the Committee on Legal, Rules and Privileges proposed that the Speaker submits these Bills personally to the Heads of State. If he does not contradict that, then we should not put the Speaker into walking a very tight rope, where he seeks appointments with the Heads of State and things do not work out and he will come back to report to us that he breached the law.

*(Proposed amendment withdrawn)
(Clause 6 agreed to)*

Clause 7

Mr Kangwana: Mr. Chairperson, sir, I beg to move the following amendment to Clause 7:

THAT, a new Clause 7(5), which reads as follows, be inserted:

“The procedure prescribed in Section 6(1) of this Act shall apply to the re-submission of Bills returned under subsections (2) and (3) of this Section.”

*(Question on the amendment put and agreed to)
(Clause 7 as amended agreed to)*

(Clause 8 agreed to)

Clause 9

Mr. Kangwana: Mr. Chairperson, I beg to move:

THAT Clause 9(1) be amended by inserting the words “to be published” after the word “Community.”

(Question of the amendment proposed)

(Question of the amendment put and agreed to)

(Clause 9 as amended agreed to)

Clause 10

Mr Kangwana: Mr. Chairperson, sir, I beg to move:

THAT, Clause 10(4) be amended by inserting at the end of the sentence:

“...except that a person shall not be charged or convicted of a criminal offense which is found in an act or omission that was not an offense before the retrospective commencement of an Act.”

The reason for inserting this exception is that we do not wish to subject people to criminal offenses retrospectively. It may be good for us to increase our salaries retrospectively, but it will be unconstitutional to subject people to criminal offenses retrospectively.

(Question of the amendment put and agreed to)

(Clause 10 as amended agreed to)

(Clauses 11, 12 and 13 agreed to)
(First Schedule agreed to)
(Second Schedule agreed to)
(Title agreed to)

Mr. Kangwana: Mr. Chairperson, sir, I beg to move that the Committee do report to the House its consideration of the “Acts of the East African Community Bill” and its approval thereof with amendments.

(Question put and agreed to)
(House resumed)

[The Speaker in the Chair]

REPORT FROM THE COMMITTEE OF THE WHOLE HOUSE

Acts of the East African Community Bill, 2003

Mr. Kangwana: Mr. Speaker, sir, I beg to report that the Committee of the Whole House has considered the “Acts of the East African Community Bill, 2003” and approved the same with amendments.

MOTION

FOR ADOPTION OF THE REPORT OF THE COMMITTEE OF THE WHOLE HOUSE

Mr Kangwana: Mr. Speaker, Sir, I beg to move that the House do agree with the Committee in the said Report.

(Question put and agreed to)

**BILLS
THIRD READING**

The Acts of the East African Community Bill, 2003

Mr Kangwana: Mr. Speaker, sir, I beg to move that the “Acts of the East

African Community Bill, 2003” be read a Third Time and do pass.

Mr. Mabere Marando (Tanzania):
Seconded.

(Question put and agreed to)

*(The Bill read the Third Time and
accordingly passed)*

The Speaker: Hon. Members, before I adjourn the House, I would like to assure you that the office of the Speaker will ensure that the Bills that have been passed by this House will be assented to by the Heads of State before our next sitting.

I would also like to inform you that the Chairman of the Council of Ministers had initially indicated that he was going to attend this session, but two days ago, he said he was not going to be available and we asked him to consult one of his colleagues and this morning, we were informed that the Minister for Foreign Affairs for Tanzania, Hon. Jakaya Kikwete is on his way to this place, and he will be available tomorrow in the House to answer all the Questions that have been put before the Council of Ministers. He will also table the Annual Report on the Activities of the Community so that Members will have an opportunity to debate it October.

ADJOURNMENT

The Speaker: Hon. Members, that brings us to the end of our business today. The House is therefore adjourned until 2.00 p.m. tomorrow.

*The House rose at 6.40 p.m. and
adjourned until Thursday, 31 July
2003.*