



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

THURSDAY, 12TH JANUARY 1995

MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 2668]

Price Shs. 2,800

Thursday, 12th January, 1995

The Assembly met at 2.30 p.m. in the International Conference Centre, Kampala.

PRAYERS

(The Deputy Chairman, Prof. V. Mwaka, in the Chair)

(The Assembly was called to order.)

CONSIDERATION STAGE OF THE DRAFT CONSTITUTION OF THE REPUBLIC OF UGANDA

CHAPTER 11, ARTICLE 189 - UGANDA AUDIT COMMISSION

THE DEPUTY CHAIRMAN: Hon. Delegates, by the time we left yesterday, we had just passed article 188. As you decided that 188 be retained, this means the numbering in your reports will change slightly. So, we shall be going back to the more or less original in the Draft Constitution and the Chairman of Committee 3 will be leading us. I call upon hon. Kaberuka to lead the Members.

DR. KABERUKA: Thank you, Madam Chairperson. My committee considered article 189 as it appears in the Draft Constitution, and also considered the Amendment that came from it. We took a decision that the Audit Commission should be replaced by the Auditor General. That is what I report, Madam Chairman.

THE DEPUTY CHAIRMAN: Any Member who wants to be clarified?

MR. CHEBET MAIKUT: Madam Chairman, I am seeking clarification from the Chairman of committee 3 as to what was their rationale for dropping the name 'Uganda Audit Commission' as it appears in the Odoki Draft, and they adopted the one of Auditor General. I am seeking that clarification, thank you.

DR. KABERUKA: Thank you, Madam Chairperson. First of all when we read the report of the Constitutional Commission, they were concerned with efficiency in the Auditor General's Office, they were also concerned with independence of the commission; but when we considered the role of the Auditor General and the nature of the work that the

Auditor General performs, it was the opinion of the majority that the report of the Auditor General is supposed to be a highly confidential report which should at the same time be traced from an individual for accountability. We thought that this cannot be achieved when you have a commission of any number, which is more than one. First of all it is very hard to pinpoint the responsibility in case of leakage or in case of any problem. In any case traditionally the office of the Auditor General is known everywhere, it is never subjected to a commission. So, we thought that the independence which was being sought by the commission could be achieved by establishing an Audit Service Board; because their problem was that when they looked at the present staffing of the Auditor General *-(Interruption)*.

THE DEPUTY CHAIRMAN: Hon. Kaberuka, some people cannot hear you; can you raise your voice?

DR. KABERUKA: Maybe, there is something wrong with this microphone. The commission was of the view that the present setup of the Auditor General, that it is full of inefficient staff, unqualified; that because these people are transferable, they belong to Public Service and, therefore, are transferable anywhere. So, we thought that this independence could be achieved by giving the Auditor General an independent Audit Service Board which should be able to give different terms of service, recruit members whom they think are highly qualified for that office, and also not subject them to the normal Public Service Commission. So, with those views, Madam Chairperson, we thought that it is appropriate to reinstate the traditional Auditor General and re-inforce him by giving him an independent Audit Service Board, that is what we did, Madam Chairman. I thank you.

MR. ABALIWANO: Madam Chairperson, I am asking the Chairman of the committee why, in the case of the Bank of Uganda you did say the Governor and the Deputy Governor, why we cannot have the Auditor General and Deputy Auditor General inclusive, so that these two posts are clear, instead of having one person being fully responsible when he has no deputy at all. Did you consider this at all?

Two, I agree with you. I think, a commission would mean that nobody will take responsibility. I cannot possibly see a Chairman of Audit Commission being

responsible for auditing government accounts. The accountability would have to be on one person, and I think it is traditional that we should always have one particular person to undertake this kind of work. But I would have been happier if you had included also the Deputy Auditor General in the same vein as we have done for the Bank of Uganda.

MR. ELYAU: Madam. Chairperson, I support the report by the Chairman for one big reason, that in accounts, it is like a country must have one President and not several Presidents, so in accounts you must have one person only subjected - only what I would have wanted to find out from the committee is that the Auditor General currently has no capacity to audit various government institutions including parastatal accounts. I would have wanted more clarification on how far the committee thinks the Auditor should be equipped with personnel who should handle every various department, including Bank of Uganda. Because for many years, Bank of Uganda was not audited by the Auditor General. I want the Chairman to give this House the benefit of having an Auditor, but then what capacity will that auditor have so that this country cannot run a risk of its finances being meddled more so in cases when there are topplings of government. It is very difficult to know whether some governments do not run away with the money and then the public is not assured of what has happened. Thank you, Madam Chairman.

DR. KABERUKA: Thank you, Madam Chairperson. First of all let me respond to hon. Abaliwano's concern. The Central Bank performs different duties from those of the Auditor General and because of that and the fact that nobody brought up that Amendment, we did not probe into it deeply; but definitely even if he had his deputy, I think, for the same purpose of accountability, because the role of the Auditor General is quite different from the Governor Bank of Uganda who runs a day-to-day running of the bank with so many departments. I imagine that he would still have to rely heavily on the Auditor General himself.

On the part of hon. Elyau, the capacity of the Auditor General as I have already pointed out, I understand that from the probes of the Commission, one of the reasons was that the present set-up is full of unqualified staff, at least, that is what the report said. So, we did recommend that we should establish an Audit Service Board which will now go down and try to make sure that the Auditor General's office is well

staffed with qualified people; but, that is not to say that they will be able to handle single handedly the work that is for them. As you very well know they have the mandate to contract the work to other competent firms, and I imagine that will still go on.

MR. NDEGE: Thank you, Madam. Chairman. I just wanted to comment that the Auditor General year-in, year-out has been asking for funds and it is because of our inability to have enough funds and facilitate his office, that he cannot do all the work in time. For instance, two years ago we gave him 300 million, last year we gave him almost 500 million shillings. So, it is not that he has no capacity but the Budget does not allow him to function. So, I think, that the fact that he is there is good and we should leave him there, we should not have a commission; but I think it is up to Parliament and future Parliaments to make sure that he is fully facilitated. I do not think it is a Constitutional matter, it is really an administrative matter. Thank you.

MR. CHANGO MACHYO: Madam Chairman, I am seeking clarification from the Chairman of the Committee about the position of the Deputy Auditor General. What about if the Auditor General is sick or away, does it mean that everything will have to be pending?

DR. KABERUKA: Madam Chairperson, one thing I imagine if he is out of the country, the appointing authority can appoint somebody to deputise, but I imagine in his day-to-day running, within his outfits there is somebody who normally occupies the office. Whether the Auditor General is in or not there is always somebody who occupies the office definitely.

MR. BAGEYA: Point of information. Madam Chairperson, I just wanted to inform Mr. Chango Machyo that we are not trying to make an organisational chat for this section, and also to inform him that when a particular individual of that office is sick or is away, the office is always occupied by somebody. We do not want to specify that in a Constitution. Thank you.

MR. BIDANDI SSALI: Madam Chairperson, mine is more or less procedural. I think the first point of discussion was whether we change from Uganda Audit Commission to Auditor General. Now, some people are bringing in deputy, then functions of Auditor General and so on. I think it will help us to

make progress if we first address ourselves to whether we agree with the recommendation of the committee to forget Uganda Audit Commission and go in for the Auditor General, and I would like to move that a question be put on the issue of whether we go with the Auditor General instead of Uganda Audit Commission.

AN HON. DELEGATE: Seconded.

THE DEPUTY CHAIRMAN: Okay, now the committee is proposing that instead of having Uganda Audit Commission we have the Auditor General instead.

(Question put and agreed to.)

THE DEPUTY CHAIRMAN: Okay, can we proceed and I want to propose the following: that hon. Kaberuka takes us through clause I of article 189. Should anybody want to introduce the aspect of Deputy Auditor General, it should come as a substantive Motion rather than just going round it. People have talked about but nobody has moved it as a substantive Motion.

DR. KABERUKA: Madam Chairperson, thank you very much. Having decided that we should have the Auditor General instead of the Audit Service Commission, the first case of article 189 seeks to establish the position of Auditor General - or the office of the Auditor General as a public office, and also that he should be appointed by the President with the approval of the Parliament so that the first clause reads that: *"there shall be an Auditor General who shall be appointed by the President with the approval of Parliament and whose office shall be a public office."* I beg to move.

DR BYARUHANGA: Thank you, Madam Chairman. In the past we have had some problems with this office where people who are not professionally qualified are appointed Auditor Generals. Can we not specify it here in the Constitution that the person to be appointed Auditor General must be a qualified auditor, as we have done for the job of the Attorney General?

MR. ERESU ELYANU: Madam Chairperson, I think if we put the qualifications in the Constitution we are going a little bit beyond what we should be doing in making this document. We should leave it flexible for the incoming Parliament to determine

what qualification an Auditor General will have to be appointed. If this proposal of committee 3 goes through here, we are trying to say that the appointment of the Auditor General will be with the approval of Parliament. I believe, Madam, that in the process of making that approval, Parliament will consider the qualification of personalities to be appointed to that office. Thank you very much.

MR. RWOMUSHANA: Madam Chairperson, one of the reasons given as to why we have shifted from the Audit Commission to the Auditor General is that in the Odoki report the commission now is full of people who are not trained in that field, and that is one of the reasons of our shifting. This is a vital office, this is a technical office which is very important, and I think we should enlist the qualifications of these persons; unless there is a conspiracy.

MR. KASAJJA: Madam Chairman, I do agree with the Members who say that we should not include the qualifications in the Constitution. Madam Chairman, the post of an Auditor General going by the recommendation of the committee that he will be appointed by the President with the approval of Parliament. Now, we should leave, at least, the authority to the Parliament to determine the person who qualifies. Because if we know that there is a problem, that the Auditor General is not a qualified Auditor, now that is an eye opener to the coming Parliament to make sure that the situation is corrected. So, we cannot say that the ills which are now existing in the present institutions can be corrected in this Constitution. They can be corrected by the people who are going to be in the coming Parliament. Therefore, it is not necessary to bring these qualifications, Madam Chairman, in the Constitution. So, I completely disagree with the proposal.

MR. WACHA: Thank you, Madam Chairperson. Madam, there are certain technical offices which of necessity have to be manned by people who are technically qualified. I want to draw your attention, Madam, to the office of the Director of Public Prosecutions, which is provided for under article 124 of the Constitution. I also want to draw your attention to the offices which are supposed to be manned by Judges, which are also provided for under various articles of this Constitution. I think we will be running away from our responsibility if we provided for a technical office and left it open to be manned by possibly unqualified personnel. I support that the qualifications of the Auditor General must be provided for in this Constitution.

THE DEPUTY CHAIRMAN: Okay, before we proceed, it seems now this is becoming a debate. So, may we have it formally moved so that we discuss it - because it seems people are divided, it is no longer a general view. Because if it is not moved then what are we discussing?

MR. WACHA: I move, Madam, that we insert clause 2 under article 189 -

THE DEPUTY CHAIRMAN: Okay, if that is the case then let us clear clause 1 first; if you are proposing an insertion, we clear clause 1 first and then we insert. So, let us hear other discussion on clause 1, other than the specification of the qualifications.

MR. CHEBET MAIKUT: Madam Chairperson, I beg to move an Amendment to clause 1 of article 189 which shall read as follows: "*there shall be an independent Auditor General and Deputy Auditor General who shall be appointed by the President with the approval of Parliament.*" I beg to move, Madam Chairperson.

MR. CHANGO MACHYO: Seconded;

MR. CHEBET MAIKUT: Madam Chairperson, like other independent and very vital organisations of the State which create balance and checks, it is extremely important that in establishing the office of the Auditor General that we provide for continuity of that office, just as we did to the Central Bank and other statutory bodies that we have already passed. Madam, if we do not introduce or provide for the post of Deputy Auditor General - *(Interruption)*.

MR. BABU: Point of information. Madam Chairperson, I have some information for the hon. Member and this might help us to reduce time. If you could go to page 12 clause 4 and read it and see if it does not satisfy the independence he is looking for. I will read Madam, it recommends that clause 4 be amended to read: "*subject to clause 5, in the exercising his function, the Auditor General shall not be under the direction or control of any person or authority*".

MR. CHEBET MAIKUT: Madam Chairperson, that one answers the question of independence, but I think the principal act which I am seeking to introduce is the establishment of the office of Deputy Auditor General, this is my paramount aspect which I would like to seek to introduce to clause 1 of article

189. So, based on the information given by the hon. Member there, I wish, therefore, to delete the word independent so that my Motion now reads as follows: that "*there shall be an Auditor General and Deputy Auditor General who shall be appointed by the President with the approve of Parliament and whose office shall be a public office.*" I beg to move.

MR. KABUGO: Thank you, Madam Chairperson. I stand to oppose the proposed Amendment. Madam, the office of the Auditor General is manned by one person who is answerable to Parliament, and what we shall do is to leave this to Parliament to see what type of people are working under him in order to strengthen his office. But it is not this Constitution to go on spelling and creating jobs for people who are redundant at the same time. Thank you.

MR. KAVUMA: I thank you very much, Madam Chairperson. I oppose the Amendment on the simple ground that I think it is dangerous to have two officers in the same department appointed by the same authority; you are creating possibilities or very, very fertile ground for conflict and lack of respect for the boss. I think it is sufficient to create the office then all the other officers that are going to be working under him will be working and executing their duties for and on behalf of the Auditor General. I can foresee administrative problems coming into this office because of that feeling that after all although I am a Deputy, I was also appointed by the same appointing authority and I can only be removed in the same way as my boss. I beg to oppose the Amendment.

MR. ELYAU: Point of information. Madam Chairperson, I tell you that audit is a very special department in that the auditor carries out postmortem, it is not like running a bank, day today transaction; the auditor and his company do a surgery after something has taken place, a transaction. So, there is no point of putting somebody to deputise when you are doing postmortem. I thank you.

MR. ZZIWA: Thank you very much, Madam Chairperson. Madam, I happen to have worked in the Auditor General's Department and I know the set up pretty well. In the Auditor General's department we had three different departments. A department dealing with audits with government accounts; a department dealing with audits of statutory corporations; and a department dealing with audits of local government, and all these departments had a director

who was in charge and all these directors were more or less deputy Auditor Generals. So, it is extremely difficult to give details in the Constitution to say that the Audit Department will have a Deputy Auditor General, because the set up is such that you have quite a number of officers who are more or less ranking as Auditor Generals depending on nature of the audit one has to handle and for that reason, Madam, I would ask Members to leave the details to the Parliament or to the organisational arrangement. Thank you, Madam Chairman.

DR. ODUR: Madam Chairperson, I just wanted to emphasise that in the audit work, what we really look for is accountability, and we have just said that you cannot have two, three, people being accountable to Parliament on the same job. So, we find it completely unnecessary to have the post of a Deputy Auditor General. However, it has already been mentioned that there will be several senior officers to assist the Auditor General in his work. So, I completely oppose this Motion. Thank you.

THE DEPUTY CHAIRMAN: Okay, now I put the question.

(Question put and negatived.)

THE DEPUTY CHAIRMAN: I now put the question on clause 1 as it stands.

(Question put and agreed to.)

THE DEPUTY CHAIRMAN: So, it is so decided that clause 1 remains as it is.

MR. WACHA: Madam, I wanted to introduce clause 2 to article 189 to read as follows: "A person shall not be qualified to be appointed Auditor General unless he is (a) a person of high moral character and proven integrity and (b) has qualifications in accountancy or finance management and (c) has an experience of not less than ten years in the relevant field." Madam, I beg to move.

THE DEPUTY CHAIRMAN: Anybody seconding?

AN HON. DELEGATE: Seconded.

THE DEPUTY CHAIRMAN: His Motion is seconded. So, can you write it properly and pass it over please?

MR. WACHA: I have already spoken on the Motion, Madam.

MR. ZZIWA: Madam Chairperson, certifying accounts is a personal responsibility and has professional intricacies, and a certificate by an Auditor General is a proof of certain standards which can even be used in a court of law; it is just like a certificate by a medical doctor and in the same vein it must be a certificate, especially, when it comes from an Auditor General that would have no loopholes. Madam, to have this kind of confidence to certify accounts, to say the accounts represented a true and fair view of the state of affairs of a particular business entity, one must have read, and must have had professional background, and on top of that he must have worked for some time to acquire experience, and for those reasons, Madam Chairperson, I could not see how one could really hold such a high office without having gone through the professional grills and training that is required of him to certify the accounts. Madam, I know there are certain omissions or certain concessions whereby somebody having worked for a period of say ten, twenty years is allowed to practice as an Auditor. But this is, actually, a risky sort of endorsement, because with the present trend in accounts and the certification which is coming to the forefront regarding the preparation of accounts and the steps that are involved, I would not like to rely too much on the experience without having a proper background professionally which would really embrace quite a number of fields, like the computer science, the audit in-depths and that kind of thing. It is quite risky to a post of that magnitude without somebody with a proper qualification and experience. Therefore, Madam, I a hundred percent support the Mover, hon. Wacha that the qualifications for the Auditor General should be spelt out in the Constitution.

MR. KAGGWA: Thank you, Madam Chairperson. I want to oppose the inclusion of the qualification of the Auditor General on two main grounds. First of all, although, I am not an accountant, I know there are so many professional accounting bodies; are we going to list all of those here, and should we miss anyone of them, will that mean, therefore, that that person will never be considered to be an Auditor?

Secondly, as far as I said that the little I know is that - take for instance, there are people with B.Com. Accounting; there are people who have studied

professional auditing, there are those who have acquired it, but there is a basic of being say an accountant or whatever. The comparison there we are making, the lawyers is, I think slightly different, and we should be able to distinguish these. You come out as a lawyer and you are a lawyer; you come out as a doctor and you are a doctor, you go on to specialise and that is another matter; but the basic is different. So, to start enumerating this, I think, will be unnecessarily too long and it will be cumbersome, and it will be doing work Parliament is supposed to be doing.

Thirdly, we should bear in mind that the Constituent Assembly in which we are today is not going to turn itself into a legislative body; our concern should be to outline broad principles and we leave the details to the legislature which will form part of this Constitution. Thank you very much.

MR. WACHA: Point of information. I wanted to inform hon. Medi Kagwa who was a commissioner who drafted this Draft Constitution that under article 189.1 qualifications were provided for the Chairmanship of the Uganda Audit Commission, and those qualification are: (a) high moral character, proven integrity and qualifications in accountancy or finance management, with experience of not less than ten years.

THE DEPUTY CHAIRMAN: Actually, I thought that is what you had moved, and that is what they are debating, whether it should be or whether it should not be.

DR. KAKUNGULU: I oppose the inclusion of qualifications being put in the Constitution. First of all this is a very fast changing word, hence qualifications for particular tasks keep on changing depending on the needs and tasks of the time. Qualifications that were relevant in the '60s are not today. For instance, these days to be appointed to managerial position you need to be computer literate; do we have to put this in the Constitution? I think we should leave this to be the business of the Parliament of the day. Thank you, Madam.

MR. ADYEBO: Madam Chairperson, I am surprised that the Amendment to include the qualification of a very, very crucial person in the management of our finances is coming from a lawyer rather the accountants themselves who are even here. Madam, it will be a reasonable mistake to leave out the

qualification of an Auditor General. We have even guided that for a person to be the President of this country he or she must have some qualifications, we did guide; even to enter Parliament we did give some guidance; even for certain crucial officials like the DPP we even gave guidance. Now, here we are dealing with the Auditor General who is going to audit and report all the public accounts of Uganda - *(Interruption)*.

MR. ELYAU: Point of information. Thank you, Madam. May I inform the hon. Member holding the Floor that the point he is raising is very important. For example, in the government we have parastatal accounts which do business, supposing we shall appoint the man who does not understand a balance sheet, how can he comment and how will he tell Parliament? So, I think let us not run away from seriousness. We need somebody who understands accounts to a certain level. We have got many certified accountants in Uganda; these are the people who could help to make us know where we are going. So, let us not say that we can appoint a doctor to become an Auditor General; how can it be possible? Thank you.

MR. ADYEBO: Thank you very much, Madam Chairperson. I do thank hon. Elyau from Kalaki County for having supported me in form of information. Madam, an Auditor General is a very important person in the management of finances, and unless we are going to have the right qualified persons here then we are doing a disservice to the nation. I would go on to say that the Auditor General to be appointed must first of all have undoubted professional accounting background, because he is going to audit the accounts! How can you have a blind sheep to lead another group of blind sheep? He is going to audit accounts, and in my own experience an auditor is basically an accountant, except that he or she is to check on the work of the accounts, and the Auditor General is to be almost like a cat checking on what the cat is doing! And they must have common knowledge. I want to say, Madam, that the Auditor General to be appointed must have the following undoubted accounting professions, for example - *(Interruption)*.

MR. KAVUMA: Point of order. Thank you, Madam Chairperson. I am wondering whether the hon. Member is in order to imply that by not putting the qualification of the Auditor General in this Constitution, the fact is that no other authority is

going to prescribe these qualifications and we are leaving the office to go to the dogs, when in fact, under clause 8, the Draft is proposing to give this very important function to the Parliament of the day which is the legislative authority of this country, which should look into all these very important matters as and when it becomes necessary so that the Parliament keeps pace with whatever developments come. Madam Chairperson, is it in order to give that view, when actually, steps have been taken to make sure that the highest legislative body in the country is going to address all these matters in its capacity as a legislature?

THE DEPUTY CHAIRMAN: Actually, that is his perception of the problem; perhaps, we should ask clarification from him. So, hon. Adyebo can you clarify to the Member?

MR. ADYEBO: Madam Chairperson, on behalf of my Colleagues, I thank my Colleague hon. Kavuma who, because he is a lawyer, has been appointed Minister for Constitutional Affairs and he is very relevant, and that is why he is doing very well (*Laughter*). What I am saying here is that we should allow the Constitution to appoint the Auditor General with the right qualification so that when he is now doing his job or her job he is not very green, and in my experience an auditor is basically an accountant. Any good auditor would have done the following: he would have had either ACCA, that is Association of Certified and Chartered Accountants. For example, if that is not the case he would have had an ICMA, that is Institution of Chartered Managers and Administrators; if that fails he should have had, at least, ACP, or B.Com. or even he would have majored in Finance, or even Banking, Madam Chairperson; and today, let me tell you, even when you are doing an interview as an accountant they will ask you whether you are computer literate, and you can only be computer literate if you are doing the current professional courses I am talking about (*Interruption*).

MR. BIDANDI SSALI: Point of clarification. Madam, I just only wanted the hon. Member to clarify to me whether a lawyer can be appointed a Governor of the Central Bank of Uganda. Because I thought that perhaps a Governor of Bank of Uganda will be picked from the people who are professional bankers, and that is why we took it that because it will be subject to the approval of a Parliament, Parliament will make sure that we get

the right banker to be the head of this banking institution. That is why we did not even put the qualifications here. So, I just want him to clarify that since we are on the same chapter of finance, he does not mind a lawyer being a governor of the Central Bank, but that it is important to put the qualifications of Auditor General and leave out those of the Governor of the Central Bank.

MR. ADYEBO: Thank you very much, Madam. I would respectfully answer my senior politician Colleague, hon. Bidandi Ssali, that there is no harm in appointing - I did not say other qualified Ugandans should not be appointed to such positions, and I think a lawyer can be appointed to head even a Bank of Uganda, but let me remind you that at one time we appointed a lawyer to head UCD and you know what happened (*Laughter*).

THE DEPUTY CHAIRMAN: Okay, hon. Adyebo, can you summarise.

MR. ADYEBO: Madam Chairperson, I am sorry for the interjection which did not come from myself. In conclusion I would say this: hon. Members of this august House, we are writing a Constitution for posterity, and let us give appropriate guidelines. I am only proposing the professional guidelines for a professional person in the name of Auditor General, and from experience, I am saying that if we are to develop, if we are to modernise Uganda, if we are to industrialise Uganda, then let us put the appropriate Constitution to meet those challenges, and put the Auditor General who is professionally qualified with enough experience. Thank you very much.

DR. KABERUKA: Thank you, Madam Chairperson. I must point out that we did debate on whether we should include qualifications or not, and indeed we had very able qualified people. It took us some time but we thought that since we have said that this person will be appointed with the approval of Parliament and we also at the end had a clause which says that Parliament will make laws to give effect to this article and bearing in mind the changing situations in the world today as people have pointed out, 20 years ago, you would not think of computer requirement in some job descriptions. We thought it wise not to turn this constitution in an advert and therefore, we left that to posterity.

MRS. EGUNYU: Point of information. Thank you Madam Chairperson. I would like to know from the

Chairman of the Committee, whether or not, they took into due account, the people's wish that those who handle government funds, should be people, and in the Audit Department for example should be people who are well acquainted with accountancy and finance management. Since these were the views which were received from the people, and if they had bothered to read the report, and maybe collect some statistics from the Constitutional Commission Report, they would have found that, a majority of the people wanted these people to be qualified. Did they take that into account, while making the recommendations that they did? Thank you.

DR. KABERUKA: Madam Chairperson, we are very aware of that. And indeed if you go to page 14, we do provide the Audit Service Board, which is supposed even to think about the terms of service, and the qualifications of the Members who are going to work in the Auditor General's office.

MR. TIGWEZIRE: Thank You very much, Madam Chairperson. I am a Member of Committee 3. We did dwell at length, on the issue of qualifications. First of all, Members will agree with me here that, today, we are working for a better future, an enabling future for the legislators of tomorrow. We do not want to assume that role. That is why, we have actually in most of our Clauses put there, the aspect of subjecting every decision we have taken to future parliament. So that, as situations change, Parliament can decide as to what qualifications best suit the candidate of the day. But if you are going to constitutionalise qualifications now, and then tie the hands of Parliament in future, then I think we are not writing a good constitution. Many people have been wondering why we overload the constitution, when in actual fact, people here do know that, when you are legislating, again you are making law. It is a continuous process. So, we do not want to tie the hands of future Parliaments, we should leave it as it is. At any good time, Parliament can come up and say, the qualifications of the Auditor General are this. And that Auditor General after all, will be answerable to that very parliament. I thank you, Madam Chairperson.

THE DEPUTY CHAIRMAN: Somebody is giving you information.

MR. TIGWEZIRE: I welcome any information.

MR. ZZIWA: Point of information. Thank you, Madam Chairperson. I would like to give informa-

tion to the Member on the Floor, and to all the Delegates in this House, that the role of all Auditors, is not like the role of a Governor for the Bank of Uganda. In that, the Auditor has to sign a certificate or whatever document you want to call it, upon which, a third party can act upon, and can sue for negligence. It is not like any other kind of profession. It is just like a Medical Doctor as I have already pointed out. And that, this, puts the Auditor General in a special category whereby, we say, he must have a minimum qualification, and in setting up the Accountants' Act which is now in force, we have enumerated people who can qualify to become Members of that Association. And this is precisely, because of that reason, that a third party can sue or can act on the certificate signed by an Auditor. Thank you, very much.

MR. TIGWEZIRE: I thank you for that information. And that is why, our Committee in its wisdom, put there a provision that, Parliament will make laws, for giving effect to the provisions of this article. Part of the effect will be to put there the qualifications for the office of the Auditor General. I thank you Madam.

MR. WANENDEYA: Point of clarification. Thank you, Madam Chairperson. Since the hon. Member is off the Floor, but he had made certain utterances, which are not correct and those were the ones which I was giving a point of order to. As an Example, I was a Member of that Committee, and he knows that, the majority carried the day much as they may not understand or would understand the inter-cases of the game. Madam Chairperson, it would be only proper, I am giving this information to the hon. Delegates that, *-(interruption)*

THE DEPUTY CHAIRMAN: Then you are out of order. You are giving information.

MR. WANENDEYA: Madam Chairperson, I could give the order, but the person is off the Floor.

THE DEPUTY CHAIRMAN: Okay, you can withdraw the order, then I give you the Floor to give your information.

MR. WANENDEYA: Okay. Is it in order Madam Chairperson, when the hon. Member who has just gone off the Floor, knows that, it is democracy whereby, the majority carry the day, even if they may understate in their wisdom or they may not be well informed. So, is it in order, when we were on that

Committee to think that, we did not give our views on that matter, and we were defeated by majority. Madam Chairperson, is it therefore, in order for this House to be misinformed! Because I am hoping that you will give me an opportunity to clarify on issues like this, just as much as it was clarified by hon. Zziwa. I thank you.

THE DEPUTY CHAIRMAN: He is in order, because your committee never produced a minority report.

MAJ. TUMUKUNDE: I was putting up my hand to request that, we put hon. Wanendeya to order because, he is a Member of that Committee, and just as you have said, and I do not have to add any form of emphasis, he did not in any way file a minority report. And I would want also to use this opportunity to say that, we consulted hon. Wanendeya on this subject where he is known to have a lot of knowledge. Although he says he was defeated, he was very well consulted, and he gave us his few views on the subject.

MR. KAIJUKA: Thank you, Madam Chairperson. I wish to oppose the amendment before us moved by Ben Wacha; essentially because, the issue is not whether or not, we should have an Auditor General with qualifications or with relevant experience. I do not think any Delegate has in mind ever having a situation where, Uganda would have an Auditor General who is not qualified. The issue is, and that is the point. How much do we put in the constitution and how much do we not put in the Constitution? And when you look at article 189(1), Madam Chairman, which we have just passed: *'There shall be an Auditor General who shall be appointed by the President with the approval of Parliament.'* Even if I end there. In other words, I would allay people's fear, by saying if you imagine you have a full House of about 200 Members of parliament, I assume they will be educated, I assume we shall not have less than, we have already put, relevant qualification. Obviously if it was CA, it would be obvious that we would not have one who is not qualified. So, I am assuming that, we shall have a Parliament which will be like CA or better, hopefully. And therefore, I want to allay people's fears that, by this provision we will have to end up having an Auditor General, if we want to spell out whatever qualifications, or what role he should play, beyond what is here, that will be spelt out in relevant statute. In fact, Madam Chairperson, I want to remind the Del-

egates, I have just looked at the old constitutions; if you look at the 1962 constitution for example, if you look at Chapter 106, they are just talking about, there shall be an Auditor General of Uganda, and they do not go too far in talking about qualification. I looked at the 1967, they are doing exactly the same. So, Madam Chairperson, I really propose that, rather than prolong debate, I want the question to be put because it is so obvious that, we will have to make a choice, whether we want to load this document or we do not want. I beg to move, Madam Chairperson, that the question be put.

THE DEPUTY CHAIRMAN: Okay, it has been moved that I put the question and it has been seconded. So, the question before us is, hon. Ben Wacha moved that we introduce Clause 2 to read as follows: *'a person shall not be qualified to be appointed Auditor General unless he is a person of high moral character and proven integrity; (B) has qualifications in accountancy or finance management. And 'C' has an experience of not less than 10 year in the relevant field.'*

(Question put and negatived)

DR. KABERUKA: My Committee seeks to move that clause 2, article 189; which seeks to establish the functions of the Auditor General reads as follows: *The Auditor General shall (A) audit and report on Public Accounts of Uganda, and all public offices including the courts, the central and local government administrations, universities, public institutions and of like nature, public corporation or other bodies or organisations established by an Act of parliament. (B) conduct financial and value for money audit in respect of any project involving public funds.* I beg to move.

THE DEPUTY CHAIRMAN: Okay, it seems there is no interjection, I assume that has been passed by proclamation. I now put the question.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, Clause 2, has been passed. Can you proceed hon. Kaberuka.

DR. KABERUKA: Madam Chairperson, my Committee proposes to move that Clause 3 of article 189 which seeks to give guidelines as to how the Auditor General, or when he should report to Parliament, and that we propose that this clause reads that *'the*

Auditor General shall within 6 months after the end of the immediate proceeding Financial Year to which each of the accounts mentioned in Clause 2 of this article relates, submit this report to parliament, and shall in that report draw attention to any irregularities in the accounts audited, and to any other matter which is in his opinion ought to be brought to the notice of Parliament. I beg to move.

MR. MASIKA: Thank you, Madam Chairperson, I agree with that, but I would like to move an amendment, to make Clause 3(A) and introduce another Clause (B) to this effect. That (D) *Parliament shall within 6 months of the submission of the report referred to above, debate and consider the said report and take appropriate action to rectify any irregularities in their accounts and on any other matter referred to it, in the said report.* I beg to amend and move my amendment.

THE DEPUTY CHAIRMAN: Can you please pass it on, so that I read to the Members? As he brings his paper, I propose that, if he is introducing a new aspect, we can very well pass (A). Hon. Masika does it do any harm if we pass (A) because it seems you are just introducing another sub-clause.

MR. MASIKA: It does no harm, Madam Chairperson. Only that, I wanted Delegates to be aware that, there is an additional matter being directed to Parliament. As far as I can see, paragraph (A) is dealing with a time frame for the Auditor General to deal with the matters. But I also want Parliament to have a time frame. Because a lot of reports have been made and the Parliament has been doing nothing about it.

THE DEPUTY CHAIRMAN: So, hon. Delegates, can we clear (A) first?

MR. MULENGA: Thank you, Madam Chairperson. I would wish to be satisfied that, this time frame of 6 months will be complied without any difficulties for the Auditor General. This clause is applying not only to Public Accounts of Uganda, but also the Local Government Administration, Universities, Public Institutions of like nature and so forth - Public corporations. Now, what is bothering me is, is there machinery within this constitution, to ensure that these bodies will submit their accounts to the Auditor General in time for him to compile with this provision of 6 months? Because in our history the few documents I have read, continue to indicate that, the

Auditor General is many times, handicapped, because the accounts have not been submitted to him or her in time. So, I would like to see if the Committee did consider this before inserting this time frame.

MR. KAIJUKA: Madam Chairperson, I think hon. Mulenga is raising a very relevant point. But the committee did consider the following: one that the Auditor General would be expected to submit a report, not necessarily finally audited accounts of all those bodies. Notwithstanding what the whole idea is that, many of those corporations for example within their respective statutes spell out these provisions anyway. But notwithstanding that, the whole idea is that, middle course in a year, Parliament is entitled to have a general feel of a comment from a statutory professional Auditing body in connection with what may have happened with Financial affairs and governance of the country. And therefore, if we recognise that, this is the report, not necessarily the submission of fully audited accounts of all. Because there is no way the Auditor General would have covered that anyway. The whole idea that, within 6 months, the country is entitled through Members of Parliament to receive a report. In fact, more often than not, most details are considered not so much by Parliament, but by committee of Parliament which is the Public Accounts Committee, and recently we have even set up a committee on Parastatals. So, there is no contradiction. Parliament can receive a report, they can even debate it, and can even choose to go further through those subcommittees. But it is nevertheless a very useful arrangement for us in a country. Thank you, Madam Chairperson.

MR. MUSUMBA: Thank you very much, Madam Chairperson. I am only offering information that is complementary to what hon. Kaijuka has just offered. The committee actually did consider that; but in so considering, it realised that, there could be a difficulty in fact. Not on the part of the Auditor General per se, but even on the part of the relevant organ. The Parastatal could have had certain problems and it cannot have its accounts in time. Therefore, we said, these are matters which must be brought to parliament in a timely manner, so that Parliament knows that Parastatal 'Y' or Local Authority 'X' is having problems in submitting its accounts, and appropriate action or directive will be given by parliament accordingly. Madam Chairperson, those were the considerations.

DR. ODUR: Thank you Madam Chairperson. Madam Chairperson, we actually considered this matter in great detail, and we came to the conclusion that, for the sake of efficiency and concern in the audit department, it was necessary to give a time limit. Not only that, we noted that, most of our accounting system are being computerised, and in fact the time frame seeks norms, it might even be more than adequate. So, we should not worry that this time is too little to complete our work. Thank you.

MR. ABU MAYANJA: Madam Chairperson, because I am old fashioned, I am not yet used to the computers. But my experience in the pre-historical that is to say the pre-computer days that the Auditor General was always about four years behind, and what made him four years behind was, that was the time when he would receive the accounts from the relevant ministries and other bodies. Now if we want these things as quickly as that, there should be a directive in the Constitution to the government, to make available to the Auditor General within a specified period of time. They should say that, the government ministries shall not later than the 30th of April or June or whatever, or the years which the accounts relate, submit to the Auditor General. Then when you have done that, you can come next time, and demand of the Auditor General to do the auditing. I think the problem with the lateness of the auditing of the Audited Accounts, does not lie in the Auditor General's office, it lies within the Ministries of Government. Thank you, Madam Chairperson.

THE DEPUTY CHAIRMAN: Are you implying that, because that is a completely different issue. Are you moving a Motion or just reading a statement?

MR. ABU MAYANJA: It was just information.

MR. RWABIITA: Thank you very much Madam Chairperson. In making this constitution, we should be realistic. As hon. Mayanja has told us, already with Auditor General he has a backlog of work, of various departments of Government. And I do not think we are going to make miracles that after this constitution, within the 6 months you will get everything ready - never. Even with computers, I do not think we are going to have the job of Auditor General ready within 6 months. This is unrealistic. Madam Chairman, the Auditor General, I think has been given a lot of work including Local Government which is being decentralised now. Just imagine to get accounts from various districts of this country...

THE DEPUTY CHAIRMAN: Mr. Elyau wants to give you some information.

MR. RWABIITA: Can I first finish Madam.

THE DEPUTY CHAIRMAN: Okay, he says, he wants to finish first then you will come in.

MR. ELYAU: But I want to inform him before he continues.

MR. RWABIITA: Madam Chairperson, the office of the Auditor General has been given a lot of work including decentralised Local Government, that is all districts in Uganda will have to prepare the accounts, and report to him. The universities, the courts and what have you. I do not see how these bodies can have their accounts ready within 6 months. It is impossible. Unless we are asking for an interim report to give the picture of the position of Government. But otherwise, Mr. Chairman, it is too much of an assumption to presume that the Auditor General will have his papers ready within 6 months. I would propose 12 months.

MR. ELYAU: Point of information. Thank you, Madam Chairperson, may inform the member holding the Floor that, it is not what he is saying now. Things have changed. Some of us have been members of the Public Accounts Committee, parastatal Accounts Committee, we are improving quickly, and everyday we are getting improved. I would only want to say that, the area which is lacking is that, after the Public Accounts Committee has made its report, it takes long for government to consider the things, by bringing the things to Parliament, this is what is worrying people. But otherwise, we are getting quickly to a better stage of reporting. So, there should not be doubt at all.

MR. KAYONDE: Madam Chairperson, first of all, why are we putting a time frame in which the Auditor General should report to parliament? I think that is the most important thing. The time is needed that, parliament should be able to be informed of mistakes that have taken place in the previous year, so that correct measures can be taken. That is the reason why we are putting in a time frame.

Now, Madam Chairperson, we should not constitutionalise inefficiency. We assume, and here I want to give information that, we have created so many parastatals or institutory bodies, and in the

Acts of Parliament we normally indicate when they should submit a report, and it is normally 3 months following the financial year. Therefore, 6 months is adequate if the system is working reasonably. And here we are saying, that really 6 months if you cannot present a report, then the report that will come after a year is as good as useless. So there is a purpose why we are fixing the time frame at 6 months; after 6 months you are looking at a report that is useless. And that is why there is no improvement in the audit presently, because we are 4 years behind and in those 4 years, you cannot improve the system when you are looking at 4 years behind. I support the 6 months period and we assume that the government should provide resources to get this done. Thank you.

MR. KITAKA GAWERA: Thank you, very much Madam Chairperson. I entirely agree, that the period of 6 months is a very reasonable period within which the Auditor General should be able to submit the audited accounts to parliament. One of the speakers had mentioned that, the Auditor General has been burdened with a lot of work of Government Institutions coupled with that of parastatals. But I would like to inform hon. Delegates that, at the moment, quite a number of parastatals are being privatised and in the very near future, there may be just a few parastatals. So, the work of the Auditor General will be less.

And secondly, in this world of computerisation, quite a lot of improvement is being done in expediting work. Thirdly, as pointed out by hon. Elyau, there is delay in implementing the decisions or the findings of the Public Accounts Committee, and as such, there should be a deadline within which parliament has got to take action. Madam Chairperson, thank you very much indeed for allowing me to talk.

LT. COL. GUMA: Thank you, very much Madam Chairperson. I have listened to the arguments, and the committee took in consideration all those arguments we have heard, we took in consideration all the arguments they are pushing forward. But I want the hon. Delegates to appreciate that in a period of 3 or 4 years, someone who has stolen money may have died, and we said, we should be able to audit you and sell your property.

Two, the hon. Abu Mayanja is talking of pre-historic times. We have gone computerised in war, in marketing, in administration, so we are no longer in the stone age. We have left it. Today we talk of

nuclear war-heads, self targeted. So the fear of pre-historic does not arise in our situation, we are moving forward. We should never move backwards.

Another fact to consider if one has ever worked in finance offices. Before you pay, there is an internal auditor to do some work. There is already a report before you spend that money. So, there is much work. Unless we are going to go back to feudal times where a king tells you, pay some one and you pay. The management of finance is entirely scientific. So, if we agree to deal with finances in a feudal manner, definitely work will pile up, because the king may forget to inform the people responsible, that I have given someone money.

THE DEPUTY CHAIRMAN: Okay, I think we have spent enough time on this. I want to give the Floor to hon. Mulenga who brought our attention to the problem.

MR. MULENGA: Thank you, Madam Chairperson. I feel that after the lengthy discussion, we have moved away from the original question I raised. I raised concern for the Auditor General who may be willing and able to audit within that period, but has not been supplied with the materials to audit. When hon. Kaijuka was replying, he gave me the impression that, under clause (3), the Auditor General could give a report that he has not audited the books of parastatal, so and so or university so and so. But then the wording, I am afraid, if you look at the wording, he is not authorised to do so. Because it says 'the Auditor General shall within 6 months after the end of the immediately preceding financial year, to which each of the accounts mentioned in Clause (2) of this article relates.' Then you look at Clause 2; Clause 2 does not say he only reports, he has to audit and report on various accounts. So, I am saying; if we are to protect the Auditor General from violating the constitution, when it is not his fault, we would have to say, one of two things. Either that these bodies are also constitutionally bound to submit to him, within time, or we specifically say, that the Auditor General in Clause (3) can give a negative report. I hope I am understood on this one.

MR. KASAJJA: Point of information. Madam Chairperson, I wanted to inform the Speaker who was holding the Floor that, part of an audit report may be in form of saying that, such and such an organisation, has not brought its books, so that Parliament takes action. So, it also comes as part of the report. That is the information I wanted to give.

MR. KAGIMU: Thank you very much, Madam. I wanted very much to support what hon. Abu Mayanja said that, it may not necessarily be the problem with the Auditor General, but with the department. We should be given authority to demand and be furnished. Otherwise, it will become like these organisations which are like banking. I want to go with Hon Abu Mayanja, so that we formulate an amendment that is giving the Auditor General authority to demand and be furnished so that we move the motion formerly. Thank you.

THE DEPUTY CHAIRMAN: Okay, as you do so, let us hear from a Member of the Committee.

MR. KAGGWA: Thank you, Madam Chairperson. I very much appreciate the point raised by hon. Mulenga and hon. Abu Mayanja. But I would want to say two things.

One, I imagine the Auditor General if he has to comply with the 6 months period, he administratively has other departments to submit their accounts in time. And the alternative, if you look at Clause 8, where the Parliament may make laws for giving effect to this provision, I foresee a situation where parliament in respective organisations, will also comply them to submit their accounts in time, so that the auditor general is not liable. Thank you, very much.

BRIG. KYALIGONZA: I thank you, Madam Chairperson. I have listened to various contributions from hon. Members and I am getting rather disturbed because, we are making a constitution which is likely to be violated innocently by some of these provisions we are passing. It is true, certain improvements are done everyday in life and it is equally true that Science has also changed and is continuing to change. Similarly, the accounting systems also change especially when the demands require them to do so. The hon. Members are discussing a constitution which we should treat as a principle. There are other laws which can be enacted demanding the terms of reference of the Auditor General, and similarly, if we give room for the public servants whom we are trying to protect to violate some clauses of the constitution innocently, I think we shall be doing a de-service to these officials whom we are trying to protect by giving them various appointments in the department. Therefore, Madam Chairperson, I propose and I strongly request the hon. Members to consider the issue of timing. Even

today, when we are in the Public Accounts Committee, we have never been up to-date. We are actually doing a postmortem. Internal Auditors whom they are talking about, it is true give reports to the Auditor General; but when it comes to compiling reports for Parliament to take action or for the Auditor General to consider and give his own or her own report to the Public Accounts Committee - it is a backlog. Therefore, if we are talking about efficiency, this should be left to Parliament to pass a law requiring this Auditor General to implement his terms of reference, when he is being employed. If this Assembly can go into the detail of terms of reference, how soon, what the Auditor General is supposed to do, and yet we have already established the Auditor General; this is a person who is a renown distinguished citizen, we are now trying to describe his qualification (interruption)-

THE DEPUTY CHAIRMAN: Hon. Kyaligonza, hon. Kitaka-Gawera has information for you, are you taking it?

BRIG. KYALIGONZA: Yes.

MR. KITAKA-GAWERA: Point of information. I would like to inform my good Friend, hon. Kyaligonza that these delays are as a result of the insufficient facilities especially in the office of the Auditor General. He has been mentioning it from time to time that, he is insufficiently staffed and possibly the staff who are with him, some of them are not professionally qualified.

And secondly, when it comes to parliament, still there are no adequate facilities there. So, I think these are reasons why the Auditor General is sometimes backlogged with work, it is because of this insufficiency.

MR. TIBAMANYA: Thank you, very much, Madam Chairperson. The fears of hon. Mulenga are very well founded, and it is in the light of that, that I beg to move the following motion...

THE DEPUTY CHAIRMAN: I will come to you hon. Tibamanya later. Can you conclude your remarks.

BRIG. KYALIGONZA: Madam Chairperson, while I appreciate hon. Tibamanya's urgency, I only wanted to respond to my friend hon. Kitaka-Gawera, when he mentions insufficiency. It is true

the Auditor General is insufficiently provided. And it is true in our constitution we have been discussing, and some of the clauses which we have passed. We have given our reasons of certain clauses passing as being insufficiently founded as a country, that we cannot afford. For instance, free education we had to abandon it, because this country is incapable of giving free education to its people. Therefore, this insufficiency still holds in our own constitution. If we are also expecting the Auditor General to be well funded and provided, while in certain clauses of this constitution, we are saying, we are insufficiently provided and we are not capable to handle certain issues; we should as well consider our inefficiencies to provide some of these facilities which hon. Kitagawera is proposing. So, Madam Chairperson, I am saying that the time frame work which we are trying to spell out should be left to the House to determine in the terms of reference when this Auditor General is being employed. But we only put in our constitution the establishment of the Office of the Auditor General. Thank you.

DR. KABERUKA: Thank you, Madam Chairperson. I wanted to respond to hon. Kutesa's submission. In the first instance, the question of the Auditor General being given a free hand to choose his own staff is accommodated in the next article, and which gives work to the Audit Service Commission. Now, the one of summoning and any other things that may be done, my committee thought it wise that Clause 8 would cater for that. That was the view and still is the view of my committee.

THE DEPUTY CHAIRMAN: Hon. Abu Mayanja and hon. Kagimu please, can you please move.

MR. ABU MAYANJA: Madam Chairperson, Clause 3(a) should read like this, that *'the accounting officers of the institutions in clause 2(a) above, that is to say, the universities and public institutions of like nature of any public operation or other bodies ...'* Now, it will read that, *'the accounting officers of the institutions specified in Clause 2(a) above shall submit to the Auditor General the accounts of their departments not later than 6 months from the end of financial year to which they relate.'*

THE DEPUTY CHAIRMAN: I assume that is seconded, because it was worked out by two people, is it seconded? Okay, hon. Abu Mayanja, can you read your sentence again?

MR. ABU MAYANJA: "The accounting officers of the institutions specified in Clause 2(a) above shall submit to the Auditor General the accounts of their respective departments not later than 6 months, from the end of the financial year to which they relate." I think the English can be corrected by a technical drafting committee.

THE DEPUTY CHAIRMAN: Is that seconded! It seems your motion is not seconded. Okay, hon. Ambrose Amooti. Meanwhile, can you pass on your paper, Hon. Abu Mayanja?

MR. AMOOTI: Thank you, Madam Chairperson. Madam Chairperson, taking into account the kind of feeling which has been expressed on the floor, I was also thinking of moving an amendment, and I think mine is a better formulation. I am seeking your indulgence to allow me to read it and we see what we can do. Can I move it?

THE DEPUTY CHAIRMAN: Hon. Kagimu, can you send me that paper? There is somebody who wants to modify it, so that I synchronize the paper.

MR. AMOOTI: Madam Chairperson, can I continue?

THE DEPUTY CHAIRMAN: You see, you want to make an amendment to the other one, but the other two are not ready. Because when they read their Motion the first time, the second time they were different. You can amplify on it as we proceed.

MR. KUTEESA: My amendment reads as follows. The article will be referred to as 3(a) and it says that *'subject to the provisions of clause 2(a), the preceding clause, all institutions shall submit financial reports of each respective organisation to the Auditor General within four months before the end of the immediately preceding financial year.'*

THE DEPUTY CHAIRMAN: So that means your change is, instead of six you want four. That is the only difference I see. Otherwise the other one is just English.

MR. KUTEESA: Let me clarify Madam Chairperson. Let me read it again. *'Subject to the provision of clause 2(a) - that is the preceding clause - all institutions shall submit financial reports of each respective organisation to the Auditor General within four months after the end of the immediately preceding financial year.'*

THE DEPUTY CHAIRMAN: Actually the difference between yours and theirs is just a matter of language.

MR. KUTEESA: Madam Chairperson, it is a substantive difference because he is asking for financial reports and the Auditor General does not audit financial reports. He audits accounts. They must give him accounts to be audited. But Madam Chairperson and hon. Delegates, I have been advised and convinced that we should change the period so that each institution is given four months. The department should be given four months from the end of the financial year within which to conclude their accounts and submit them to the Auditor General. The Auditor General should be given four months and then after that, the government should be given four months to report to Parliament so that the whole thing is done within 12 months.

THE DEPUTY CHAIRMAN: Okay, hon. Kagimu and hon. Mayanja Abu, I will come to you. I am proposing that we insert in 3(a) which reads that *"the accounting officers of the institutions specified in clause 2(a) above shall submit to the Auditor General the accounts of their departments not later than four months from the end of the year to which they relate or they are related."*

AN HON. DELEGATE: Thank you Madam Chairperson. I believe what the motion seeks to do is contained in the Treasury financial instructions and Treasury accounting instructions. That you should seek that information there unless you want to do double work but that is provided for there. And by the way, it is not the accounting officer who submits the documents for audit. It is the Treasury which submits them to Auditor General for audit. And for parastatal bodies, it is the relevant Minister.

THE DEPUTY CHAIRMAN: So hon. Kaberuka, in view of that, what do you have to say?

DR. KABERUKA: Madam Chairperson, we have considered the fears of hon. Mulenga and hon. Abu Mayanja and the comments of hon. Kutesa and we think that if we were to recast this and have the present one, the present formulation as constituting part (a), and then we bring in the aspect of the old formulation of 190 especially 3(b) which gives powers to the Auditor General to summon witnesses, call for examination, etc, then we should be able to cater for that but otherwise, we were of the view that

Parliament would provide that in a different instrument and that would be straight forward but if Members think that that is not enough, we can go and bring back 193(b) and which allows the Auditor General to summon and do that so that within six months, he should be able to make sure that he complies with this, if we give him powers that he can go and summon witnesses and so on. So we can formulate the word to bring that aspect there but otherwise we still believe and feel that really what we provided is enough. But if they want to be a bit wordy we can go back and bring back 193(b).

THE DEPUTY CHAIRMAN: Now, before we proceed, we had hon. Abu Mayanja's proposal. Then we have a response from the committee which was initiated by hon. Sam Kutesa. Now can you clear those before we bring any other idea?

MR. RUZINDANA: Thank you Madam Chairperson. Madam Chairperson, I would like to implore the Assembly to desist from prescribing a time limit within the Constitution. We have been in some instances attempting to bring Statutes within the Constitution. This time, we are attempting to bring accounting instructions within the Constitution. The accounting instructions do prescribe what is done and when. They tell you what the accounting officers should do and when. Now we are attempting to put that in the Constitution Madam Chairperson. Six months is obviously not feasible. There is no way within six months the Auditor General can produce final accounts for any department. I will give you an example.

A cheque issued for example, on the 25th of June will still be in the pipeline by November. That is still a valid cheque. The accounts of that particular department that issued the cheque could not have been already finalised. Now we are already making sure that there will be a breach of the Constitution by the Auditor General and different accounting officers. I therefore implore this Assembly to leave the issue of timing to Parliament who is the employer of the Auditor General and to the accounting instructions which are already in place. Thank you Madam Chairperson.

MR. SABIITI: Thank you very much Madam Chairperson. Much as I agree that we should not constitutionalise inefficiencies, we should also not try to constitutionalise impossibilities. Madam Chairperson, the report referred to in this Constitution is

an annual report. I think here I will disagree with hon. Kaijuka when he said anything can go in. But if you look at the six months provided here, it is practically impossible and given that in these provisions now we have added more functions as hon. Ruzindana has said, the value for money. If for example, the year ends in July, money released in June, some of the cheques as he puts it will certainly not have been cashed. If you are looking for value for money and if this money is going on projects, there is no way that the Auditor General is going to have reports from Ministries. So Madam chairperson, if we are to have theory impact of the money released to projects or to departments, there must be time. We must give them reasonable time in order for them to report back and even if the Ministries handed in their reports say in April, the auditor general will have to go back and audit these reports and it will take him another four or five or six months. It is not practical to give him four months. So I would suggest as other Members have suggested and as a student of finance management, that let us leave this work to Parliament. There are already financial Acts and accounting instructions which are taking care of this area. We leave to Parliament and we talk about general principles which should guide the Auditor General as he conducts his audit. Thank you very much Madam Chairperson.

MR. WANENDEYA: Thank you very much Madam Chairperson. It is the corruption in our country by our officials who delay things. But if cheques are issued when funds are available and with the accounting machines and computers at present, in my honest view, there should be no delay. Like in other countries where cheques are issued on time and accounts within three months are audited and a final report is issued. So unless we want to have inefficiency as Ugandans, then we should continue with this thieving in Uganda and just leave the matter as it is. But if it is a constitutional issue and it is included in the Constitution, it will make whoever is responsible to be on his toes and produce accounts in time. Indeed Madam Chairperson-, I want Delegates to know that in public life of these public companies, accounts do not take more than a year but you take the accounts as an example of the Bank of Uganda taking more than three years. The reports are meaningless so that you cannot get anything corrected and unless the hon. Delegates want to continue with this, we must give a time limit if we want efficiency at all. I thank you.

THE DEPUTY CHAIRMAN: Let us be more orderly. It seems whenever we bring the problem at hand, we are trying to evade it. We have two aspects on the Floor; that is hon. Abu Mayanja's proposal or hon. Kaberuka and hon. Sam Kutesa's proposal. Hon. Abu Mayanja is proposing that the submission of accounts by the different departments be specified in terms of time. Hon. Sam Kutesa and the chairman are saying, can that not be substituted for by the original 3(b) which brings that we give permission to the Auditor General to summon witnesses and call for and examine any book, records, returns, vouchers or any other documents relating to the accounts within its jurisdiction. This assumes that others will have given in and as they go along, they will detect those who have not and then they will summon them. If they do that, then we may not need to specify the time if that is catered for in the financial regulations, whatever you call it. So let us dispose of hon. Abu Mayanja's, go to hon. Kaberuka's and hon. Sam Kutesa, then look at other alternatives. Otherwise we are just going round and round our problem.

MR. BIDANDI SALI: Madam Chairperson, as a Member of the Assembly at this material moment, I am not yet in a position to address myself to a yes or no on any of the amendments being proposed because the comments by hon. Kaberuka in his position as Chairman of the committee is recognising positive aspects in the point being raised by hon. Abu Mayanja, by hon. Mulenga and by hon. Sam Kutesa. I would therefore like to pick on who was suggesting that the Chairman and Members of the committee have taken note of the various comments and we take it back for them to come out with a synchronised position. Because it is not a question of yes or no. It is an aspect of technicality, professionalism and I think when they go back, they will be able to bring to us something which will look plausible as far as the constitution is concerned. Thank you.

THE DEPUTY CHAIRMAN: Is that motion seconded?

HON. MEMBERS: Yes.

THE DEPUTY CHAIRMAN: Okay it is seconded that we refer article 3 *-(Interruption)*

MR. HERBERT TIBEMANYA: Thank you Madam Chairperson. This is a point of procedure. I also had an idea also to put forward and I wonder whether you could *-(Interruption)*

THE DEPUTY CHAIRMAN: You can join them because now it would be a waste of time. Because even if you bring it you will not discuss it. So hon. Tibemanya will join the group, hon. Mulenga and those who brought the motions and hon. Kagimu and for that matter, perhaps we may also listen to hon. Masika's if it falls in the same category. Is that agreed? Okay, hon. Masika can you also give us your version and then we proceed.

MR. MASIKA: Madam Chairperson, I thought if they are deferring hon. Mayanja's motion and this clause 3, mine would also fall in line and could be considered together because in my view, clause 3 will have then three parts to deal with. The first part will be dealing with the time frame in which the accounting officers have to submit their accounts and (b) will be dealing with the Auditor General's time frame in which to make a report to Parliament and then (c) will be my part which deals with Parliament asking it to debate and take appropriate action. If deferment is disagreed on the other two, it follows that mine will also be deferred and I may have to join the other group and see how it falls in.

THE DEPUTY CHAIRMAN: Okay, thank you very much. So it is being proposed that we hand over article three so that it is refined by the people concerned. Then as I look through the remainder of the report, there is nowhere reference is made to clause three. Which means we can proceed with other clauses. If there was reference to it, then we would be having problems. There is nowhere it is being referred to. So we can stand over it and then proceed with clause four.

DR. KABERUKA: Thank you Madam Chairperson. Clause four which we propose is supposed to give the Auditor General independency and we propose that it reads that: "*subject to clause (5), in exercising his functions, the Auditor General shall not be under the direction or control of any person or authority.*" We beg to move.

THE DEPUTY CHAIRMAN: As you were reading, how did you include the word 'other' when it is not in here?

DR. KABERUKA: Where?

THE DEPUTY CHAIRMAN: You mentioned the word 'other' but is not in your paper.

DR. KABERUKA: Can I repeat?

THE DEPUTY CHAIRMAN: Yes.

DR. KABERUKA: Subject to clause five, in exercising his functions, the auditor general shall not be under the direction or control of any person or authority. I beg to move.

(Question on the amendment put and agreed to).

THE DEPUTY CHAIRMAN: So (4) is taken with an amendment of changing the word 'exercising' and replacing it with the word 'performance'. Then can we proceed to clause five.

DR. KABERUKA: Madam Chairperson, clause (5) then should read that "*the President may, acting in accordance with the advice of the Cabinet, require the Auditor General to audit the accounts of anybody or organisation referred to in clause (2) of this constitution.*" I beg to move.

DR. BYARUHANGA: Thank you Madam Chairperson. I wish to make a slight amendment to the proposed clause. I wish to bring in Parliament so that it would read: "*the President or Parliament may require the Auditor General to audit the accounts of any organisation referred to in clause (2) of this article.*" In so doing, I am also getting rid of this 'in accordance with the advice of the Cabinet' because I believe it is unnecessary. In the case of Parliament, I am bringing in parliament because it has been the normal procedure. For example, I am a Member of the Public Accounts Committee of the NRC. We have frequently been requiring the Auditor General to carry out special audits which he has often done. Now if this one is left as it is now, it would mean that for PAC to order a special audit, it would have to go through the President in order to request for that special audit.

DR. KABERUKA: Madam chairperson, he does not seem to appreciate why we put the advice of Cabinet. I wanted to explain but I do not know whether he needs that information.

THE DEPUTY CHAIRMAN: No, it is good because you are the Chairman and you know the reason why you *-(Interruption).*

DR. KABERUKA: Madam Chairperson we did put 'with the advice of Cabinet' because we are

aware that most parastatals are supervised by Ministries and therefore in some cases, the Ministry may sense that there is something wrong with the parastatal and therefore advise the President that actually something is going wrong and we would want the Auditor General to probe. But if we leave that out, the President or Parliament is a bit removed from day to day functioning of some of these bodies and it may take them time to know that there is something going wrong there. So that is why we had formulated it like this:

THE DEPUTY CHAIRMAN: So hon. Byaruhanga, are you comfortable now?

DR. BYARUHANGA: Madam Chairperson, the wording - probably my English is poor but the President may acting in accordance with the advice of the Cabinet, the way it is worded here - (*interruption*)

THE DEPUTY CHAIRMAN: There must be a comma somewhere.

DR. BYARUHANGA: It is as if the President cannot order the Auditor General unless he has been advised by the Cabinet. His meaning is quite okay with me but then it is not in the words as expressed here.

THE DEPUTY CHAIRMAN: So what is your proposal?

DR. BYARUHANGA: If one could formulate something where the President can also order when he has been advised by the Cabinet and also Parliament can also order by itself; if one could take care of those three in some formulation. Can a student of English assist me please?

MR. BIDANDI SALI: Point of clarification. I am just seeking clarification from hon. Byaruhanga. Is he implying that the President may need an audit and the Cabinet says no? In which case hon. Byaruhanga wants to get rid of the advice of the government to give a free hand to the President. In my view, this was strengthening the action of the President so that it is a collective thing; so that government or Cabinet agrees with the President or advises the President - after all, Cabinet is there to advise him. So I do not see anything wrong here. Perhaps the only thing I would say is if hon. Byaruhanga wants to add in 'parliament' in addition to the President, acting on behalf of the Cabinet.

MR. MULENGA: Madam Chairperson, I want to add to what hon. Bidandi Sali has said. I concur with him in respect of or in reference to President and his relationship to Cabinet. This phraseology is quite appropriate. There is no way the President will want to direct or require an audit and the Cabinet can refuse. But I want also to dissuade hon. Byaruhanga about inserting Parliament in this clause. Parliament through Public Accounts Committee examines the reports submitted by the Auditor General and while doing so, it has the power to ask him to carry out further investigation. From the explanation given by the Chairman of Committee three, they are not dealing with that situation where Public Accounts Committee is examining the report of the Auditor General and where they can through that committee ask for further or specialised audit of some part of the accounts. The purpose for this I think has been adequately explained by the Chairman of Select Committee three. There is no need to insert in Parliament in this particular one.

MR. RWOMUSHANA: Thank you Madam Chairperson. Why we are putting in this clause five is to help the President or to help government to forestall any situation where I would see the emergence of any irregularities. I think we are all aware that the voices as Members of Parliament, and Madam Chairperson you are also aware that mere transpiration are local government units or local government administrations. Now supposing there are irregularities in local government administrations and reparation airs out their discontent or its discontent, I think the Member of Parliament should be able to air out that discontent before Parliament and then by resolution, Parliament orders the Auditor General to audit the said accounts without necessarily passing through the steps of seeking the assistance of the President with the advice of the Cabinet. This is why I support that motion; that we should give Parliament powers, that we give a way for Members of Parliament to be able to directly influence Parliament to call upon the Auditor General to audit local government administrations in case it is aired by reparation.

MR. ABU MAYANJA: Thank you very much, Madam chairperson. Really we do not just put anything and everything we can think of in the Constitution. There is nothing in the world to prevent Parliament of the country doing what they want to do. If the Parliament wants to get an audit report, they can direct and it will be done. So I think it is necessary to give the government power to direct the

Auditor General to carry out a particular audit in the event that he has failed or neglected to do so. But power of Parliament - they are there. Okay you can mention it, there is no objection but it is not necessary because they are there. Parliament wants to have that thing done and nobody will say it is unconstitutional for Parliament to demand to have a department audited.

THE DEPUTY CHAIRMAN: Okay, in view of the Chairman's explanation and hon. Abu Mayanja's explanation, do you still insist that we put the word 'Parliament'? Okay, let me put the question.

(Question put and negatived.)

THE DEPUTY CHAIRMAN: Before we proceed, I want to have any people who know good English. Should we not have some commas in that clause to make it have more meaning. I know that it is drafting but there was somebody who had a problem that he changes the meaning and people or that is why people were not understanding what it was reading. Okay, we are saying that we are going to pronounce ourselves on this one; that the Legal and Drafting Committee should see where the commas should go. Now I put the question on clause five to remain as it is.

(Question on clause 5 put and agreed to.)

THE DEPUTY CHAIRMAN: Clause 5 is passed but the Legal and Drafting Committee should look at the punctuation.

DR. KABERUKA: Madam Chairperson, we are also introducing a new clause (6). We did make some corrections on page 13 and the first clause as you can see is clause (6) because we have already finished five clauses. So there was a typing error which I did correct but some people may not have the corrected version. We are introducing clause (6) to introduce the salary and allowances of the Auditor General to be charged on the consolidated fund and we are suggesting that the clause reads as follows: "*The salary and allowances payable to the Auditor General shall be charged on the consolidated fund.*" I beg to move.

(Question put on clause 6 and agreed to.)

MR. ABU MAYANJA: Thank you very much. I thought we should consider what I am going to say.

The purpose of charging salaries and allowances of officers and the others is to enable them to act even if the government of the day does not provide for funds in estimates, even budgets are not passed and so on; because these officials are representing the public. But I have been thinking, is it enough to provide for the Auditor General's salary and allowances when you have not provided for the salaries and allowances of the people who he works with and who enable him to work? Now supposing you pay the Auditor General but he has no clerks, he has no secretary, then he will equally be paralysed and his work will not be done. Therefore would it not be wiser to charge on the consolidated fund the salaries and allowances of his department?

MR. MEDIKAGGWA: Thank you Madam chairperson. I would want to oppose the inclusion of other staff on the simple ground that when the salaries of judges are charged on the consolidated fund, those of their secretaries and other helpers are not. So I oppose that.

THE DEPUTY CHAIRMAN: Okay, a Member of the committee has opposed that. So our earlier stand still stands that clause 6 is passed.

DR. KABERUKA: Thank you Madam Chairperson. We are proposing a new clause 7 which introduces the concept of having the accounts of the Auditor General's office being audited and in that case, we are proposing that the clause reads that "*The accounts of the office of the Auditor General shall be audited and reported upon by an auditor appointed by Parliament.*" I beg to move.

(Question put on clause 7 and agreed to.)

DR. KABERUKA: In the same spirit Madam Chairperson, we are wrapping up the article by empowering or giving or requiring the Parliament to make laws giving effect to the provisions of this article. In case there are certain things which could not be included in this article in the clauses which we have enumerated, we think that this binding clause will enable the Parliament to first put up these accounting procedures and so on and so we are suggesting that the clause which ends that article reads that "*Parliament may make laws for giving effect to the provisions of this article.*" I beg to move.

MR. ABU MAYANJA: Thank you very much Madam Chairperson. Again in the interest of preci-

sion and making the document not to weigh too many kilograms, when something is unnecessary, we have provided elsewhere in the constitution that Parliament has got power to make laws for peace, order and good government of Uganda. Now that phrase means as every lawyer knows that it has got power to make any law on anything whatsoever. And if it should be found in the fullness of time when they are implementing these things that they need a law, they will pass a law. You do not really need - anytime Parliament will make a law. So I would like to remove it, not that it is doing any harm but I am saving at least those words from the Constitution. So I would rather say they are really unnecessary. They add nothing, absolutely nothing and for that reason, we should do away with them.

THE DEPUTY CHAIRMAN: Then make a formal motion.

MR. ABU MAYANJA: Yes, okay, I beg to move that clause 8 be deleted.

THE DEPUTY CHAIRMAN: Hon. Kavuma, do you have a contrary view?

MR. KAVUMA: Thank you very much Madam Chairperson. I believe in being precise in a constitution like the one we are making. But I also remember that this is a matter that had a lot of heated arguments especially when we were passing one article, and we said, after all, we are going to provide for this. We have been doing this in other provisions. My view was that we can pass it if we think it is good and then when the constitution is being finally drafted, if our committee thinks that we were over-providing, then they could come out with that piece of advice, after having looked at the entire document as we shall have passed it. And if we are to pass it Madam Chairperson, I want to suggest that instead of saying that Parliament may, we should replace that word 'may' with the word 'shall'. That Parliament shall make laws for giving effect to the provisions of this article. So Madam Chairperson, for our psychological liberation at the moment, we could pass this provision after having made it mandatory that Parliament shall make laws to give effect to the provision but in the event that we get contrary advice, when our committees look at the overall document at the end of the exercise, we may find it appropriate to delete it. I thank you very much, Madam Chairperson.

MR. KASAJJA: Madam Chairperson, I also agree with the former speaker, hon. Kavuma, that we have passed a number of provisions which are similar to this one in most of the articles. So leaving it the way it is does no harm. Now if we are to reduce the constitution as hon. Mayanja is saying by a number of kilograms, the only thing we can do is to continue with the inconsistency we have already passed and when the technical committee comes up with a final report, then it will be up to them to find out whether this repetition which according to the lawyers seems to be can be reduced.

But as of now I think there is no harm in leaving it the way it is because most of the articles are having an article similar to this notwithstanding what has been passed. Parliament can have the authority to make laws. So let it remain and then it will be personalised later on.

MR. MULENGA: Thank you Madam Chairperson. This point that is being made by hon. Kasajja and hon. Kavuma is misleading. It is not true, at least where we have participated, that we have passed a clause to say "Parliament shall make law to give effect to these provisions". It is as if you are saying the provisions have no effect unless Parliament passes a law. So the issue is more fundamental than just saying it does no harm. Where we have passed similar provisions, the provisions were to stipulate that Parliament may pass law or shall pass law to provide for aspects like, - if I may give an example. When we set up a constitutional body in this constitution, we stipulate the bare requirements for the body and then at the end, we say 'Parliament shall make laws regulating the working of the body and providing for its procedure'. But as it stands now, this proposed amendment is more or less superfluous as hon. Abu Mayanja said because Parliament has the power to make laws any way. It is misleading because by saying to give effect to this article, an ordinary person reading would say the articles would have no effect unless Parliament passes law. So I strongly second the motion that we delete it.

(Question put and agreed to.)

THE DEPUTY CHAIRMAN: So we have done away with clause 8. Now that is done, unless it is on a different issue.

MR. KIRENGA: Thank you Madam Chairperson. In this chapter, we have provided for the office

of the Auditor General but we did not provide for his removal from office. I think it was an omission, like in other constitutional offices.

DR. KABERUKA: Madam Chairperson, I agree that we did not provide for the removal of the Auditor General but if we go back, we are saying that the Auditor General will be appointed with the approval of Parliament. So one expects that when the Auditor General has been removed, it is the duty of Parliament, if they are concerned, when they are appointing an Auditor General maybe to inquire as to whether the time of the old Auditor General has expired or not.

But Madam Chairperson, one thing which I think and the mistake which we are likely to make Madam Chairperson is to make the executive impotent. I agree that appointments can be made with the approval of Parliament but we should give free hand to the executive to dismiss. If you are incompetent, you should go because we may run into a problem where the executive is saddled with incompetent people who are protected by Parliament and in that wisdom Madam Chairperson, I would urge this House to give the executive, while we limit their powers, to appoint; we should give them a free hand to dis-appoint otherwise the executive will simply not move. We are just making the executive very, very much impotent.

MR. WAGIRA: Thank you Madam Chairperson. While I would like to agree that there is the appointing authority, in which case making it automatic that the same appointing authority could be the dis-appointing authority, we should not lose sight of the fact that this is a very important office that we are creating. All along the committee has been trying to labour to us the importance of this committee. It has also been trying to labour to us why they thought it necessary to give it all the independence it deserves. This independence will turn out meaningless unless there is rigorous criteria through which these people should lose the office. I would therefore beg the indulgence of the committee to admit that oversight that indeed a criteria should be laid down. Much as already it is clear that the appointing authority has power to dis-appoint, but on what criteria should that happen? So I beg the indulgence of the committee to admit this oversight and really do something about it. I thank you Madam Chairperson.

MR. KIRENGA: Madam Chairperson, in the

draft, there is a provision in article 199 sub-section 6. It originally said a member of the Uganda Audit Commission may be removed by the President with the approval of the National Council of State only for inability to perform the functions of his office arising from infirmity of the body or mind or from any other cause or from misbehaviour or misconduct. I do not know why this was overlooked because it was already there. Instead of saying a member of the Audit Commission you could say the Auditor General. The Auditor General may be removed by the president with the approval of Parliament.

DR. KABERUKA: Madam Chairperson, I have already explained that surely my committee is of the view that we should restrict the appointment but if we want a performing executive, an executive with powers to function, we should give them a hand to dis-appoint otherwise they will be saddled with people who are incompetent, protected or going to lobby in Parliament to stay in jobs. The Parliament should be able to ask if they have time when they are approving if somebody did not serve his period. What happened? But otherwise why do you want to make everything - the President is appointing with approval, he is dis-appointing with approval. How is he going to function?

MAJ. TUMUKUNDE: Madam Chairperson, we discussed this matter extensively in Committee three about appointing and dis-appointing. We even put in an example of an army commander where the President has said in clear and open terms that I am not having this army commander. This army commander goes to Parliament and lobbies and he is withheld and he remains in the office. What happens in that circumstance? We have seen examples, Madam Chairperson, of countries like America. We believe they have got the money to invest in research of powers of the executive and the legislature. They allow that you pass this man through the legislature and they recommend him but on dis-appointment apparently they stick to saying let the President do it. Because I get an impression that we may end up Madam Chairperson, having an executive which is totally in a mess. You can imagine saying to the Governor of Bank of Uganda, sorry I cannot have you. Parliament says, no, no, we want him and this man is supposed to direct the fiscal policy of the country and the President is supposed to direct him. In those circumstances, how does the system function? And although we have all the wish that we become a sophisticated system, let us accept that we

are still a growing system and that if we start battling it out between Parliament and the President and one individual in between, the two things may not work. We do not want to imagine that things may remain as plain as they are today. Things may change. So I do recommend and do request this august House to accept that we need an executive that has powers and can dis-appoint although the legislature should recommend when we are appointing.

MR. WAGIRA: Point of clarification. I thank you very much. The clarification I wish to seek from the previous speaker is whether if you say that somebody should not be removed from office unless he is insane deprives the appointing authority of the power to dis-appoint; because in my view, I thought that this criteria is just meant to guide the dis-appointing authority but if one must be fired, these should be the grounds for which he should be. And as to whether that should be ratified by Parliament is something to be decided but the fact is just to lay down the criteria upon which the dis-appointing authority should base to fire this person so that this person is not fired at will. I think this is the rationale. Perhaps we are confusing the two.

MR. BEN WACHA: Madam Chairperson, I would want hon. Tumukunde to look at clause four which we have just passed. I want him to enlighten me whether in the operations of clause four if we do not put circumstances under which the Auditor General can be removed, specific circumstances under which he can be removed whether he would not be subjected to removal under the whims of certain other people.

DR. KINYATA: Thank you very much Madam Chairperson may be I should clear this. We are debating a Motion which is not there, I do not know whether there is any Motion on the Floor that we should now be debating. There is no Motion.

THE DEPUTY CHAIRMAN: I assume they were trying to lay ground whether the Auditor General should specify - how he should be moved from office, but he is saying that, the person did not move it and it was not seconded. So, can you remind me who moved that Motion?

MR. KIRENGA: Madam Chairperson, I sought clarification from the Chairman; he has given reasons. But I can now move the Motion formally; that the Auditor General may be removed from office by

the President with approval of Parliament for inability to perform the functions of his office, arising from infirmity of body or mind or misbehaviour or misconduct.

THE DEPUTY CHAIRMAN: Okay, can you refer to that Article, it was referred to me sometime back in the original. 189 (vi), are you just introducing that one? So the Motion is that we revisit Clause 189 (vi), is it seconded? Okay it is seconded. Now, can I have hon. Atamvaku, then I will come this way.

MR. ATAMVAKU ZUBAIRI (Arua Municipality): Thank you Madam Chairman. Virtually, the arguments have been advanced. However, Madam Chairperson, I would like to make two remarks in support of that Motion. My remarks are by a way of repudiation of some earlier arguments given to support a position contrary to that being advanced by this Motion.

Madam Chairperson, here is a public servant being appointed by the President or the Executive with the approval of Parliament. I believe that there are some criteria laid down for the appointing authority to make his appointment and also for Parliament to approve or disapprove that appointment, but to say that the right to appoint such public servants should be shared constitutionally between the executive and the Parliament, but the right to dis-appoint should be vested only in the executive, is really to negate the sovereign authority of the people of Uganda; which they exercise through elected Parliament.

It is still alluded to that if the executive is not allowed to dis-appoint single handedly, then there is a possibility that, Parliament may protect a wrong person or an incompetent official. But Madam Chairperson, that argument begs a question. If Parliament surely can protect an incompetent person, how is it impossible for the executive or for the President, in particular, to protect equally an incompetent official? Moreover, if his political interest is being advanced by such a person? So, that argument, I think is not a safe ground to deny Parliament the right to participate in dis-appointment of any official who, after all, was appointed with parliamentary approval.

Finally, I will say that, the US experience, is not relevant for us here. In fact, it is contradictory. Hon. Tumukunde had argued that even in the developed or established democracy in America, the executive is given a free hand to dis-appoint certain public

servants although Parliament is participatory in appointing them, but that is a contradiction in light of the comparison already made by hon. Tumukunde; could be that, in America, the democratic values are already entrenched which to some degree, I doubt; but how about in the case of Uganda, where we are faced with a crisis of value entrenchment? The values are still unstable, they are not well entrenched. It is therefore, much more dangerous, in such a situation to give a carte blanche - in other words, absolute authority to one single person of the executive to disappoint persons that had been appointed with express approval of the sovereign elected Parliament. Therefore, Madam Chairman, I beg to support that Motion. Thank you.

MR. KIVEJINJA (Bugweri County): Madam Chairperson, everybody has given the views on either side and I beg to move that the question be put.

THE DEPUTY CHAIRMAN: Okay, the question on the Floor is that we - perhaps the Drafting Committee will see where it should be placed, that will introduce Clause 189 (vi), as amended to remove the National Council of State, so that is replaced by the word Parliament.

The Auditor General may be removed by the President with approval of Parliament only for inability to perform the functions of his office arising from infirmity of body or mind or from any other cause or from misbehaviour or misconduct.

(Question put and agreed to).

THE DEPUTY CHAIRMAN: So, Clause 6 of Article 189 is re-introduced and the placement will be worked on by the Committee. Unless if there is any substantive aspect, we are going on a completely different topic and we are having about only 20 minutes to time. So, I propose that we adjourn until tomorrow so that we start on Article 190. So, we stand adjourned until tomorrow 2.30 p.m.

The Assembly rose at 5.10 p.m and adjourned until 2.30 p.m. Friday, 13th January, 1995)