



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

WEDNESDAY, 13TH JULY 1994

MOTION:-

Statements and Personal Explanations	[Pg 806]
General Debate on the Draft Constitution of the Republic of Uganda	[Pg 807]
Administration of Oath	[Pg 813]

Price: Shs. 2,270

Wednesday, 13th July 1994.

The Assembly met at 9.30 a.m. in the International Conference Centre, Kampala.

P R A Y E R S

(The Chairman, Hon. James Wapakhabulo in the Chair)

The Assembly was called to order

THE CHAIRMAN: Hon. Members, we have an item appearing as No.3 for the swearing in of Hon. Katenta Apuuli. But we are not ready yet for that event so I suggest we proceed to No.4 and then when we are ready, I hope Members will not mind us going back to formalise the increase of our numbers.

STATEMENTS AND PERSONAL EXPLANATIONS

THE CHAIRMAN: Hon. Atwoma Okeny indicated to the Chairman that he has a statement to make, so we give him this opportunity.

MR. ATWOMA OKENY: Mr. Chairman, thank you very much for giving me this opportunity to address this august House on a matter that I felt I should let out for all of us to benefit. Before I do that, last night we received a message telling us of the death of our previous DA, that is Tom Apila who was also the hon. Member of NRC. For that matter, Mr. Chairman, I will ask the indulgence of this Hon. House for a two minutes silence in repose of his soul, with your permission.

(The House observed a moment of silence)

MR. ATWOMA OKENY: Thank you very much, Mr. Chairman and the Hon. House for this observation of a two minutes silence for the repose of his soul. Hon. tom apila did much for us in Kitgum District as a DA during a very critical time of insecurity.

I do not want to delay the hon. House's business for the information I would like to give. My only address today before this House is sort of an appeal to all of us. As we are given a chance of addressing this House we should be mindful of our adversaries who always tend to pick out on something which is wrong or that might have escaped the attention of this

House, they will always want to make capital of it. As you might have heard, we have read about the allowances, about the cars, about the titles and so on and so forth. This was being done in order to defame this House. It is the country's interest of electing this House to come and formulate a workable constitution but there are some people who are probably misinformed or misconceived and they would like to treat it differently. Therefore, it gave me a thought to say a word to this august House particularly arising from the address made before this House by one of our hon. Delegates from Kapchorwa of Tingey County, that is Hon. Dr. Chebrot.

It occurs to me, that in this House we are drawing a wedge between ourselves whether knowingly or knowingly. When Mr. Chebrot mentioned that the 'Northerners' have had enough because they had a fleet of black Mercedes Benzes driving that way particularly in Acholi and Lango and now it is the turn for the 'Westerners' to drive in Pajeros; when will the time come for the 'Easterners' to do that? So, it occurs that it is a wedge that is being driven in between this House as we go on considering a very important issue of how we are going to shape the destiny of this country. Are we going to shape the destiny of this country on those lines of regional government taking? Say, today when the 'northerners' have taken irrespective of whether we have got very capable young men in Kigezi who could run the country very well just because it is not their turn. So that very capable man who would help the country should not be considered.

I would like to pray to this hon. House that this kind of intent should be really allayed out of our minds as we go on considering this very important constitution for our country. We have all appreciated that this is the first of its kind to give the Ugandans a chance to formulate a constitution of their own willing, without any pressure put from outside and now if we are trying to put internal pressure that is why so and so has not yet had a chance to rule this government. So whatever has happened I think, Mr. Chairman, will definitely not be in the interest of the population that has sent us here. I think they have sent us on a very different mission to formulate a good constitution for them which is going to benefit anybody, any Ugandan wherever he lives and not because by sectarianism. All the time we have been singing sectarianism, sectarianism. This is one of its kind we are talking here.

We are very responsible people talking here along that line! Mr. Chairman, I feel that my conscience is now very clear that I have made this known to this august House. I think when we are talking here we should take care of that kind of divisive words that may come out of reactions to something like that, we should try to see that we are really grown up and it is not proper. We are attached here on a very important issue of constitution making. So, Mr. Chairman, I think I will end on this note of prayer to all hon. Delegates that we should be very careful with our wordings as we address this august House. Thank you very much, Mr. Chairman.

MOTION

THAT THIS ASSEMBLY DISCUSSES THE
GENERAL PRINCIPLES OF THE DRAFT
CONSTITUTION OF THE REPUBLIC OF
UGANDA.

(Debate continued)

MAJ. TUMUKUNDE (Rubabo County): Mr. Chairman, I represent Rubabo County. Rubabo county is found in Rukungiri and it borders Kabale in the south and Ntungamo in the south-east. I am privileged to be the one representing them here.

I would want to begin by congratulating you and your Deputy on your exemplary management of our business in this House. I thank you for all that. I would want to use this opportunity to congratulate my Colleagues on having come to this House by what ever means. Mr. Chairman, allow me also to congratulate the three Members of my county, Rubabo, who also by many means found themselves in this House.

I have a belief that the role of this Constituent Assembly will not be so much about writing laws because we have always had very good lawyers; they will not provide a better paper because we have always had good paper and good prints and good printing machines, they will neither contribute any special ideas that will shape the law in a way that has never been before but what I believe is the purpose of this CA is first of all to accept that the issue has not been so much about bad constitutions but about the minds of the people who operate these constitutions.

In that regard, I believe that the Members who have had the privilege to enter this House will come in with

very open minds. Open minds that have capacity to discuss; open minds that have capacity to learn from each other and ultimately the Members of this House must reframe their minds to address the mistakes of the past and enhance them to shape the better future for this country.

I will not, therefore, labour a lot on the Constitution itself, but I will spend more time discussing the issues that have halted or in many ways inconvenienced the functioning of a good Constitution. Although people are blaming the past constitutions - may be we did not have to go to war to have to change a constitution nor did we have to disagree so bitterly until we lost lives just because we had to reshape a Constitution. If we were a sober society that is stable, may be we would have needed just a Constituent Assembly like we have today to reshape and write a Constitution or even amend the areas of the Constitution that we have already had before.

I must say that if the young fuse with the old then the country has no hope. I want, at this juncture to have what I would call positive discrimination and to call on the young generation who are entering politics or are about to enter politics to re-examine the mistakes of the people who have stage managed our politics and make sure that as we enter, we have a different mind that is more studious than just engaging without serious examination of what we are entering into.

The old have got a purpose in the present Uganda. The old must reach a period, I will propose how they will do it later in my stages, they must reach a period where they will realise that they have actually run short of, as the World Cup man commented, short of ideas and may be short of oxygen or energy and become good advisors to the young whereby the young will benefit from the good advice of the old even when it means that the old must be frank about their mistakes which could have been fatal to this country. Like the saying goes, shame is a revolutionary sentiment. If any group of former participants in our political scene do reach a level, they must agree and accept that time is out and they must join the advisory role and cease to be partisans, sectarian and whatever we seem to see so much abundant in this country and be fair and good advisers to those who are entering politics.

The players in Uganda's politics have been in three categories. Category number one are the ones who usually initiate the idea of either forming a political

party or a Movement. Category number two has got two sub-sections, it is usually about people who though not having been beginners or historicals, to use the current word, genuinely joined the political party or the movement in the hope that they can shape the future of this country. The second sub section in this second category are those whom hon. Obua Otoa called AGIP. These ones are interest seekers. They have always joined and shall always join any band wagon that is available and they have always caused the mistakes and the problems we have had in the political parties and movements. At the end of the day, because there is no system built: because there are no rules governing the very political party or movement; it becomes the survival for the fittest. In most of the cases, the AGIP group usually takes over the movement and they shape it to its collapse to an extent that those who started the Movement or who have been good participants in the same Movement or Politics do lose hope in the system and do lose claims and leave it to the fate and handling of these very skilful, some times interest targeted individuals of our political groups.

What happens next is that we usher in murder and blame of those who started the system even when they did not end it. There is a geographical massacre and persecution of those who had any geographical relationship with the leader because when there is no claim apparently and when there is no longer any membership to claim the system or the political party or the Movement, it remains the leader alone and those opportunists but yet, unfortunately, you find that those who share geographical boundaries with the leader suffer the rough edges of the incoming system.

I want to reflect on our history that we may then think about our present. I would want to discuss something about the formation of political parties. I could have gone earlier in the 1900 but thirty minutes is not enough.

During the formation of the political parties, there were three prominent parties which came up. There was the Uganda National Congress which was supposed to be truly Ugandan and sole representative of many quarters of this country and broad based as the word is now used, but partisans and sectarians. Mr. Chairman, some with genuine claims like the Democratic Party who out of pressure and out of negative segregation by the British and the Protestants managed to suppress the Catholic group. How-

ever, it did not have to be that the Catholics had to form a sectarian force in order to counter sectarians because ultimately what we received was two sectarian forces which took over the state of Ugandan politics and the mistakes we see today could as well be rising from that very bad beginning.

We must also say something about the DP victory in 1961-62. It was genuine but again, although it had the majority, it did not have the skills of the very people I discussed in the beginning of this very paper. The other skilful people managed to take over and organised using foreigners, using the British and organise an alliance between K.Y and UPC and ultimately the DP lost office and we received a situation where an unholy alliance was supposed to lead the country. Even when you read the 1962 Constitution, you will observe that the whole issue had nothing to do with the Constitution. It was just a fait accompli where they were writing a Constitution to suit the Political forces that were already in place and had to be maintained for the sake of keeping them in power. Therefore, as far as I am concerned, the 1962 Constitution was preempted, biased and directed by the interests of the K.Y-UPC alliance and of course the interests of Buganda at that particular time.

We must also examine that, even as they were defining the powers of the President, the powers of the Prime Minister, there was an intentional loophole left in, I am sure, to cover the Prime Minister in case he wanted to take power in future. You will remember that in 1964 there was rebellion of all the forces in Eastern Africa. All other countries in East Africa took advantage and killed the colonial structure that was in force. It was only Uganda that actually left the colonial military structure as it then was, I think on a serious plan of wanting to use the military to overthrow the Constitution in future. This was because the recruitment into the Forces of the Uganda Army as it was then was biased. It was based on the British wrong concept of thinking that a good soldier must be harsh, sometimes dark, tall and very speedy.

We, therefore, left a military structure that was very colonial and we must also address the fact that those who took over from the colonial military structures were Sergeants not trained to run the Army. They were supposed to be auxiliaries who were supposed to run the Army at the level that they had not to ascend to. But in the circumstances because there was need to have a so-called Uganda Army, the

situation was allowing that these people climb the ladders and we had a Sergeant becoming an Army Commander of a whole National Army.

There are issues apart from those which bothered the country at that particular time. In fact I sometimes imagine that we are about to return to the era of 1964 when we are re-thinking of political systems, forms of governments, types of armies we are supposed to have when actually we are supposed to have advanced so many years in the thirty years that we have been in Political existence.

The 1966 crisis was nothing but a failure by the political system in place at the time to keep in power by political means. Having failed to keep in power by political means they had to introduce in the army to help them keep in power and this was the first incident where the army was given full sight that actually politics depends on the army and the army depends on politics. In that very particular case, the army was used to physically destroy the Political system in Buganda that was intentionally created in the 1962 Constitution by the so-called Federal Constitution of 1962. In those circumstances, time came and there were mistakes that were in the eyes of the army, so obvious that even if they took power the population would support them. We can discuss about the Ocheng case. We can discuss about the internal cracks in UPC, the total loss of direction like the so-called "Move to the Left", left of where, from where, nobody knows up to today but it was just shaped simply because the political party in leadership at that time had lost full grasp of what it means to keep in power and govern people.

Mr. Chairman, you will also appreciate that in the circumstances we had external forces which were busy influencing any group that could have been ready to take power and in this case we received Idi Amin who took power having known fully that the political system in place was not able to sustain itself any further. You will appreciate that Idi Amin, may be, would never have had the courage to take power if he did not have the external forces at that particular time. Idi Amin did so many things and if we go to discuss them we may waste a lot of time. What is very significant is that Idi Amin at a certain stage run short of ideas and run short of oxygen. He could not sustain the system any further so he had to divert the very force that put him in power and caused war between himself and the Tanzanians.

The Tanzanian war did not save the situation here. They removed a dictator and instead of allowing Ugandans to exercise their political will and institute a correct leader whom they wanted, the Tanzanian Forces intermingled and mixed into the politics of Uganda and shaped the politics according to their own wishes. You will not have forgotten, when it was so much of an issue that Tanzania was in Uganda and that everything to be done we had to first consult Dr. Mwalimu Nyerere in Dar es Salaam until the President in this country had to take a plane and go and appeal even when they had lost power to a foreign leader to have to determine internal issues in this country. I think in those stages that is where things went wrong in this very country.

I should say something about the Moshi Conference. Extremely opportunistic groups of people organising in three, others in ten, Muthaiga Discussion Group, did everything you would want to discuss coming together in Moshi Conference in search of power. Not even having ever contributed to the change of politics in this country but when it comes to scrambling for power, these people were in a hurry. They came and took over the stage and as we entered the UNLF period, nothing was here but the so-called discussion groups who had no full grasp of the situation; they had been out of the country for so many years and yet they were supposed to shape the destiny of this country. I do appreciate that, may be, there were need to have internal forces but the internal forces had been killed by Idi Amin so we had to rely, entirely, on the forces of external people who came here to determine our fate.

UNLF Government was nothing but a conglomeration of these very, very sectarian, sometimes opportunistic forces. Even up to today there are things we cannot explain about the UNLF period. Who was in charge? Who was actually ruling the country? Sometimes it was so vague that we just kept getting on and moving. You will remember that many people were killed just discreetly by UNLF Force and ultimately the political parties as they then were combined forces and voted against UNLF and threw it out and we received a Bush War. The bush wars we had, had so many dimensions, we had URF, UFM, NRA and whatever other forces that came out. What is most important is that these forces attempted to re-organise the internal political forces and usher in a serious change. As to whether they have achieved it, Mr. Chairman, that is a point of debate.

There are common denominators in all these problems. We do appreciate that in these very circumstances the whole target was to get power. The other common denominator was that the military had to ally with the political forces to keep the leaders in power. Another common denominator was that we had external forces and of course the final common denominator was that people had to be murdered after every regime, those who had geographical relationships with a leader that would be in power.

I would want to come to the issue of political systems now that we have perused through our his history. Rubabo, is of the view that we have five years of the Movement and that after the five years of the Movement we should seek their mandate on what kind of direction we should take. I must mention that there are some people who believe that after five years, although they are not a majority, that political parties should be introduced immediately.

I want to say something about political parties, Mr. Chairman. A political party is a representative of a class. It must have an ideology, it must have a philosophy, it must have guidelines. In most of the cases it must have an internal self mobilising system. In our circumstances, our political parties have not represented any class. They have only gone to the peasants whom they purport to represent during the elections and when it is not elections they only go after the five years and, of course, the peasants have no internal mobilisation, they have no alternative only what they do is to try to change people. The Political parties, in our circumstances have been a serious disaster. Serious disaster because they have made very serious mistakes. We must accept that political parties were also beginning, they were not allowed time to develop but this does not mean that when we are discussing the mistakes of political parties, members who participated in the political parties or who have interest in political parties must come out to defend them at all costs. The best way to begin, Members of this House and Mr. Chairman, is to accept that we are all young, young in development, young in knowledge, young in exercising political power and political will and then begin from there. So we can actually have change in this very country. So political parties stand the blame, not because those who would have been there would not have made the mistakes but because if you were there then you would make mistakes. And once you make mistakes, it is always right to point out those mistakes so that you may use them to shape the future.

The parties in our circumstances were just agents of external forces, manipulating them in the interest of international politics. You would find that UPC had to have a relationship with the British and when America has to do any diplomacy it has to go through the British to come to Uganda or if America has to do any diplomacy or any politics they have to go through the French to come to Rwanda. You can see it by the exemplary quick reaction of the forces of France when they saw that may be the French influence could be dwindling in Rwanda and this should not be seen as being far away from Uganda. If we do not organise our own internal forces, organise our own political system to stop the bickering, the hatred, the ill-feelings, the disagreements, we may need to have a foreign force occupying this country and it may not be very far from today.

The party became an exploiting class, it exploited the peasants. Parties created riches, some drove Pajero others black Mercedes Benz as it has been said and the peasants continue to suffer - the very majority who produce for this economy. Therefore, parties must now, if they want to come to power at all re-examine their centres of power. They must re-examine their interests so that if they are going to build new manifestos which I think they must do, they must build them on a very firm foundation and that is the peasant who have been starving in this country. Many people have been advancing the view that the Movement is popular. The Movement may not have been so popular, the Movement has survived on the mistakes of the past and the Movement has been self-evolving and self-developing. They have absorbed people, new forces, new idea and have allowed developmental groups which parties did not allow. If you are therefore fighting the Movement you must identify the reasons why the Movement is strong. If you want to fight the Movement just run where the Movement is strong and adopt those methods into your own political system or political grouping or even political parties and then you will fight the Movement.

The views which have been advanced in this country are so sectarian that sometimes you wonder whether we shall come to a starting point of improving our politics. You must have heard so many things about Banyarwanda. The divisions among the north, Easterners, I do not know whatever you want to bring up. Even internal cracks within parties the "Mufunguro", "Nkomba" etc., I do not know what they had in the north for that kind of internal

cracks within parties. So, if parties want to come back to power, it is acceptable but parties must first re-organise themselves, must have a direction, an ideology, they must have as a philosophy and must have a system an internal self-mobilising system that will guide them here and in future and this applies to the Movement.

The Movement must continue to develop, the Movement must continue to involve other forces which help it to become a growing force rather than a stagnant force. If the leaders of the Movement allow it to become a stagnant force no doubt it may not take too long before we see the Movement out of the political office that they hold today.

I want to discuss the issue of unitary and federalism. It is very unfortunate that the experiment of federalism before has had a relationship with monarchy so it is not for no reason that people associate federalism with the monarchies. History has had it that the monarchy and its associated norm of federalism has mishandled politics. People have always blamed Obote but we must also blame Mutesa who actually, having accepted to be used to confuse the politics of this country when, (I am sure, he should have seen that) in the circumstances it was not possible to sustain himself in power; especially having examined that there were many forces that could have held somebody in power including the Military and having known that the Military Force in existence at that time was recruited from one geographical region. So when we are discussing federalism let us know that in the minds Of Ugandans there is still the idea of saying: Is this the federalism we know that relates to the monarchy or it is something different? And the people of Rubabo have these questions to ask. Is it by coincidence that when "Ebyaffe" is returned then there is a serious demand for federalism from the very same region? Others are asking: Suppose all was given, since the institution has been political and the history of the Kabakaship has been political - I want to concentrate on Buganda because that is where the pressures are. Since it has been political, how sure are we that on the return of federalism we shall not actually have returned political power to the Kabaka? These are the questions that emerge amongst ugandans. The votes of a Minister are got from a regional area. If this Minister finds himself in the centre of national interest and regional issues, where shall he fall, especially, knowing that the region gives him the votes. I would find it easier to fall to the region and in those circumstances shall we have conflicts or shall we not.

Another thing, Mr. Chairman, is about a regional leader being able to shape politics and the political direction of his region. I know for sure although they are writing in the laws that the Kabaka should not have participation in politics. How about the covert participation in politics and being able to have the politics of this country in his own way. What is more powerful in politics than influencing the votes of five million people? All these things must be examined when we are discussing federal, even the political system. I think even the Movement must re-examine the fact that even with the so called traditional leaders there is certainly a political element, may be, hidden behind these political leaders and how long shall we depend on the reasonableness, the political president and the traditional leader. Assuming tomorrow we have an unreasonable traditional leader, assuming tomorrow we have a politically ambitious traditional leader especially if he can influence the voting of five million people, what shall the situation be like? Let us not rush in to the 1962 situation, "Oh, President, let me take that, you take this, let us go to power" yet remaining in power becomes a problem. Going there is always easy but to remain in power is a problem. We may have a good Kabaka today, how about tomorrow? We may have a good Mukama today, but how about tomorrow? We may have a reasonable President today, how about tomorrow? We may have even a President who has got good understanding with the Kabaka assuming tomorrow the reverse is true, what is likely to happen? So, these are very serious issues which we must discuss.

The people of Rubabo were worried about taxation. They were saying now with the regional leaders; we are going to pay for Res; we pay for the district decentralised systems; we pay for the regional leader; we pay for the Kabaka; we later on pay for national taxes; and pay for international bodies. People are saying taxes will kill them. It is the job and purpose of this House to convince our peasants that actually they will not carry the burdens of seeing to these too many functionaries and functional systems that are coming up because of this new Constitution.

THE CHAIRMAN: Hon. member you should be winding up, you have run out of time.

MAJ. TUMUKUNDE: Suppose external forces were to deal with a regional leader to destabilise a nation, what would happen in the circumstances? If Britain or America comes in, deals with a regional leader to destabilise the nation, what do we do in the

circumstances? In most cases we shall find ourselves into war. So, I would want that as we are going into this Constitution to make it: casier to write, easier to promulgate, easier to sit here and exchange jokes, even rough jokes like the one we had yesterday, but the result is most important.

Defence and National Security. I would be cheated if I would not discuss this. Walter Mills, a great strategist had this to say on war. He said: "When war comes, it dominates our lives. It changes virtually every other institution of society, the justice, the equity of its economy, the adequacy of political systems, the energy of its conduction plan, the wisdom and purpose of its foreign policy, there is no aspect of our existence which is not touched by war". It is, therefore, very important that our political leaders must study reasons why there must be an army and actually anticipate that when there is war they will themselves be prepared to merge into the war situation and shade a political policy that will see us through war and the maintenance of our sovereignty.

Another strategist had this to say: "*War is a continuation of state policy by other means*". If war is a continuation of state policy by other means, it means that those who shape state policy must anticipate war and must be able to manage war. If we remain with our situation in Uganda where the military is so far apart from the politics and the politics so far trying to distance itself from the military, we may never build a state especially bearing in mind that a good state is built in a good military organisation.

Mr. Chairman, I would want to say something...*(Interruption)*

THE CHAIRMAN: No, you should be winding up, Hon. Member.

MAJ. TUMUKUNDE: I am winding up, Mr. Chairman.

Military and Justice. Pascal, another philosopher, had this to say. "Justice without force is impotent and force without justice is tyrannical". We must be able to combine force with justice. For sometime it is not force in itself which is wrong but the Purpose to which force is sometimes put. Therefore, if we want to build a constitution, if we want to defend it, we must bear in mind that the Army, the Defence, is

a very, very important factor of nation building. For those who want it to be a department of the Ministry of Agriculture I just hope that they will get somewhere somehow.

Machiavelli in his book 'Principe' had this to say, "*There cannot be good laws where there are no good arms and where there are good arms there must be good laws*". So those of you who are claiming that you will have democracy, external good defence structure are at this line themselves. That is why sometimes when war comes in it is left to the military and the military have to disorganise this country. You should call the example of the 1985 war and how the military actually without serious consultation with the politics had to mismanage war, kill people in Luwero and many others and we can compare it with the sweeping of the whole of West Nile because the political forces were not in control. The military took over the situation and threw out people despite that there could have been views of the nation. And we must compare it with today where the Politician in power has got some element if not a major element of strategy and knowledge of military ideas.

I hope I will be allowed to write this paper and circulate it but, I should have said more about what we need to do here. In summary, what is most important is that we who are here must dig deep into the reasons why we are here and be able to shape our politics accordingly. If we spend more time hating each other, disagreeing, digging old conflicts and wounds we may not get very far. Thank you, Mr. Chairman.

THE CHAIRMAN: I thank you, hon. Maj. Tumukunde, for your contribution to our debate. Now, hon. Delegates, as I did indicate to you earlier when we started, that we have item No.3 involving the swearing in of a Member who has been away. He did not come in time to take the oath because he was working abroad for Uganda in Washington and the Chairman did use powers given to him to allow the Member leave of absence to come latest today to take his oath and I am glad that he has made it. He is Hon. Stephen Katenta Apuuli, a Nominee of the Conservative Party and our Ambassador to the United States. He will now come to take his oath as required by law.

ADMINISTRATION OF OATH

Mr. Stephen Katenta Apuuli.

THE CHAIRMAN: Hon. Delegates, now that hon. Katenta Apuuli has taken his seat, let me take this opportunity on your behalf and on my own behalf to congratulate him on his final entry into the august House and in joining us to work together in discharging the duties and functions that are bestowed on us both by law and by our own people to write for them a Constitution that will last the test of time. Hon. Katenta Apuuli, as I said, represents the Conservative Party and I can assure him that we are quite advanced in our general debate. It has been characterised by normal brotherly and sisterly animation but I am sure in due course we shall succeed in achieving our objective. Congratulations to you in joining us.

Let us go back to the general debate and now I give the Floor to Hon. Maj. Sam Kiwanuka, Busiro County North.

MAJ. SAM KIWANUKA (Busiro County, North): Mr. Chairman, those who wish to know where this constituency is, you drive 25 kms Hoima road. It is composed of the sub-counties of Kakiri, Namayumba and Masuulita. The reason behind why I am mentioning these sub counties is that I, with my people played a big role in bringing this peace and stability which we are enjoying now.

Mr. Chairman, congratulations goes to all of you gathered here in this House for being elected to this distinguished job.

I want to reflect on the history of Uganda since 1962. Uganda has had three main Constitutions during the last 29 years, that is the 1962 Independent Constitution; 1966 interim Constitution and the 1967 Republican Constitution. All these Constitutions while in force were the supreme law of the land. Mr. Chairman, none of them apart from the 1962 Constitution could probably be described as people's Constitution but were just imposed onto the people, so this makes the 1962 Constitution Somehow viable though the negotiators were not truly representatives of the people. Therefore, it is now proper that Uganda should have a National Constitution where its contents have been freely discussed, vetted and agreed upon by the people of Uganda as a whole.

Therefore, on behalf of the people of my area I move a vote of thanks to the people of Uganda for their participation in giving out their proposals to the Constitutional Commission and even participating in electing their delegates in this process of Constitution making. Secondly, I cannot forget the NRM Government for fulfilling what it promised the Ugandans during the war times, that they will participate themselves in this process.

Mr. Chairman, before I proceed, allow me to make some remarks on some statements made by some hon. Delegates. I can recall very well an hon. Delegate from Bunyole who stated that the killings in Luwero, the massive damages even the killings in Kona Kilak was or is the responsibility of our gallant freedom fighters, that is what he had in mind forgetting that the government which was in power by then had rigged the elections, had killed people as you may have heard from most of the delegates in their general debates not even forgetting hon. Kutesa. Hon. Delegates my people say we should not keep quiet when these dictators come, rig elections, kill innocent Ugandans etc, because we are now in the process of Constitution making whereby we need to defend this constitution ourselves. So what I have in mind is that even those twenty seven gallant soldiers had seen that the government by then in power had abrogated the Constitution, and that is why they were forced to wage a war against the anti-people government.

Secondly, I want to inform the hon. delegates on the issue of Karamoja, because all the time here in the Assembly we have been discussing Karamoja issue. I can recall very well that in 1987 NRA came out in a full swing to stabilise Karamoja, but at the same time, that is when the rebels started from the North. This brings me to the issue of the Kona Kilak, because that is the year when these operations of Kona Kilak took place. Not knowing that these were rebels, bandits who were fighting against the government in power. So, fellow delegates when we are talking of development, resources distribution, I have it in mind that without stability, I do not think that development can take place. So, when you talk of development you have to consider stability and when you hear most of the hon. delegates talking about development, these are the people where instability is! I know we are responsible people, some of us have been NRC members for about eight years, whereby we would have involved in stabilising our areas! So, my appeal to you is that when you want to have unity, development you have to achieve stability also.

This takes me back to the Luwero issues. If you can recall what happened to Luwero, NRA/NRM to come to power in only a period of five years, it was due to the hard working of the civilians who were there. That is what we have to achieve even from the North, because in 1981-85 it was in Luwero, now it is in the North, where are we going to end? When you hear most of the delegates, the way we are contributing to this general debate it is amazing. We do not know even which is true and which is not.

First and foremost, the people of Busiro North recommend for the Constitution which will bring peace, stability, development and unity. Chapter 2, form of government: on the issue of form of government the people of Busiro North which is part of Buganda -I am very sorry to mention that, though I need to - my people advocate for a federal system. The reason behind this is that they can recall very well that in the 1962 Constitution, Buganda had federal systems; then some places had the semi-federal and other districts had unitary. So, they are just asking themselves: what harm did this federal system do to these other districts which had either unitary or semi federal so that they are not ready to adopt it? I can recall yesterday hon. Chebrot said that when Buganda is given a federal system other areas will not develop, but we can recall that in 1962 Constitution Buganda had federal, other areas had semi federal and others had unitary, and there was no harm then. So, my people advocate for it and... *(Interruption)*.

DR. CHEBROT: Thank you, Mr. Chairman. I would like to clarify the point which the member is referring to and alluding to what I said. I did not say that if Buganda became a federal the other districts will not develop, I did not say that. I said it is an attempt by the bigger tribes to suppress the small tribes.

THE CHAIRMAN: I do not think we should debate that, I think the hon. Member on the Floor may continue with his contribution.

MAJ. S. KIWANUKA: Mr. Chairman, let me leave the issue of federal system.

On decentralisation: We have no quarrel with it except by the time we were doing our campaigns my people had never heard of this decentralisation: that is why they do not know what decentralisation is.

But just recently when I visited my Constituency and I gave a lecture on decentralisation and federal. They said that we must entrench power in the Constitution if we can adopt decentralisation.

On language: Mr. Chairman, the people of Busiro North prefer English as the official language, as it is in the Draft Constitution. They say then we can now create conditions for the national language rather than imposing on the people a foreign language that is Swahili. For instance, if a Muganda wants to buy something from Gulu, he will be forced to speak Acholi; if one wants to get something from Ankole, he will be forced to speak that language, and later on, after some time, the national language will crop up, rather than imposing a language on the people of Uganda. *(Interruption)*

MR. CHEBET MAIKUT: Point of information, Mr. Chairman. The information I would like to give to the speaker is that it is not only Swahili which is foreign which has been used in a wrong concept against the people of Uganda; but also English which the hon. Member is advocating for. English was used by the colonialists to harass our people by the slave traders; and even the local languages have been used to harass people. So, the argument that Swahili is a wrong language simply because it was imposed or it is being imposed on wrongful purposes, does not hold water. Thank you very much.

MAJ. S. KIWANUKA: I thank you hon. Chebet, but I know it was not the language, it was just the motive of the people to harass us.

Chapter 4, about citizenship. My people do not have any quarrel with it as such, as I will give reasons concerning citizenship. But they say that we should be very strict on this chapter. For someone to be a President he must be a citizen; and for someone to join the army must be a citizen. Now, they say that the citizen identity cards should be issued, and they advise us on the issue of Banyarwanda which has been all the time confusing the House. They say that, for instance, the Berlin conference in 1884 when they were demarcating these African countries; they had no time to say that all the Banyarwanda go to the other side or all the Bakonzo go to the other side. But you will find that most of these tribes bordering other countries, are similar, eg the Banyarwanda in Rwanda and the Banyarwanda in Uganda; the Bakonzo in Uganda and the Bakonzo in Zaire. Those are the way they are! So, the issue of the Banyarwanda should

not be a problem to us, that was due to the Berlin conference when they were demarcating these African countries.

On the Executive: The people of my Constituency propose the President to have 40 years of age, at least, to have a Degree and they say that he should stay in the office for a period of not more than two terms of five years each, when elected. It should not be a matter of two terms, but he should be elected first.

Judiciary: The people of Busiro North are behind the RC courts, but they want these courts to be defined in the new Constitution.

Chapter 14, about security organisations: The people of my constituency have no quarrel with this chapter except we should have this organisation in proportion; that is the Army, Police, Prisons and the intelligence personnel, by amending these Articles, 231, clause 2, Article 240, clause 3, and Article 247 clause 2. Because this reminds us of the former security organisations. You could find one tribe in one security organisation, as it has been explained by hon. Tumukunde that someone to join the Army should be not less than five feet, should be black and something of that sort, whereby some of us could not join the Army. So, on that issue we should be very serious because one of the... (*Interjections*)

On the gender issues, the people of my constituency salute the NRM Government to have allowed women for their first time to participate in all aspects of life.

On political system: At the beginning, I told you that this is the constituency where NRM/A had most of its time for the five years. So, this is what they have to say that they advocate for further extension of movement system of governance, and that political education should continue during that period to create awareness.

On land: the people of my constituency advocate for restoration of freehold and the scrapping off of the 1975 Decree. They say that this helps the owner to be in position to acquire bank loans which are critical for economic development.

On Education: The people of my constituency say that the government should promote, as it is indicated in the Draft Constitution, free education and compulsory.

Lastly, Mr. Chairman, hon. delegates, the people of

my constituency say that we should have a spirit of tolerance, open minds and then we should consider the substance but not how much one has spoken, so that we can have a Constitution which can stand a test of time. Thank you, Mr. Chairman, bless you all.

THE CHAIRMAN: Thank you hon. Major Kiwanuka for your contribution to the debate this morning. I now give the Floor to hon. Kaija John - Kibanda County.

MR. KAIJA (Kibanda County): Thank you, Mr. Chairman. Kibanda county has a population of 83,000 people and it is situated in North-East of Masindi District. It borders with Nakasongola, Luwero, Buruli County in Masindi District, Kyoga, Apac, Gulu, Bulisa in the game reserve and provides a safe corridor to the North or South of the Nile.

Mr. Chairman, allow me to add my voice to those who have already congratulated you and your Deputy upon your election to the office of the Chairman.

The task endowed upon us is an enormous one, and we are here in trust for all Ugandans, present and yet to come. It is, therefore, our duty to approach this Constitution making process with caution so as to satisfy effectively the trust bestowed on us by the people of Uganda who elected us to this august House. Allow me, Mr. Chairman, to remind hon. delegates and all Ugandans that we are all in one pot. Uganda, and that we must make it a paradise for all Ugandans to live in. We need a Constitution that will enhance unity, prosperity or development of this country Uganda. It should not be subject to manipulation by the rulers or leaders nor should it be seen to suit only one regime, e.g. the American Constitution has lasted for over a century with a few and only necessary amendments. It is, therefore, gratifying that the NRM with all honesty enabled the people of Uganda to collect their views which are now before us in the Draft Constitution. Secondly, the people of Uganda were given the opportunity of electing a delegate of their own choice. So, our Constitution should stand with utmost transparency as a social contract between people in power and the masses.

In the past we had only very few people making the Constitutions for the country, without seeking the views of the majority; e.g. the 1962 Constitution was made in London by a group of some people and imposed on Ugandans. The colonial masters had failed to treat Ugandans alike. Some people had been

robbed of their land and they were made squatters on their own home land, by colonial agents; e.g. Kibale, Buruli etc. Similarly the 1967 Constitution was a pigeon hole one; the then MPs dissolved themselves into a Constituent Assembly and promulgated the same without even being sent to the electorate for consultations on their views. It is with the above in mind that the electorate of Kibanda County, in the North-East of Masindi District have sent to request you to deliberate on this Constitution making process without fear or favour, so as to put a lasting solution to the lagging problems of this country.

The Constitution must be a supreme law which must indeed give power to the people for there is no democracy without power to the people in the absence of the Constitution. I repeat, the Constitution must be a supreme law which must indeed give power to the people for there is no democracy without power to the people in the absence of a Constitution. It must be participatory democracy, nobody should be allowed to abrogate the Constitution, and all should be taught to defend the same. The teachings can be in school, public places, churches etc. A test case was in America when some general purportedly took over power by force of arms; everybody came on the streets to defend their Constitution, and the Americans now know that their Constitution cannot be tampered with. This is the type of Constitution we also want for our people; a peoples' Constitution.

Chapter 3, that is on the Republic of Uganda. The Kibanda people support article 4 (1) of the Draft Constitution and would wish Uganda to remain a Republic. Two, federalism is rejected by the people I represent, as there will be divided allegiances which will first go to the leader of the federal state. They, however, want a unitary state that shall allow Kings to operate as cultural heads, not political leaders.

National language: It is proposed that Swahili be the national language. This will avoid creating wrangles among the different tribes that live in Uganda. Swahili should thus be taught in schools to avoid imposing it on people.

National objective: Sovereignty of the people must prevail and democratic principles must be promoted and adhered to by all means. National unity must be one of the goals of this Constitution as herein stated. However, there would appear to be some repetition in the drafting of this document, on this chapter: e.g.

article 8, is already covered by article 1. I intend to give detailed information on the same in our future contributions when we come to deliberate chapter by chapter.

Chapter 4, citizenship: A citizen must owe true allegiance to his country and perform wholeheartedly the duties imposed upon him under the Constitution. Dual citizenship must be avoided at all costs, as this will bring the problem to which country one should owe allegiance to. The cut off date in the Draft Constitution of 1st January 1926 for automatic citizenship is thus not recommended by the people of my constituency. It is evident that by 1926 the formation of Uganda boundaries internally had not been completed. Bunyoro's agreement with British was in 1933, Kafu becoming Bunyoro's natural boundary with Buganda. Buruli thus lost their official entity and land to Buganda, under the colonial arrangements. Bagungu remained silent under Bunyoro Kitara. The British went ahead to effectively colonise Kenya and in early 1950s thousands of Maragolis were brought from Kenya to Kigumba for resettlement, here in Uganda. Many other tribes came to Kibanda for settlement. So, we would suggest that some Africans who were brought to Uganda by colonial masters to settle before 1962 should be facilitated to become citizens of Uganda with this Constitution. They are not different from our brothers and sisters who were taken to America as slaves and they are now known as black-American citizens. We cannot fight apartheid in South Africa to the end when we at home continue discriminating some disadvantaged and inconvenienced groups. Take a sample study of the Banyarwanda in Uganda, Kakwa, Alur, Acholi. Each one of the mentioned tribes have brothers in the neighbouring countries. Citizenship cards should be provided to Ugandan citizens to curtail the plight of discrimination in Uganda, because our brothers in neighbouring countries are taking advantage whenever they enter Uganda.

According to our observation, Mr. Chairman, the absence of citizenship cards has made the people of Uganda remain in the tribal and sectarian tendencies for national identification. A Muganda may think is more Ugandan than an Acholi, and an Acholi may think is more Ugandan than a Munyarwanda etc. Baruuuli and Bagungu in Masindi are regarded non-existent when they are very much alive. While a Muruuli struggles in Nakasongola for Constitutional recognition, a Muganda should not think he is

trespassing Kabaka's rights. The people of Kibanda County who happen to live in heterogeneous community of more than 50 tribes do observe that this country has been suffering from more of tribal conflicts than political, when their interests are threatened. Kibandans are a bit ahead because a tribal community in my county cannot afford to live in isolation among the 50 tribes. The people of Kibanda county do, therefore, appeal to tribal leaders in Uganda to make open ended policies that can unite and accommodate the people of Uganda in diversity.

Fundamental human rights, article 50 and 51, are acceptable to my electorate. The fundamental rights must be respected, upheld, promoted and protected as well. Freedom of association must be guaranteed without any limitation. The will of the people must always prevail in protection of these rights. They must always be consulted when need arises. Women, children, aged and disabled should be treated equally or alike under the law and women should be given equal opportunities with men to participate in the affairs of our country Uganda. Two, inheritance laws should be protective of the family children and wife. Since they are the ones who work for the property, on death of a husband a wife should be accorded priority for the property of her husband, and much more so where there are children. This should apply in entrusting cases, when no will is left behind.

Women representation: They should, however, be encouraged to compete with men on equal terms in politics, appointments and recruitment. This worked very well when we were electing our Chairman here. However, at national level women representation to Parliament should be based on one woman representative per district.

Death penalty: our Country is not yet prepared enough to abolish it completely. However, it should be exercised in more rare and special circumstances.

Minority tribes: My people of Kibanda County have realised that some minority tribes are not included among the 48 tribes enlisted in the Draft Constitution. This is suppression of the sense of belonging of these tribes. How do you force a tribe, though small, to join another one without any consultation and agreement. These tribes should be constitutionally recognised. Some notable ones are the Basongora, Bagungu, Baruuli, etc.

Religion: One should be free to join any religion of his choice. Article 52 should be modified to provide for free and compulsory education in primary schools. The Draft leaves the burden on parents without knowing that three quarters of the population cannot afford to pay fees for their children.

Workers' rights: Workers should be guaranteed the right to and favourable remuneration to ensure a living worth of human dignity and rights to social security. Every person should be guaranteed a standard of living adequate for his health and that of his family, including food, clothing, housing and medical care with clean environment if we are to talk of health for all by the year 2.000.

It is noted also with deep appreciation that the Draft abolishes detention without trial.

State of emergency: It is also the contention of the people of my constituency that the state of emergency should only be limited to calamity or disaster situations; it should not extend to situations where those in power will use it to get rid of political opponents. An example is that where a state of emergency is declared in an area so as to curtail freedoms of opponents who are transferred and transported from one corner of the country to another so as to get them purportedly lawfully arrested. These emergency situations must be approved by Parliament.

Freedoms to vote: Representation of the people, Article 84 (1) should also include the right of citizens of 18 years old to vote and be legible to stand for an elective office as provided for in this Constitution. This shall tame the youth to have respect for other people in order to win an election. However, it further introduces compulsory vote which is an infringement on one's freedoms. There may be very convincing reasons why one does not want to vote, and his choice or freedom should be his or hers. It is good to encourage a citizen to participate in the affairs of his or her state, but it must be at free will.

Electoral Commission: There should be created such a commission which should be independent and permanent. The members of the commission should be independent and permanent with approval of Parliament as Mps are the only voices of the people who elected them. Participation in election or approval by the people through their parliamentarians is very much needed. Remuneration of the

Commission should be charged on the consolidated fund and emoluments be determined by Parliament. These will advise Government on election issues.

Voting: It is advised and recommended that it should be done by secret ballot and in private to allay fears of voters towards the contestants.

Political system: The people of Kibanda County recommend that for the time being the movement type of government be accorded another five years to consolidate national unity, that is the reason. After five years people should be given a referendum to choose whether to go multi-party or not before elections are conducted. With this clause the people are given maximum freedom to decide on the affairs of government directly. However, members of other parties should be free to join the movement and be entitled to any office in government.

Election of President: The qualification of a President under article 105 is acceptable and recommended. It is, however, recommended by the electorate that the limitation as to age in Article 105 of the Draft Constitution, be 35 years if that candidate has been in a position of leadership: political party leadership or movement. Alternatively, if there is no such a person then the age limit of 40 years is recommended. Article 108, recommends that the President on being elected must take off immediately on taking of oath to avoid a power vacuum. On resignation the President who so wishes shall inform the Speaker of Parliament who then will inform the Chief Justice and his resignation shall take effect on information which is in writing. Article 100 on removal is recommended.

Vice President: The articles on Vice President are acceptable: however, it is advised that all the approval refer to article 100 and other should be by Parliament where appropriate as representatives of the citizens. As to the President, there should be two terms of five years each in office: this will avoid the taking of government by force of arms. Moreover, under Article 110 provisions are given for removal of a President who tries to mess up the affairs of the country. Past Constitutions concentrated too much powers in the President who could use the powers in abuse. Much powers in this Constitution should be transferred or given to Parliament, and only be given to the President where it is absolutely necessary.

Cabinet: On cabinet it is recommended that all of

them plus the Vice President should attend Parliament and should be "refusable" on abusing their offices as provided for under Article 121 of the Draft Constitution.

Attorney General: The appointment of the Attorney General under article 123 should be with prior approval of Parliament. However, he must be somebody who must have practiced or is practicing law.

The DPC, Article 124, should be appointed by the President but the approval must be by Parliament, through National Council of State.

Legislature: In Article 130, it should be added that Parliament shall be the supreme political organ of State, its term of five years is recommended and the Parliamentarians should have three terms of office to give rooms for other leaders to participate in the affairs of their state. What is being created in the system are not individuals, such that if an individual goes the system continues.

Composition: This should be of directly elected members of counties. Two, representatives of the interest groups should remain as they are, except for women who should be as many as there are districts in the country.

Functions of Parliament: The people of Kibanda County do agree with the arrangement put down in Article 135 on vacation of parliamentary seat but my electorate find it rather difficult to justify the case. If one wins by simple majority of ten votes, and votes polled by his opponents who may be three are more than that of what the winner got, and a situation may arise that his opponents combine their voters, how does government safeguard such a situation? The member will not have failed to deliver, but here you are, the opponents can decide to recall you. The members of Kibanda county need an explanation about it or a clarification about it, otherwise they will support the idea.

Public Service: This should be independent and decentralised. It is recommended that the appointment of the Public Service Commission should be by the President. Parliamentarians and district councils should participate in recommendation and approval of the commission, so as to eliminate a biased commission who are appointed by a single person or organ. This will also make the people to look at them

as our commission and not so and so's commission.

Local Government: The people of Kibanda County recommend the system of decentralisation at district levels. Because the district levels should have a percentage share at the district for its developments. It will also encourage people to participate more vigorously in the development of the resources at the district, and administration will be eased at that level that is nearer to the people. The target cells should be sub counties for balancing development.

Defence and national security: It is acceptable that there shall be the Uganda Armed Forces whose duties are spelt out in the Draft. However, the composition should be set out as Army, Air Force and Navy to avoid some greedy people or leaders, top leaders, training individuals and arguing that they also form the Army yet they are for personal interests. Recruitment of the Army should be according to districts, based on counties. The Army must be accountable to Parliament and not to an individual as he wants. We need a peoples army and not that which will be identified with the leaders; eg. Amin's Army, Obote's Army etc. This will eliminate military coups. If a regime is voted out of office, the army continues as the Uganda Armed Forces. Appointments of the commanders should be approved by Parliament since the Army shall be answerable to Parliament. The Armed Forces Council's duties shall be to advise the President as is indicated in Article 235.2 and 236. However, the composition of the Armed Forces Council should not be as indicated under article 235.1. Let Parliament also have some say in it. If left as it is it will be a one mans show under the Head of State. Too much powers for the Heads of state should be avoided, as these make them govern the State as personal things.

With the presence of the Armed Forces Council, there is just no need for the Armed Forces Service Board. Article 238 of the Draft is most recommended while 237 should be deleted as it contradicts 238. Similar arrangements will go with Police and Prisons Forces: all appointments be approved by Parliament.

Leadership Code of Conduct: This is recommended to cut corruption as well. It is good to know what an officer has acquired and as to how one becomes so rich within a few months of employment. Indeed all in all we need to scrutinise our officials in government. In addition, people wishing to go in politics

must also be examined on how they acquired their wealth. Civil servants who jump from one ministry to another after embezzling public funds should be condemned.

I am trying to tackle a very sensitive line for my people, that is land: Land and environment: freehold is recommended. The people of Kibanda County take land as a very delicate issue as it touches people directly because they live on it. Land should be vested in the people of Uganda and only to be managed by government. The government should make it possible for people to acquire land titles by leasing. The, otherwise lengthy and tedious, complicated and expensive now existing procedures should be avoided.

I can only touch on minerals to summarise my point. **Minerals:** The government should try as much as possible to exploit the minerals of the country. It is also recommended provision that government should protect the environment of the country. We need a clean environment but the sub-Article (a), superfluous as it is, it is the duty of Parliament to provide for the clean environment by legal machinery.

The game reserve land surrounding game parks was maliciously taken away from the people leaving them congested on uneconomic land units. Government should see to it that such areas be availed to the local people as first priority. People in densely populated areas like Kabale, Mbale etc should be transferred to such areas for settlement. The number of game parks we have in Uganda are quite enough for the purposes of entertaining tourists.

Power and electricity: Power in form electricity has got to appear in our Constitution. Government has so far neglected its people and electricity is being exported to Kenya and Tanzania instead of taking it to productive areas like Kigumba in Masindi District. Such places are bound to remain backward if they are denied power. Very soon it will be extended to Rwanda and Tanzania.

So, thank you very much, Mr. Chairman: thank you hon. delegates for listening.

THE CHAIRMAN: Thank hon. Kaija for your contribution to our debate this morning. Hon. delegates, now I give the Floor to hon. Godfrey Lubega Musoby of Kagoma County.

MR. MUSOBYA (Kagoma County): Thank you, Mr. Chairman. I am representing Kagoma County which is one of the three counties in Jinja District. I would like to correct the wrong impression that Jinja District is wholly urban; it is only a third - if I may talk in terms of counties that is urban. Kagoma and Butembe are wholly rural, and most inhabitants are peasants whom I am speaking for.

I would like to thank you for this precious opportunity by allowing me to take part in the general debate about the general principles of the Draft Constitution. Allow me to convey the sincere greetings to you and your Deputy and to the hon. Members in this House and also to congratulate you upon your assumption of the Chair which you are managing beyond doubt. In a special way, I wish to congratulate the hon. delegates upon their successes in their constituencies regardless of how each of emerged as a winner. I will also extend the heartfelt gratitude of the people of Kagoma who through the God's hand of chance picked on me to represent them in this House which depicts me as a symbol of a historical landmark.

So, much has been said by the hon. delegates who have spoken before me and I really, honourably thank them for their material which has dissected Uganda into three parts. A sorrowful past, a smiling present and a prospective righteous future. The people of Kagoma agree by consensus that the past has been disastrous leaving so many questions and assignments for the present to answer in order to clear the future for posterity. Like the Kenyan writer, Ngugi Wathiongo, puts it: *'we have been left to swim in disillusionment'*. NRM and NRA have helped to put us on a road upon which we should consider and reconsider the rightful position suitable for ourselves and future generations. Any Ugandan who is awake in mind unlike those whom Jesus referred to as 'let the dead bury the dead' has a wish of what he or she would like Uganda to be. It is at this point that the people of Kagoma County sent me to debate on the following as their wishes.

I would first start with the issue of land; since the beginning of creation one cannot separate man from land. Man remains to be the living symbol and moving symbol of land, because God made man out of soil. In view of this, and having in mind that land is a major factor of production alongside labour and capital being viewed by the people of Kagoma as a vital natural resources and common heritage which cannot be matched by any other resource, they would

like to emphasise the point of land ownership by the individual as a way that confers real or potential wealth, social prestige and a sense of economic security. The people of Kagoma express great concern over land grabbing by the rich and powerful; too much centralisation of land administration; corruption in land office, hence before they suggest the land tenure, they need these principles to be put in place:

- (1) Fair and equitable distribution of land amongst the peasants, bearing in mind the preservation of its capacity for the present and future generation;
- (2) Recognition of all categories of farmers and other developers who should be protected from eviction, hence the right to land.
- (3) Opening up agricultural and social economic development projects in rural areas and not only concentrating them in urban areas.

In view of all those points, the people of Kagoma suggest that Land Reform Decree of 1975 be repealed, and Chapter 17, Article 271, section 1, be deleted from the Draft Constitution. They advocate for a freehold land tenure and an introduction of a Land Board instead of a Land Commission.

Let me turn to human rights: After many years of human rights violation by the past governments and individuals, the people of Kagoma have this to say. They support the bill of rights as laid in the Draft Constitution. The affirmative action aimed at redressing the imbalances in the rights of the following cases of people should be fully reflected in the new Constitution:

- (1) The women: The intention of God creating a woman was to make life complete warring boredom off from man so that nature can be balanced. That is why even here in the Constituent Assembly we do not feel any boredom because of the gender existence. When we deny the woman any right we are in the long run denying ourselves. So, any Article in the Constitution which denies or brings the subsequent laws to be made out of that article to deny a woman her right should be discarded. Some of these are:

- (a) Denying a woman to share in the property of the home as married partners.
- (b) Denying a woman to have equal rights over her children.
- (c) Denying a woman to enjoy the rights of love in her marriage by putting more than one wife in a house, this refers to the polygamists.

(d) Denying a woman to retain her full nature by removing part of her genital organs in terms of circumcision, hence denying her to enjoy up to the natural climax of sex. In Kagoma we encourage retaining all the parts through the bush mechanism;

(e) Denying a woman to inherit her deceased father's property for inheritance.

Like NRM has done, the youth should be mobilised and encouraged to participate socially, economically and politically. There has been some marginal tendency by the government, on the part of the youth, in opportunities given to special groups: (a) In politics: it is not fair to have one youth representative in the whole district at the national level, because the youth constitute the majority. Hence Kagoma people propose that there should be one youth per district as is the case for women.

(b) In economic emancipation government has made a lot of noise for the youths to rise against poverty. Such noise has not helped in any way because the youth constitute the most poor class as they do not have *entandikwa*. Many youths have turned to less productive ventures that erode their physical and mental abilities, like "bodaboda", turning to drugs like "amairungi" and "matatu". The Ministry of women and the youth has just made the youth the social and economic shadows of women. Little falls into the hands of the youths. Government should realise that the youth class has a lot of potential and once exploited positively, the nation can catch up economically.

The disabled: Government should encourage these people to be able to support themselves and add on the GDP.

Orphans: Government should realise that no orphan has applied to become one, and yet through AIDS and other killers the nation has registered a great number of orphans which may in future necessitate this Assembly to show clearly how these orphans will be assisted to acquire basic needs like education, health care, clothing etc.

The elderly: After serving the country for many years the elderly are up to be assisted and cared for till they die.

The children's issue: The children's rights should be strictly guarded because these are the hopes for the future generation. This is a class of people who cannot to some extent fight or shout for their rights

themselves. It is the society around them who need to get concerned. So, the people of Kagoma suggest that human rights suggested in the draft constitution be decentralised to grassroots areas, where there is gross human rights violation especially against women and children. Secondly, that civic education about human rights be taught in schools and in various grades of people, so that awareness is created.

Freedom of worship should be fully realised to allow every Ugandan to worship according to his or her wish. In case of confrontations within a certain religion, police and courts can take their course. Government should not be interfering into the affairs of religion, as it recently happened in Mbarara, between Muslims and Prof. Kanyehamba.

The political system issues. Mr. Chairman, the people of Kagoma recall very well the political history of Uganda, which has been characterised by instability, bloodshed, suffering of the grass root people who have been the danger proofs of the corrupt politicians. So much has been said about this issue, provoking many divert views hence rendering it a contentious issue. The majority of my people advised me to be so firm and convincing on this issue of the political system that appeals to their taste in Kagoma. In reference to bitter history, the tasteful present and may be the desired future. A lot of sampling has been carried out by academicians in Uganda, of the political system that can blossom on the soil of Uganda.

In 1967, it was only one party system and because of time, one can judge the viability and rationale of that system. 1971 saw the Military dictatorship against one party system. 1979 saw the common front against military dictatorship in form of UNLF; and 1980 saw Multiparty as an organised system to bring Uganda into chaos. In 1985 the military dictatorship opposing the Langi domination of the National Cake. 1986 saw the NRM, a quasi military and political system, swearing to deliver the suffering Ugandans from "Egypt, in the Exodus, governed by ten commandments programme, to the Canaan, which will be governed by a new covenant" we are here debating now.

All these systems, have been scrutinized before and are being put on critical survey, and none has been seen as absolutely innocent of faults. But if one visited the family of baboons or chimpanzees, one

which seems to be ugly in and out, back to front, one can try to pick on one, that can be legible to contest in political beauty contest.

Mr. Chairman, because of the following qualities:

- (i) the creation of different levels of leadership and administration coupled by the freedom of all Ugandans to contest for all these levels which ushered in participated democracy, it has adding value to those who were political gentiles, and a sense of belonging to a Ugandan political and a leadership society.
- (ii) allowed the common man to administer justice which had been denied, by allowing only lawyers plus few non lawyers in the form of magistrates, who were exploiting the common man using English law. I think, Mr. Chairman, this one will not sound antagonistic to lawyers here; and if so, I beg to exclude them, those who are here.
- (iii) elevating the neglected class of people, the youth, women, disabled and children, who were only shouting behind the curtain of politics, social and economic emancipation in the temple of politics. Formerly the youth and women were only morale boosting for the elders and after scoring, the youth could not come close to the table to share the issuing of the national cake. But now, Mr. Chairman, we are here sharing with the elders equitably, NRM deserves a clap.
- (iv) transforming the army into a sensible institution of the people who were formerly wild dogs which had excelled the powers of their masters, as exemplified in 1971 and 1985. It is only now in isolated cases like in Gulu, where Kony stubbornly refused to surrender himself into a person from the form of a wild dog in disguise of guerrilla warfare, where he is liberating his own people of their dear parts of the body. The people of Gulu should consider this seriously to assist government solve this problem. I am saying this with confidence because the constituency I am representing here, is the one which exterminated Lakwena. The second incident is that of Naguru killings, where I caution those who have had the opportunity to be guarded not to allow their guards to move away with guns to their homes - where they are not on duty.
- (v) the peace ushered in by NRM in Kagoma. Unlike some other areas as heard from some hon. Members here, we see this peace as total peace because we also assist government to realise this peace and we are its immediate beneficiaries.
- (vi) the last point is to pave way for Ugandans, as members of the same family to sit together and contribute views that have to make a constitution and

also avail Ugandans legitimacy to promulgate a constitution through direct elections.

In view of the above, as juxtaposed by certain weaknesses in NRM - as alleged that the West is taking the biggest share of the national cake; - poverty to the grass root people and taking nine years without presidential elections, the people of Kagoma suggest that NRM should be picked on to contest the beauty political contest for the next five years. So, that in the new covenant, or the new constitution, we can put right the three weaknesses I have talked about and should be eliminated.

The people of Kagoma oppose the idea of allowing the political parties reorganise themselves within these five years of the movement. To the people of Kagoma, this appears that the constituent assembly is intending to endorse the five years to be the years of campaign between the movement and political parties. This will be wasted years because nothing substantial will be done apart from securing an area of chaos in Uganda. We say, NRM be given five years of no disturbance under a good constitution in order to be judged. Jesus also promulgated a new constitution under the pressure - the pressure is the old covenant, and so has been NRM within these eight years. So, it should be given chance to act in the political arena under a good constitution for clear judgement.

The Judiciary. The judiciary administers a system of laws which in Uganda include: the constitution statute enacted by parliament, common laws principles derived from English law, and customary law which is essentially local in character, having evolved from traditions of the varied practice in Uganda. The judiciary, alone, is the organ of state vested with powers to interpret the law, and determines all justiciable disputes through the court.

The people of Kagoma are uncertain about the relevance of the introduction of the courts and laws for the past 30 years in the lives of the ordinary people. They have not played a strong role - a strong enough role in standing against the executive in support of the constitution, contributing among other things to the failure of constitutions in Uganda. So, the people of Kagoma have expressed concerns about lack of access to justice - delays in justice; yet "delayed justice as it is said, is no justice at all", and corruption in the administration of justice. In view of this the people of Kagoma have expressed support

for the introduction of the popular courts popularly known as RC courts for the following reasons:

- 1) They operate the way the people understand, hence they are administered without technical rules of procedure.
- 2) They are accessible.
- 3) The cost of litigation is their level of income.
- 4) Corruption is so minimal and can easily be identified.
- 5) Justice emanates from the people and should therefore, involve them closely rather than be exercised by a single judge or magistrate. They get justice quickly without delay. There are some malpractice or weaknesses reported to be eroding the value of the RC courts like going beyond their jurisdiction, inability to make good court records and lack of legal technical procedure. I mean legal technical know how. But these weaknesses as juxtaposed with the values of these popular courts do not strive to the extent that RC courts are rendered useless. At this point, Mr. Chairman, the people of Kagoma wish to convey their hearty thanks to the directorate of legal affairs, NRM Secretariat which has tried to put up a project of training the popular courts and entire population about their judicial powers. To this effect, the following people are hailed: Hon. Jotham Tumwesigye, Director of Legal Affairs - NRM Secretariat; Hon. Kavuma, Deputy Director; and Mr. Ndimwibo; plus the Fredrich Eibert Foundation which is the financier.

In order to realise the effectiveness of popular justice, the following should be put in place.

- 1) The concurrent jurisdiction of RC courts and the Grade 2 and B magistrate should emerge so that the magistrate can assist in advisory role and strength record keeping and supervision. This will avert the problem of duplication and conflicts between the popular courts and the magistrate courts existing now; so that the magistrates can be resource persons to enrich RC courts.
- 2) The training scheme should be extended to all parts of Uganda, including the Police, to avoid conflicts with the RC courts, because Policemen are fairly acquainted with criminal laws than civil and customary law invested in RC courts.
- 3) The RC courts should be supplied with stationery and storage facilities and also court members should be remunerated.
- 4) There is need to enforce their power in executing their court orders. The Upper RC courts, that is RC 3, where the magistrate will be sitting should be given criminal jurisdiction to try cases with minor custo-

dial sentences like assault, theft, etc

5) Besides custodial sentences, resolution of conflicts and restrictions should be awarded in criminal cases. In the higher courts of judiciary, the chief magistrates courts and the high court - Kagoma people propose that the jury system be introduced in the new constitution, for the following reason:

- i) The use of the jury involves decisions on the facts of cases being made by ordinary people. This in history, was realised during the kings and chiefs, who used their own people in addition to the court members.
- ii) Justice emanates from people, and should therefore, involve them closely rather than being exercised by a single judge.
- iii) Judges and magistrates are people of upper class who do not understand the problems of the ordinary people who can hardly get justice when tried by person of different backgrounds. The right to fair trial should mean that an accused person is tried by his peers. There is great need for the independence of judiciary. This cannot be achieved when the president - and therefore, the executive is the sole organ to appoint and to remove the Chief Justice and his subordinates. Meaning that, the judicial powers is beholden to the executive's pleasure and pressure.

The people of Kagoma advocate for total decentralization and devolution of power. Decentralization as it stands now in the local administration statute 1993, is a bit ambiguous in some levels, especially, in the finance section where certain percentage is taken to RC 1 or RC 2 and it is silent on what that money is meant for. Secondly, the programme does not reflect any possible developments due to meagre incomes of the district, and at the sub county level. And even the central government's hand releasing powers to the local authorities is reluctantly doing so depicting the lending impression, as Prof. Nsibambi put it.

The People of Kagoma still feel dissatisfied with the grades of the graduated tax coming from or being determined by the centre. It has provoked tax demonstrations just because the grades from the central government do not reflect individual rates of income, where sometimes, little income earners pay more than big income earners. Hence, they propose that the highest Graduated tax authority be decentralised to the district level. The tax assessment should always be carried out after every two years, so that one pays similar rates for the two years.

The executive. Some powers of the president should be plucked off but not to the extent of rendering him powerless. Key persons occupying positions which are vital and sensitive like ombudsman and Chief Justice should be appointed by the legislature.

Now, Mr. Chairman, I turn to corruption. I wish to quote Mr. Greem, a colonialist in Nigeria, who said and later what he said was written by Chinua Achebe. "Africans are corrupt through and through". He attributed this to the tough and hot sun which has parched the African heads for a long time thus eroding their mental functioning. Today in Uganda, it is not true. The people who sit in the air conditioned rooms are those moving in vehicles protecting them from the parching sun are the ones who are professionally corrupt. In Busoga we say that the old bird teaches the young ones to defecate in the nest. If the top officials are doing it, what about the boy officers. This assembly should seriously think about this scourge. We should not look like the NRC, when it was tempted to discuss and pass a Bill denying the bail to the corrupt officials. How can foxes pass laws and traps against the game of eating chicken for themselves. In conclusion, Mr. Chairman, I pray that the Holy Spirit which was poured on to his Excellency, the President and the gallant sons of NRA... (*Interruption*)

MR. KABUGO: Point of clarification, Mr. Chairman. I am a Member of NRC. Can the hon. speaker holding the Floor elaborate on what he has just mentioned, that NRC passed some law wrongly. Can he elaborate on this, so that members can know where NRC is weak?

MR. MUSOBYA: Mr. Chairman, the hon. Member did not get me properly.

THE CHAIRMAN: Tell him exactly, what you meant.

MR. MUSOBYA: I remember very well that this Bill was introduced in Parliament and it was kicked out, just because Parliament carries people who are corrupt, or they conspire with government officials who are corrupt.

MR. LOROT: Point of order, Mr. Chairman. The hon. Delegate has made a very serious statement and allegation to the effect that all NRC Members are corrupt. Can he substantiate this very serious statement? And is he in order to make such a serious allegation?

THE CHAIRMAN: The member is not in order in making a sweeping statement. Could he, may be, explain himself better.

MR. MUSOBYA: Mr. Chairman, I am referring them to the hon. Prime Minister who has a list of corrupt officials. Mr. Chairman, allow me to conclude?

MS OPOTI: Point of order, Mr. Chairman. Is the hon. Member in order to say that the NRC members did not pass the leadership code of conduct? While the Leadership Code of conduct when discussed was only given to the Select Committee of the House which has it, and right now, as I talk, the House is in the process of having the Committee set. Is the hon. Member in order?

THE CHAIRMAN: It appears he was not informed, so we shall pick that as information.

MRS. MUTAGAMBA: Point of order, Mr. Chairman. Is the hon. Member on the Floor in order to refer to the Prime Minister and the list of the corrupt Members when the Prime Minister himself has never brought it to the House? Is he in order therefore, to use a false example?

THE CHAIRMAN: The hon. Member was only making a reference. But I think what he should withdraw is a reference to the fact that, all members of NRC are corrupt. I think the hon. Member is to withdraw that one.

MR. MUSOBYA: Mr. Chairman, St. Paul in the Bible said that if the heart does not judge you as guilty, you can have firmness. So, those who are panicking here may be are corrupt.

THE CHAIRMAN: No, no! That is not acceptable hon. Member.

MR. MUSOBYA: Mr. Chairman, I withdraw. In conclusion, I pray that the Holy Spirit which was poured on to his Excellency, the President and the gallant sons and daughters of NRA to win the negative forces; the similar spirit which powered on to the NRC when they passed a Bill to put in place a different body to discuss and promulgate the constitution other than themselves, be poured onto us to clean our minds and hands, thus we come up with a document which will put Uganda on the pillars of peace, unity, development and democracy. For God and my country.

THE CHAIRMAN: Thank you, hon. Lubega Musobywa for your contribution to the debate this morning.

MR. KAWERE (Mukono North): Mr. Chairman, hon. Delegates, I bring you greetings from the people of Mukono North Constituency. Through me, they send their warm and heart felt congratulations to you, Mr. Chairman, and your Deputy.

The people of Mukono North Constituency congratulate the NRM Government in general and President Yoweri Kaguta Museveni in particular for having realised and foreseen that, the mess Uganda has passed through since independence was brought about by the Protectorate masters, who never saw the need of a directly elected constituent Assembly. But decided to pick the individuals whom they chose to go and deliberate in Lancaster Hall for Constitution making.

Now, that we have been given this chance, let us be serious, forget our own differences between each other - although we may not forget - and sit down to draft a non partisan constitution. A constitution which shall not be inclined to a political party but a national constitution which shall endure the test of time. The people of Mukono North constituency, therefore, recommend that in this constitution we are debating, there must be a specific day for the dissolution of parliament. There must be a provision for the appointment of the electoral commission which will have the duty to prepare for the periodical elections and that the commission's duration shall be 6 years. In this constitution, there must be a specific date for the swearing in of the new president which shall safeguard against presidents who are likely to extend their regimes life.

The people of Mukono North have been following closely the Constituent Assembly deliberations since we started and they have expressed their fear that actually we may not be able to finish the job within the period of time. They therefore, crave the indulgence of the Chairman to guide us, so that only material for the constitution be included in the constitution.

Dear hon. Delegates, allow me to say that, matters connected with the sharing of husbands property are well covered in the law of administration and they are very well protected by the Administrator General's Act and administration of law estate act. So, there

is no need debating them here. Matters connected with women status are catered for in the Penal Code. Also, matters connected with rape, defilement are catered for by the Penal Code. Matters connected with children born outside wedlock are catered for by the affiliation act. Matters connected with divorce are dealt with in the Divorce Act and so, all these should not be included in the constitution.

The people of Mukono North constituency object to Article 71 of the draft constitution. The detention act is a legacy from the protectorate masters' detention ordinance. The system used to arrest a person from his house and take him to another region and keep him there, for at least two or three years. This is what happened to the late Musaazi, the Late Jolly Joe Kiwanuka. Even President Obote, during his first regime, took advantage of this, having discussed it with his Parliamentarians. He arrested five ministers, took them to the North. He later discovered that they were not properly kept, and he transferred them to upper prison where they stayed for five years. These other ministers who had debated the Bill, turned it into an Article.

Dear Delegates, when I talk about detention, I know what I am talking about. Presidents have hidden behind this to eliminate their opponents - political opponents. In fact, for any offence for which a person would be arrested and detained, there is a remedy in the Penal Code. In 1970, I was picked and taken to Upper Prison for 8 months. I survived that. In 1983, I was again picked, taken to Mbuya. Reports were made that I was dead, only to be found out four months later that I was still alive. I would not like to go through this ordeal once again nor would I like anybody to go through it. The only solution is to scrap the detention Act. It will not serve any purpose when the people are arrested but their relatives are given a chance to go and see them. Why detain them at all? They have a chance to see them at home and be looked after by their relatives. So, please, scrap the detention act.

The people of Mukono do not approve of the framing of Article 4, found on page 3 under Chapter 2 of the draft constitution. The same applies to the Heading on the cover of the draft constitution. And so to avoid all these doubts and confusion, the people of Mukono North Constituency recommend that the title on the cover of the draft constitution should be as follows: *The Constitution of the Sovereign State of Uganda*. This is very meaningful. Then, when it comes to

Article 4, found on page 3, that Article should be altered to read as follows: "Uganda is a Federal Sovereign State" and that is enough.

The people of Mukono North, are in agreement with provisions of Chapter 6, of the constitution which prescribes for the election and voting of parliamentary representatives. They are in agreement with the provisions of what people want, but they object to any special platform i.e. historicals, the army, women, youth, the disabled etc. We are very grateful to President Yoweri Kaguta Museveni for having tried these people out, and I congratulate them on their success. There are many of those people in those groups who contested Members of this House and did not succeed and the others within the group succeeded. So, the people of Mukono recommend that continuing with these special platforms is tantamount to corruption. Because these people will go on praising those who appointed them, we recommend that this exercise must stop. Give a chance to these people to contest in a normal way. If a disabled person wins, we shall clap for him and if a lady wins, we shall honour her. But no special platform.

The people of Mukono North, therefore, recommend that immediately after this constitution has come into force, the elections must be held and these elections must be on individual merit basis, as I have just explained. And that the next government is meant to be a transitional national government intended to give political parties a chance to reorganise themselves. The presidential elections will also take place at the same time, and the transitional period will be three years. During which time Parliament legislates for the good governance and guidance of the political parties. We are tired of heads of government who encroach upon the tax payers money to build big houses and call them their houses. They must have a lot of control there. If you say that the constitution must not be in support of any political party, tribe, religion, not even the movement - then it must be a national constitution, so that every president sails comfortably into his seat, he is guided by that same constitution until the end of his term comes and the same constitution stops his regime. There must be a national constitution during this transitional period.

The people of Mukono have no quarrel with Article 101 of the draft but strongly oppose Chapter 9; Article 52 found on page 64 of the draft constitution. This is the National Council of State. Its composition is terrible. Its purpose cannot be explained. Its

purpose could well be catered for by a strong committee of Parliament.

The judiciary. The people of Mukono North Constituency propose an amendment of Article 159 section 1, Chapter 10, so that judges of the high court including the Chief Justice are appointed by the Judicial Service Commission which I shall define later to ensure a proper separation of powers. Article 173, under Chapter 10, found on page 75 of the draft be amended so that the Chief Justice, the Attorney General, - judge be removed from the Judicial Service Commission. Their places to be filled by retired judges of the high court or the supreme court with very senior counsels at the bar.

Finance. The people of Mukono North support a provision of article 185 found in Chapter 11, page 81 of the draft constitution. In Mukono there is one gallant lady who wrote to me a letter - and it stated: "Our Delegates, I request that you insert a provision in a constitution prohibiting the devaluation of money, the way our money was devaluated in 1987 by 30 per cent. When I read this, I did not understand it. But when I looked at the Odoki draft, I saw the provision of article 181. The purpose of this article is to stop this national loan. Somebody goes to sleep, thinks of a way to contract a loan and the next day it is put into practice. So, we recommend in Mukono and we support Justice Odoki's recommendation that there should be a special committee to investigate - debate the needs of this law and supervise the loans as well.

Local Government. Article 207 of the Local Government Act should be altered. Because 107 refers to an executive chairman of the district. And 108 refers to the district chairman. It would appear as if there are two chairmen in the district. In fact section 207, should read "the Speaker" and section 208, remains to read "Chairman". The people of Mukono North insist that when considering Local Government, all these districts that once formed Buganda, however many they may be, to be identified on the map and be labelled Buganda as it was.

We get to the army. In article 234, section 3, it appears that the president is the person to do everything. The people of Mukono recommend that the president should not be responsible for the recruitment, the appointment, the disciplining and the removal of army personnel in the army forces. This will be done by an army committee. The people of Mukono North, would like a national army which

shall survive the changes of government and that at the same time remain loyal to the new government as governments come and go.

The Leadership Code. The whole of Chapter 16, found on page 113 of the draft, must be transplanted and be included in the powers of the Inspector General of Government.

Land. The people of Mukono have compared the Odoki recommendation with Article 271 of the draft. And found that Article 271 is very vague. One would wonder why the recommendation is so clear and understandable but the article itself, is so vague. The people of Mukono North, therefore, recommend that the Land Reform Decree be repealed and freehold land introduced throughout Uganda. But there must not be a Uganda Land Commission as this Land Commission has caused problems in the districts. They would recommend a District Land Board centred in the district.

A HON. DELEGATE: Point of information, Mr. Chairman. I want to inform the current speaker that I am personally a landlord here in Buganda with squatters on a freehold land. We have heard these things expressed that they are really tired of living like slaves in their own country; on land that they cannot fully develop it. Therefore, they are appealing to this august House to save them, so that, whatever land they are living on should be sub divided as to how they are using it now. So that they have it for forever, instead of staying as slaves in their own country. Hon. Delegates, I am appealing to you...*(Interruption)*

THE CHAIRMAN: No, no. You are going beyond information.

A HON. DELEGATE: Mr. Chairman. I want to conclude my information. Those who are living on land are requesting that this august House should accept the free land hold and they own the land totally and completely. Thank you.

MR. KAWERE: Mr. Chairman, I am sure the people he is talking about are not from Mukono North because I should have known. He forgot to tell me where he "landlords".

THE CHAIRMAN: I do not think you should go over exchanges with this one.

MR. KAWERE: We want free hold, and what he explained is free hold.

MR. MULONDO: Point of information, Mr. Chairman. I want to inform the hon. Member holding the Floor about Uganda Land Commission. I think he should know that Uganda Land Commission is a body to look after all land which is vested in government. Therefore, introducing land boards to district and so on should not be a ticket to scrap off the Uganda Land Commission. Uganda Land Commission can still exist, but to look only on land which is vested in the government. And which land, government may continue to get through development - where government wants to develop land, it should be free to get wherever it needs it in Uganda, and that land must be vested in Uganda Land Commission. Thank you.

MR. KAWERE: Thank you hon. Ssabalangira. I will continue with traditional rulers. The people of Mukono North strongly recommend that the provisions of Article 279, found on page 118 of the draft constitution be deleted and replaced with the amendment in Article 118 and 118(A) of the 1967 constitution as indicated in the amended statute 1993. That is a provision of Article 118(A) (same statute) which reads as follows: "*The legislature...*" may I stress "...*make provisions for the return to the traditional rulers of any asset or property previously owned by them or connected with or attached to their offices and which were confiscated to the state, under or by virtue of Article 118 of this constitution as existed immediately, before the coming into force of this Article*". Here the people of Mukono are in quarrel with the word 'may' instead of 'shall'; they recommend that the word 'shall' be used. And by returning these property to the traditional rulers, we mean that, in this map I hold on my right the lake is labelled *Kabaka's lake*. *Kabaka Ajangala* is labelled Republic road, and the Bulange labelled Republic House. In this one, I hold on my right: the lake is *Kabaka's lake*; the road is *Kabaka Anjagala*; and the House is Bulange. So, when these are returned, then this section shall be in force.

The people of Mukono North recommend that the provisions of Article 20 referring to the administration of estate. This be deleted completely. Since all that is contained there is governed by the Administrator General's Act; the Succession Act, and the Small Estates Administration Act.

Official language. The people of Mukono North support the provisions of article 5, Chapter 2 of the constitution. I, myself, am a scholar in swahili, and this is my certificate which I won in 1962. I presented this certificate to the people of Mukono North, and they said: "You be a Swahili scholar; but you tell the House that we do not want Swahili". I am a Swahili scholar and the word Swahili comes from an Arabic word sahel. Sahel means coast. And this is the language given to the people living along the coast. Uganda is such a hinterland that it has no connection with the coast whatsoever. I do not see why the people in Mukono North do not see why you should import this language from the coast and bring it to Uganda. So, they condemn all those who advocate for Swahili to be the national language. We can afford to stay with an official language, without a national language, until such a time when we shall have considered a language that shall have evolved from the languages in Uganda.

MR. CHEBET MAIKUT: Point of order, Mr. Chairman. Is the hon. speaker holding the Floor in order to impute that all those who give the views advocating for Swahili as a national language must be condemned. To me I think that word condemned should be withdrawn. I think have a right for our views to be heard, and therefore, we should not be condemned by your people. Thank you.

THE CHAIRMAN: I think hon. Kawere, you can use a softer word.

MR. KAWERE: Mr. Chairman, in obedience I will say, we shall compromise, but report back to the people of Mukono North that they will not condemn; I still condemn.

The People of Mukono North request and recommend that Article 29, 30, 31, 32 on page 10 of the draft constitution should be scrapped. Because they are well covered in the public Health Act, Public Service Act, and the Act dealing with agriculture.

The people of Mukono north recommend that the representation of the people in constituencies should be by number of the people in the constituency and not by county. There are some counties which have less than 10,000/- people. And in Mukono North, itself, we...*(Interruption)*

MR. RUZINDANA: Point of information, Mr. Chairman. Ruhama county which I represent has 132,000 people not 10,000 people.

MR. KAWERE: That is alright with Ruhama, but there is another county with less than 10,000 people. Mr. Chairman, in the county of Mukono, we have got a total of 180,000 people and the whole of Mukono County is represented by two delegates. When in fact, Mukono County as a whole should have been represented by three or four delegates. This should be looked into.

The people of Mukono North Constituency recommend that all delegates who have deliberated in this constitution making must sign the constitution for the proper efficacy of the supreme law of Uganda, unless time does not allow. Mr. Chairman, all this I have said on behalf of the people of Mukono. For God and my country. I thank you, Sir.

THE CHAIRMAN: Thank you hon. Kawere for your contribution to the general debate.

MR. MWEBESA (Presidential Nominee): Mr. Chairman, hon. Delegates, I congratulate you and your Deputy for having been elected to chair this Assembly. Mr. Chairman, I was not elected to this Assembly but nominated by His Excellency, the President. So, I don't speak like most other delegates who have the advantage of saying that: "the people of the Constituent they represent here..." But since I am here by law, it is good. I will speak on behalf of the voters who sent you here and those we left behind. My stay in this Assembly has made me to learn what my role should be, as a Ugandan, in this constitution making process. My mind is clear, that we are here as a Leadership with the mandate of the people to make a constitution using the existing Draft Constitution. This means putting our minds together to lay out a way on how the Ugandan people will be governed and in this way determining their destiny.

With the above in mind, my contributions to this general debate will be to consider two important categories of people in the country: (A) The class of the governed. (B) The governors.

THE GOVERNED: In the case of the governed Uganda, I need to be furnished with more accurate data. But in its common knowledge, taking into consideration the last census which came up with 17 million people of Uganda. Of these 17 million, I could easily say that 16.2 million are the governed, and .8 million are the governors. Mr. Chairman, in this attempt to categorize the governors, I am using

a simple economic criteria. I excluded the children's below 15 years, who have been supported and the people who are above 80 years, who because of old age can no longer produce. The simplest way to describe Uganda's economic status is to accept and say 99 percent are peasants.

1) These are small state farmers who grow coffee, cotton, groundnut. Most of these crops being, mostly for consumption and the surplus for sale on the market for a living. In this same category you includes the paid workers by the peasants usually, either working for the peasant who has a surplus and can employ one or more people in the small holding.

2) This includes people who work in the public sector. Here I am including the lower calibre people who assist policy makers, i.e clerks, the drivers, the women supporting staff like Secretaries, nurses, the ordinary policemen, excluding the officers.

3) Those people who work in the growing industrial sector. In this case, I am talking of the factory to floor people.

4) The private soldier who is in the special category of a Ugandan, but who is also more or less like the above. Mr. Chairman, I may have not exhausted the list but views should be concentrated on these people while deliberating on this constitution.

As I said, I will speak on behalf of my fellow voters that were left behind, and in this category these are the few whom I have mentioned above. I am sure all of us who went for the elections came here because of these people. I therefore, feel that most of our interests should be directed to these people in this constitution making process. Mr. Chairman, why do we have to think about these people in their simple way of life? We should make a constitution that allows development. So that this country will be a better place to live in than what it is. A lot of attention should be paid to the above category as they are the wealth producers.

Let me limit myself to one important cash crop called coffee; the number one export earner, and possibly a big contributor to the gross national product (GNP). At this juncture, I want to bring in these people; what they contribute and what they expect of Government in future when the constitution is made. I want to refer to the past, Mr. Chairman, giving a historical background that will help us consider these people.

In the previous governments of Amin, and Obote II, the coffee crop was intended to give wealth and

development to the producer became his greatest enemy. During the 1970s and 1980s, when there was a boom of coffee, a good number of people in leadership managed the export and the earn from the same and the leadership shared the wealth between themselves; and balance was used to purchase arms, giving those governments in power ability to destroy the wealth makers. Most of the proceeds that were utilised for gain were in the hands of few foreigners, and a loss to indigenous Ugandans i.e. you know very well of this status of the MUKWANOS. The Ugandans who had a hand for getting big share of this money have left nothing behind. There are still Ugandans who might have but with nothing substantial to create more wealth i.e. Coffee Marketing Board, Lint Marketing Board, and other industrial set up that were centrally controlled. It is through this that people in government have easy access in the profits which they would use to oppress the governed.

Thus in the constitution, we better give a big emphasis to the two chapters.

1) National objectives and directive principles of state policy.

2) The fundamental human rights and freedoms. Because, surely, these are the most important things that are required for the bigger part of our population. On top of this, I add that we consider the judiciary. This comes next in order of our consideration as it is likely to conflicts in our society. And this is so in our custom. The RC system which has been on, has done well and should be maintained to cater for easy settlement of class.

One hon. Member, Hon. Okalebo, went a long way to describe judiciary and law. Not all is good for the criminal law courts - taking into consideration that these two systems, judiciary and law are an adopted systems, let us give room in the current constitution the RC system. This issue of courts, as we said, the adopted systems of judiciary and law can be maintained while the people's courts can be developed further and be able to make be included in our constitution. The current general opinion of this group of wealth makers, these are the governed, believe in the movement type of politics where all Ugandans have been given a chance to go about their business without any political harassment.

The movement government has at last shown that the country is being directed in the certain direction of development. The whole country has a spirit of

national development except in areas where there is insurgency. If they governed there were given the chance to live without harassment by the governors, meaning that if leadership does not incite them to rebel, definitely these people would never experience famine and instability. Mr. Chairman, I want this constitution to enhance the policy of free enterprise and Uganda being in the category of the third world countries, she has to depend on loans and grants from the international financiers. The critic of structural programmes of IMF, World Bank saying that the policies of government have impoverished our people, needs to look at what is happening in countries that are in this category. Politicians have tried in some of these countries to object to these conditions but without success. As long as you want to keep this country afloat in the current world of the group of poor nations, there is no way you can negotiate without mortgaging the country but you have a long way to go before you can get something. Whoever gives you a loan needs security and whoever gives you money has got his conditions. I wish the speaker who, yesterday, touched on IMF had been simpler in his language to bring forward his ideas of what can be done to do away with these donors and keep Uganda afloat.

In this constitution, I am asking for the provision about the above funds or the funds borrowed by the government. The government should pass the funds to Ugandans because I saw in the constitution that it still refers back to public bodies and this is in reference to section 185 paragraph 2. As government borrows these funds knowing that they are for the use of development of Uganda, so the conditions that were made for the public institutions should now go to the people themselves. After all, the policy of privatization is no way to be stopped.

THE GOVERNORS: This category includes two groups: politicians and entrepreneurs.

1) Politicians. This is where our problem as Ugandans comes from. The sharing of the national cake. It is here that when sharing is not proper the conflicts begin. We all know the politics of 'Twalire', the people have mentioned the politics of Pajero, the people have mentioned of the politics relating to chits being given factories by persons in power and to government ministries concerning political favours. This has been the root of Uganda's suffering the unfair sharing of the national cake by the people in political power. I believe that this House elected from all over the country through universal suffrage

will come to a solution on the following chapters. I feel happy that those who have been in the game are still with us now. These old guards are completely aware of what happened. And some of us ask them to analyse both the past and present. And surely, they should be open and use the intellect and integrity, openness, tolerance and accommodation to look at the current situation. My observation here is that, now it proved, we are in two camps. The Movement type of government and the multiparty.

I will say to those who want multiparty want to eat alone. Once there are parties, it is those people who become 'Twalire', and who leave the minority out of the cake sharing, that is when the minority start thinking of going to the bush and resort to the wars of the Holy Spirit. To destabilise the governed excuses used here by multiparty supporters are in political theory, may be, that is democracy minus freedom of association is equal to multiparty (Democracy - freedom of association = multiparty). I still have to learn from professor Nsibambi, may be at a later stage, whether this mathematical formula is true: Democracy equals multi-party; equals freedom of association. My current understanding is logical. And facts that are prevailing, all people from every corner of this country are here through a democratic process. Okay, there might have been malpractice, as I am told, in the elections but they all came here under this model or style of the movement. And this model can be improved and be called anything else other than the movement, but let us use it for the next five years. And the new political parties and old political parties can be in place when these five years have come to an end if people wish.

2) Entrepreneurs

The second category in this group of the governors is the entrepreneur. Mr, Chairman, I happen to belong to this category. These people have no time to do politicking. Their job is profit maximization. May be, you know that they during can assist politicians sometimes during their campaigns. Sometimes also, in politicking they fuel a little bit of corruption. As you heard from his Excellency that I was brought here to represent this group. I have tried my level best to get in touch for their ideas to bring here. These people have had no time for me as they are busy taking advantage of the conducive good atmosphere brought by NRM government.

MR. KOMAKEC: Point of clarification, Mr. Chairman. I am just seeking clarification from the hon. Speaker on the Floor. I did hear him say that the

group that he is representing in this House are not for politick but for making money which can be used to corrupt politicians. Did I hear him say that? Is the purpose of making money to corrupt politicians?

THE CHAIRMAN: He did not say that the group he represents, he said that the group he belongs to. But let him clarify.

MR. MWEBESA: I said, these people have no time to do politics. Their job is profit maximisation. On the second part I said that sometime, the only way profit maximization. On the second part, I said that sometimes, the only way they come near politics and may be hon. Member you will excuse me, I will mention about corruption a little bit later. They may, sometimes, give money to the politicians during campaigns, and they also get involved in the politicking by corrupting politicians. Of course when I talk about politicking in this case, I am talking about corruption. As we heard from his Excellency, that I was brought here to represent this group, I have tried to get in touch with them for their ideas to bring to this House... *(interruption)*

MR. KOMAKEC: Point of order. Is it in order Mr. Chairman, for the hon. Member on the Floor to mislead the House by saying that politicking is corruption?

THE CHAIRMAN: Could you exactly say what you mean, hon. Mwebesa?

MR. MWEBESA: I mean to say that politicking - to the extent that this group of people go to politics is when there is an act of corruption.

MR. OKENY: Point of order. Is the speaker in order to deceive this House by saying that he is representing the business community. While in fact it is shown that he is a Presidential Nominee. He is only here presenting the President's views.

THE CHAIRMAN: I think what I heard the Member say, is that entrepreneur group is what he belongs to and, therefore, he is talking in that capacity. But he is a Presidential Nominee. It does not appear in our records as representing businessmen - it does not.

MR. MWEBESA: Thank you Mr. Chairman. I may have to repeat this again, although I had gone a long way. These people have not had time for me, as

they are busy taking advantage of the conducive atmosphere brought in by NRM. The only idea that they gave me, is to mention to this Assembly. That late NRM continue for the next five years. These people, both Ugandans and outsiders, take advantage as investors when the atmosphere is good.

The investor puts his money where he can make profits. He is not concerned with direct politics. But he contributes a lot to the nation building in terms of development; that is tax, employment and to the gross national product.

Mr. Chairman, the entrepreneurs have asked me to put a few ideas, those whom I managed to get to, in the following chapters that concern the leadership.

1) The executive: That the President be elected every five years and for only two terms of office.

2) Ministers should not to be Members of Parliament but answerable to Parliament.

3) The dates of elections should be fixed. This gives them a chance to plan their maximisation of profit endeavours and strategy to their business.

4) Nation Council of State. They do not want this.

5) The Public Service. Big jobs should be shared equitably to different groups in Uganda. This, I think, you can understand because there were several Members from different districts who say that some of their people have never been to the level of PSs or they have never been Ministers and so on. And I am saying that government should take this into consideration since leadership is all about sharing the national cake.

6) The local government: A good number of them are in for decentralisation at district level and people should take into consideration cultural issues that had been abolished but now are back as they could also have an influence on State matters.

7) Defence: Keep the soldiers for the defence of Uganda and Article 232 section (c) and (d) should be maintained in the constitution.

8) Inspector General of Government: The businessmen believe in section 259 but they want that this constitution to add in more say for the Inspector General of Government to look also on their side of things because he only inspects government but eventually, the businessmen also become part of government. These people are only worried where my hon. Member was giving me information that if the people in the leadership were clean, then their contribution to our evils of corruption would be less. They would behave because it is them all the time losing money to fuel corruption. If the leadership does not behave, they may not also behave.

9) The leadership code: They need clean leaders.

Since everybody came here to build a united Uganda, then let us continue with a spirit of compromise to use our utmost intellect, integrity, openness, tolerance and ability to accommodate each other. Both the governed and the governors want to live in coexistence. Thank you, Mr. Chairman.

MR. KASANGAKI (Buruli County): Mr. Chairman, I represent Buruli County. This county is found in Masindi District. We have another Buruli County which is in Luwero district. We share the same border but we are different entities.

I congratulate you on having been elected Chairman of this Constituent Assembly and your Deputy who is not here and all hon. Delegates who were elected to this august House. I would also like to congratulate, in particular, hon. Katenta Apuuli who has just taken the oath of allegiance this morning and I welcome him from America. *(Applause)*.

Mr. Chairman and hon. Delegates, Buruli county is inhabited by indigenous Banyoro, though there are several other tribes living in the county. There are Alur, Lugbara, Acholi, Langi, Atesot, Banyankole, Bakiga, Basoga and Baganda. In spite of this tribe mix, I am very proud to inform you that the people of this county live in harmony with one another and there are no feelings of being a foreigner in the area. The people of Buruli county are a practical example of unitary co-existence and hence their total support for chapter two paragraph 4(1) of the draft constitution which says *Uganda is one unitary sovereign State and Republic*. That is our stand.

From their past experience of co-existence with other tribes without strain, the people of Buruli feel that unitary government is the only saviour for this country to wipe out or gradually decrease the feelings of tribalism, regionalism, sectarianism, parochialism from the people of Uganda. Once those evils are wiped out of people's thinking, then national unity and identity will be achieved. The unitary form of government will promote the development of all areas enabling assistance to be extended to areas which are not endowed with sufficient resources in order to catch up with the rest of the country. However, the unitary government the people of Buruli are talking about is the one which should be highly decentralised. The people of Buruli further recommend that besides being a unitary, Uganda

should continue to be a Republic; that is having its Head of State democratically elected by the people of Uganda and the entire country should be governed under one form of government to ensure nation building and equal opportunities for development.

The people of Buruli send you warm greetings and appeal to hon. Delegates of this hon. House to be mature and understanding, nationalistic and respectful of other people's views in deliberating this draft constitution, now before us, in order to make a new lasting constitution which will maintain unity, peace, democracy and freedom, security and development which the people of Uganda are now enjoying since 1986. They agitate for a constitution which will set up a democratic system of government which will enable the people of Uganda to enjoy their basic rights and freedoms. They agitate for a constitution which will provide for a system which enables all people to play an active part in the governance of their country; and a constitution which will put in place a system of election which is democratic, free and fair and which will ensure that those elected to represent the people in the local and national councils are true representatives of the people. They also agitate for a constitution which will ensure that the Judiciary is independent and that the powers and duties among the executives, legislature and Judiciary are separated in such a way that no branch exceeds or abuses the powers given to it. They want a constitution which will be respected and defended by all people in the country when need arises. They also need a constitution which will reconcile different views, demands, cultures and traditions of our people.

For that matter, I appeal to my fellow hon. Delegates to adopt a spirit of give and take in order to make reasonable progress in our deliberations. However, all views submitted should be deliberated on and given serious considerations. Rigid stands should be discouraged.

On the defence and national security of our constitution, the people of Buruli have this to say: They observe that Uganda is a landlocked country which is surrounded by powerful neighbours. In the east we have Kenya; in the north we have Sudan; in the west, Zaire; south-east we have Tanzania and Rwanda. The military strength of these neighbours cannot be underestimated. In 1979 for example, Tanzanian Peoples Defence Forces were here and most of us should remember very well how they overrun the

Uganda army of that time in much less time than they had expected. That is more than 15 years ago. We know we are at good terms with our neighbours but you can never be sure of the future. In view of the above, the people of Buruli feel that there is need for Uganda to have a strong army which is well equipped and professionally trained. It should be the army which is pro-people and the army which is not loyal to one person or group of individuals or tribe. We need an army which recognises that it is the taxpayer who pays for their uniforms, salaries, bullets and other equipments which a soldier uses. The people of Buruli county do not want a soldier who is arrogant and harasses wananchi. Thanks to the NRA soldiers who have so far demonstrated the discipline of the highest order considering our past experiences and sufferings with those soldiers of the past regimes.

The people of Buruli regard the security of this country as pre-requisite number one in the new constitution. We cannot speak of stable security unless we have a stable army. We cannot have a stable army unless the army itself is of the national character. In other words the army should consist of people recruited from all districts of Uganda proportional to the population of each district. This would minimize the chances of the army being dominated by one region or group.

Qualification. The people of Buruli recommend that the army career should be equated to any other career in the Public Service. The minimum qualification today to join any Ministry or Department of the Public Service, Police or Prisons is 'O' Level certificate of Education. The same qualification, therefore, should apply to men and women who wish to join the army as their career. There are hundreds of people with this qualification who are roaming the streets. If the army personnel are well educated and well trained in their profession, then it would be very difficult for any political leader to manoeuvre them for personal ends. In addition to the qualification mentioned above, somebody to join the army, he or she must be above 18 years of age. That is the age we think he is mature enough for one to decide on the life and security of his country. Recruitment should be vetted by RC I Chairmen or local chiefs to avoid recruiting people of bad character or non-citizens into the national army.

Training of the army. Besides undergoing military training, army personnel should be taught Human Rights studies, Political Economy and the Constitu-

tion of Uganda. There should be compulsory military training services for all youths before they proceed for the university or college studies.

Public Service in Chapter 12. Mr. Chairman, the people of Buruli county emphasise the need to make a constitution which will guarantee a stable civil service, which will serve all types of governments without favour, fear, intimidation, harassment or favouritism of any description. We all know that most of the government day to day policies are implemented by civil servants. We also know quite well that most government projects or decisions have failed to be implemented by civil servants depending on how they are treated by the government of the day. Similarly, unless we put in place a strong and committed civil service, the implementation of the new constitution we are trying to make might be difficult. We therefore need a constitution which will guarantee constitutional rights of civil servants - public officers so that civil servants can enjoy their rights regardless of the government which comes in power. Such constitutional rights should include the following:

- 1) Any officer in any department or Ministry should not be superseded by a junior officer in any circumstances.
- 2) Arbitrary dismissals should be weeded out of civil service without any compromise.
- 3) Promotion or discipline of staff should be based on merit and not on the relationship or wishes of your immediate boss or head of department or on tribalism, or sectarianism of any sort.
- 4) Appointments of civil servants should not be based on the wishes of political regimes in power as such regimes come and go. For example, in this draft constitution, it is proposed that Parliament should be elected every five years. This would imply that civil servants will have to change after every five years, as well. This situation must be avoided and condemned absolutely.

Prof. Kanyeihamba in his contribution on the draft constitution last month stated that a constitution should be as brief as possible. I entirely disagree with this opinion. Constitutions of developing countries must be as detailed as possible. For example, chapter 12, Public Service is so brief that nothing is spoken of the civil servants' rights. It merely states the various types of the commissions of the public service, their functions and appointments. This is very dangerous to civil servants and other public officers.

Retirement benefits. The people of Buruli support chapter 199 of the draft constitution which provides for payment of pensions to public officers on retirement. The present law on retirement requires a public officer to be paid a pension if he has retired at the age of 55 or 60 or has retired after working for a minimum of ten years continuously. This is an attractive incentive but the people of Buruli observe two main bottlenecks which affect the pensioners and their relatives eventually. The pension paid is so small that it hardly caters for the basics of the retired servant after working for several years and sometimes incapacitated to do any other job because of age. Currently the pension is paid on the basis of just mere one over 500 of his basic final annual salary times the number of years served. The result is so small a package that it embarrasses pensioners to collect it from the accounts section. Worse still, the pensioner is not paid in time and normally one has to travel long distances to collect it eg Kampala or district headquarters.

The people of Buruli recommend that the new constitution should provide for a reasonable pension to people who have worked for government for a long time taking into account the inflation of the time. Pensions should not be taxed in any form, whatsoever. The pensioner's salary should be inherited by his wife or husband in case of death of a pensioner. In other words if a pensioner dies, his pension should be paid to the widow until she also dies. (*Interjections*). Yes, If the woman pensioner dies the same privilege should be extended to the widower. It is there practically but it should be provided for in the constitution. Since decentralisation of central government powers and functions is in the offing, pensioners should get their salaries from the nearest Gombolola chief or Parish chief to avoid transport costs.

Retrenchment. Civil servants or public officers should not be retrenched without full compensation. Today there are very many civil and public officers who have really suffered under this new term of employment. Some of them are retrenched without any coin paid to them. They are thrown out of official houses in such embarrassing manner as if they are the worst criminals of the society. Since the constitution in place today does not guarantee the rights of civil servants, the affected retrenchees have nowhere to complain or cannot take any court action.

Protection of the constitution. On the defence of the constitution, the people of Buruli say that, that will mainly depend on the attitude of our national

army. It is the army which has been responsible for overthrowing the constitutions of this country since 1966. In 1966, Obote used the army to bombard the Kabaka's palace and thereafter, to overthrow the 1962 constitution temporarily replacing it with the 1966 constitution. In 1971, Amin used the army to overthrow the 1967 and again in 1985, it was the army that toppled Obote II government.

LT. COL. SSERWANGA-LWANGA: Point of information, Mr. Chairman. The information I wanted to give the hon. Member on the Floor is that the first person to overthrow the constitution was not an army man. This was Dr. Apollo Milton Obote. He has never been anywhere in the army ranks. Thank you.

MR. KASANGAKI: I think the hon. Member did not get me clearly. He used the army to overthrow the constitution. Again, in Nigeria, the army has refused to hand over power to Abiola who is widely believed to have won the general election of 1993. Last week in the same country, a demonstration led by judges demanding the release of Abiola from custody was again dispersed by the very army. All this shows that the Army at any given moment has a big role to influence or protect the constitution.

In view of the above circumstances, Mr. Chairman and hon. delegates, the people of Buruli County support the inclusion of army representatives in Parliament by article 131 paragraph 2(a) which recommends ten Army representatives elected by the Armed Forces Council from amongst serving senior officers of Uganda Armed Forces. The people of Buruli county however recommend that those ten representatives should be directly elected by the army electorate using a secret ballot - one box - and on the basis of one soldier one vote. This will improve participatory democracy to be practised in all sectors of our society.

The most important factor in safeguarding the constitution is to politicise the soldiers, so that, a national army must be committed to defend the sovereignty of the people as stipulated by the draft constitution and must be prepared to serve under a government that is freely and lawfully elected by the people of Uganda. Unless this principle is kept in the minds of our army, the overthrowing of any constitution cannot be ruled out. In addition to the above, the people of Buruli county do recommend the current military training of all people to continue so that those trained can be called upon to defend the

constitution in case of necessity and availability of guns and logistics.

The constitution should be availed to the public in the languages they understand. It should no longer be a secret document to be known only by a handful of politicians. The constitution should be taught in all schools, colleges and universities of this country starting February 1995.

Land: The people of Buruli county support and recommend land tenure system which will, induce ownership and development. The land should be owned by individuals on freehold system. It is the most precious property that a person can own and as the owner, he should be able to sell or pass it on to another person without any hindrance. In that way, private development shall be encouraged. The role of the state should be to guarantee the ownership by issuing land titles and encouraging or facilitating land owners to develop their land, at the same time protecting the environment. The people of Buruli county, therefore, propose that the new constitution should guarantee absolute land title by the owner of the land in question. However, Uganda Land Commission should be retained and charged with the following: mainly to hold the titles of and manage land owned by central government. It should also be responsible for processing applications of persons seeking to acquire such land.

District Land Committees. After decentralisation, the district land committee should be responsible for processing land applications and issuing land titles of the undisputed land in each district as it sees fit.

Traditional rulers: The people of Buruli county thank the NRM Government for having restored traditional rulers where they are wanted and for your information, Mr. Chairman, the people of Buruli participated fully in the coronation process of Omukama Solomon Gafabusa Iguru I Amooti which took place on the 11th June, 1994. We thank the hon. Delegates who turned up for this occasion of the year. The people of Buruli are happy with their traditional ruler and are ready to support him provided he lives a modern life. By modern life here, we mean to say that he should not involve himself in politics and should be self-sustaining and developmental. The people of Buruli county, therefore, recommend that:

1) The property, assets, and estates which belonged to the Omukama in his official capacity before 1966

should be returned to him or to the institute without further delay. The *ohukurato* of the *Omukama* will then administer those assets, properties to raise revenue which will maintain the *Omukama* to live a life of his status.

2) The government should also contribute to the maintenance of traditional sites and places of national importance which preserve our national heritage. However, the revenue from such sites should contribute towards the maintenance of the King. We shall elaborate on that during the next stage.

The people of Buruli county further recommend that traditional rulers who have been fully instituted according to their customs and traditions should enjoy the following privileges:

1. They should be entitled to diplomatic passports if they happen to go out of this country.
2. They should also be exempted from direct personal taxation of any type.

On political systems, the people of Buruli county recommend for a political system which will guarantee the people of this country the following:

a) Political democracy. This will ensure that no interest groups should dominate the governance of the country and that leadership positions are accessible to all and that all political offices are elective, not selective.

b) Government by consent: This is the only possible under the effective participatory democracy including free and fair elections for representatives that people trust.

c) A political system that will ensure that the sovereignty of the people of Uganda which implies that all power of the State and its leaders will come from the people; a political system which will create national unity and stability; a political system where human rights should be protected and promoted; a system which should facilitate and recognise the importance of economic development; and also a system which should facilitate the peaceful co-existence of all groups and nationalities in Uganda. A system which will ensure accountability of the leaders to the people at all times. Mr. Chairman, since independence there has never been true accountability of leadership. As a result, corruption has impoverished the country and resulted in much destruction. Strict accountability and transparency are needed to restore national dignity. A fundamental change is required so that both leaders and the ordinary people know clearly the basis of accountability and the machinery at any time.

The past regimes of this country did not do well in any of the above principles. The 30 years of independence were characterised by politics of intimidation, insecurity, oppression of ordinary people, suppression of opponents, loss of dear lives and loss of properties and general poverty and suffering all over the country. In view of the above, Mr. Chairman and hon. Delegates, the people of Buruli county have instructed me to deliver this message that we want the present system of politics that is to say, the Movement system to continue. It is the system which has allowed us - those are the people of Buruli talking - to sleep and wake up peacefully and be able to participate in the movement politics without discrimination or harassment. Let the movement continue for another five years or more as long as there is a system of changing leaders peacefully. The manner in which the present movement has worked since its introduction in January 1986 has proved that it can protect and promote democracy and stability. This can be clear when one compares and contrasts the present Movement with other political administration Uganda has experienced since independence.

The movement has advanced most clearly the principle of participatory democracy. Under this system, the people of Uganda now compete on equal footing, stand for any post one wishes to compete without screening or vetting. They also have freedom to elect their representatives on merit rather than other considerations. The national unity and reconciliation have been served by the Movement. Ugandans need to cultivate mutual acceptance, tolerance and peaceful co-existence. The Movement has tried to reconcile all forces in order to lay a foundation for democracy and development. Above all, the NRM since it came to power, the policy of reconciliation has been followed faithfully and with evidence of success. General amnesties have been honestly implemented to enable exiled returnees settle down in their homes with total peace they never thought of.

On decentralisation, the people of Buruli county strongly support Article 201 of the draft constitution which recommends decentralisation of power and services from central government to local government and its lower levels. This way, the people of Buruli will be able to participate in decision making and implementation of their local affairs. The local government should be administered by elected representatives of the people who should be answerable to the electorate. The elected district council should

be the supreme political authority of the district with powers to make policies laws and so on.

The speech was so long and I hope it will be distributed to the people. But before I finish, I repeat again to the dear Delegates assembled here that, let us be mature and we deliberate the new constitution with maturity and a sense of accommodation so that the new document we are out to get by December of this year will last for ever and ever. I thank you Gentlemen. Thank you very much for listening to me without interruption. (*Applause*).

THE CHAIRMAN: I hope you thanked the Ladies as well.

MR. KASANGAKI: All Ladies are all included, Mr. Chairman.

THE CHAIRMAN: Thank you hon. Kasangaki.

PROF. NSIBAMBI: Thank you Mr. Chairman. I was wondering whether information could be given to the hon. Delegate who has just completed because he was still speaking when I put my hand up.

THE CHAIRMAN: But he has finished.

A HON. DELEGATE: Point of order, Mr. Chairman. Is it in order for hon. Nsibambi to sleep and when he wakes up he wants to inform the person who has already left? (*Laughter*).

THE CHAIRMAN: That is not true. Prof. Nsibambi was not asleep because I noticed his hand long before the speaker finished. So, Prof. Nsibambi, are you trying to clarify something for the benefit of the House?

PROF. NSIBAMBI: But there is a point of order. Is it in order for the hon. Delegate to suggest that I was asleep when I was fully awake?

THE CHAIRMAN: I have already ruled him not being in order himself because he had not seen you. I saw you, you were not asleep. So the issue does not arise.

PROF. NSIBAMBI: Point of information, Mr. Chairman. The point of information concerns article 211 which was appreciated by the hon. Delegate who spoke last and I wanted to inform him that the functions given under that article are merely

delegated and his area seems to be excited about delegated functions. I wanted to encourage him to be proud of powers which are not merely delegated because these are temporary, they can be taken away.

MR. AWORI: Mr. Chairman I am just seeking guidance. Under what rule is hon. Apolo Nsibambi speaking?

THE CHAIRMAN: Under the general powers of the Chairman from time to time to allow... (*Laughter*).

MRS. IDA BIKORWENDA (Women Representative, Bundibugyo): Thank you, Mr. Chairman. I am Bikorwenda Ida Woman delegate, Bundibugyo District. Thank you, Mr. Chairman, I appreciate your efforts on availing me this time to present the views of my people.

From my constituency, I bring congratulations to you and your deputy and all the Delegates present in this Assembly. Bundibugyo District appreciates government efforts to allow each part of this country through delegates a platform to comment or to criticise its administration since 1986. This is already a sign of democracy.

Bundibugyo district is found in the far West of Uganda. It borders Zaire on the West, Hoima in the North, East Kabarole. It is almost surrounded by Mt. Rwenzori in the East.

The people of Bundibugyo are peace loving and they extend their love to all their neighbours and the entire population of Uganda.

The people of Bundibugyo have, however, noted with great concern the failure of Central Government to settle the issue of our border with Kabarole. The people are very much disappointed to drag its feet on this very important issue when it is not ignorant of the history of the inception of this district with her neighbours. The people of Bundibugyo wish and have always cherished to see and live under a Constitution that places itself to an equitably balanced social, political and economical society. They strongly believe that it is only through balanced and well distributed resources that Uganda will see rural development and appreciate the national problems.

The district has one of the most complex co-existence of a multiplicity of tribes. However, featuring

prominent, are the Bakonzo on the slopes of Mt. Rwenzori, the Bamba, the Batuku and Babwisi who constitute the majority and yet still remain unmentioned in the Odoki Draft Constitution: Reference 2nd Schedule page 142. The Babwisi wish to see their tribe also included in fact. This one also prompts me to a reference of a circular read to us by an hon. Member who has almost misplaced some tribes in different districts, hon. Owori here and I therefore, propose that probably at the end of the Draft Constitution, we have a schedule addressing the districts of this nation bearing all the ethnic groups within those districts.

The people of Bundibugyo have this to say. They say the best Government for Uganda is a unitary and a Republican Government.

Language. On language, they would like to see English instituted as a language for official purpose and then Swahili should be made a national language. They believe that Swahili is the only natural language that can almost be understood by everybody in Uganda. To add to that, it has an economic impact and security with our neighbouring countries despite their own languages there.

Religion. They recommend free practice of religion. They recommend that these religions should observe a high degree of freedom of worship and should refrain from indulging deeply into politics especially partisan politics.

The people of Bundibugyo have a high sense in the interest groups and gender issues. They would like to see minority groups and special interest groups accorded their due respect and services. These include the disabled, women, children, etcetera. They say that women have a lot to be addressed in their security and indeed they deserve a detailed sector e.g. divorce, inheritance, sexual abuses, family planning, and so on and so forth.

Citizenship. They agree that every person born in Uganda as in the Draft Constitution, deserves citizenship of Uganda on application. But they had some reservation, on dual citizenship. They had a fear because the district is at the border and people with dual citizenship may actually end up; I say some, may end up being spies while others may siphon out funds made in that country because they are at a free will to move in and out. On this note, they recommend the introduction of national Identity Cards. There is too much entrance into our country

through national borders more especially through my district. Some uniform entry forms should be availed to entrants saying the purpose of their entry and the period which they will remain in this country.

Human rights. The people of Bundibugyo would like to see a Constitution which seriously and jealously protects the human rights. They believe that fundamental human rights are not negotiable because they are God given. They want to see a more definite protection of children from child abuses by their own parents, friends, relatives, or institutions. They want to put an end to the business of fathers shying away from their child upbringing responsibility ending some children onto the streets.

They say that death sentences should be abolished except sentence to life. They went on to say that children under 12 years should not be employed as tea girls or tea boys, bar maids, or in any institutions like schools where they are usually bullied which has resulted into some deaths of some students. There should be some regulations to look into this and be very strict and ready to prosecute the offenders.

They recommend a Human Rights Commission.

Political systems. The people of Bundibugyo have lived to see the turmoil caused by poor political structures which are themselves unrealistic, and irrelevant to our social, political, hierarchy in Uganda. They therefore, wish to see a Constitution that will have a greater control on such political organisations. On this note, they would like to have a political system that will foster unity, development and a sense of nationalism and respect of individuals, minority as well as majority.

Presidency. They strongly commend that the President be elected by universal adult suffrage through secret ballot box and that he/she should not hold office for more than two terms of five years each—that is on presentation of the national Identity Card. On this note again, I strongly recommend a five year extension of the Movement type of Government that accommodates all political groups; meanwhile, political parties clear the mess in their camps. What is it that the multiparty supporters are hoarding that they cannot advance through their representatives in NRC to build this nation together? They have been given time, unless there is something hidden.

Legislature. The people of Bundibugyo want Government with a Parliament. A person qualified to be

a Member of Parliament in addition to Article 133 page 54 should have a residence in that area and some developmental projects to be an exemplary leader. An elected Member of Parliament should cease to be, once appointed a Minister. The by elections should be conducted from his or her electoral area to replace him. Interest groups should continue being represented with a woman in every district.

They also want to see a provision put in the Constitution giving the electorate power to recall their members of Parliament once proved incompetent.

National Council of State. My people in Bundibugyo reserved their comment on the National Council of State, because they did not send a view about it, but it just appeared in the Draft Constitution. Therefore, they are opposed to it as the President might have influence on it. In fact, they prefer to see an independent and powerful Parliament that checks on the excesses of the President. They want to see the President relieved of the two much powers and he should be answerable to Parliament instead.

Judiciary. The people recommend a simplifying of the laws into simple, understandable local languages and educating about crime prevention. Some people know only of a few cases, murder, manslaughter, theft and yet even those well known laws and crimes have very complex classifications. Some do not even know that wife beating is unlawful. They therefore recommend the constitution of law courts to handle simple cases of civil nature. They also want to see quite an independent judiciary led by competent advocates, lawyers and judges. An independent judiciary is the only way to stop crimes like corruption, abuse of office, human rights and so on. They want judges to be appointed by Parliament and not by the President.

Decentralisation. The people of Bundibugyo welcome the decentralisation Programme, because it makes districts and local leaders more answerable to the people but they still want more with clearly defined roles.

The Public Service. The people of Bundibugyo want to see in the Constitution a provision that will encourage, uphold and protect an efficient civil service structure; they want a civil servants to have job security. They also wish to see an Article in the Constitution that prohibits nepotism, sectarianism.

incompetence, corruption and abuse of office. They also want to see a Constitution that will make civil servants servants but not masters of the people. A person serving a Public Service Commission should be of high moral character and approved integrity.

Traditional leaders. The people of the Bundibugyo district condemn any form of federalism. They only recommend the traditional leaders because people who so wish to have them and wish them long life they go ahead to thank the NRC that put there the phrase, those people who really so wish. But they should avoid these temptations of extending the leadership arm to where they only imagine it can reach without the wish of the people.

The people of Bundibugyo have never, independently and freely, had a traditional head and are happy to continue without any at all. In places where they are, they recommend these leaders to be apolitical and developmental to avoid mixed interests with Central Government.

Land. It should be customary and freehold. The land should be decentralised and borders should be created in districts so as to ease land title acquisition.

Defence and national security. The people of Bundibugyo want the defence of Uganda be undertaken by the Uganda Armed forces and want to see an Army, that is a nationalistic, professional, disciplined, productive and subordinate to the civilian authority established under this Constitution. They still want to see the Army actively participating in the democratisation process because, like any other public officer, the Army man is only one by profession, but a citizen of Uganda like any other person.

On that note, therefore, they wish to see a provision that only allowed citizens of Uganda be recruited in the Army. They also want to see the Army of Uganda drawn from all tribes of Uganda on equal representation depending on the population of those administrative units.

Police. They want to see a Constitution that will create a provision concerning the police. Every police post in Uganda must be organised in a manner that will ensure the safety of the Uganda citizens and property. They therefore, agree with Article 241, page 104, Chapter 14 of the Draft Constitution.

Lastly, the people of Bundibugyo would like to

appeal to the Constituent Assembly delegates to exercise a high degree of restraint, to try to respect each and every view voiced by the fellow delegates. They also appeal to those who are opposed to negotiations on some issues to be tolerant. They know that we were sent here to negotiate and nothing else. We may agree or not, but they are very optimistic that with good voices, understanding and tolerance, a Constitution that will stand the test of time will be endorsed. For God and my Country. Thank you.

THE CHAIRMAN: Thank you hon. Bikorwenda for our contribution to the debate and that brings us to the last speaker for the day. Before I adjourn, I have an announcement to make. This is to remind Members of the Business Committee that we have a meeting of the Committee today at 3.30 p.m. this afternoon. The meeting will take place in Committee Room A, not in Committee Room C, as had been given earlier. Members should arrive in time so that we go through the business as soon as possible. With that I adjourn the Constituent Assembly to tomorrow at 8.30 a.m. in the morning.

The Assembly rose at 1.40 p.m and adjourned until 8.30 a.m. Thursday, 14th July, 1994.