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Thursday 1st September 1994.

The Assembly met at 8.30 in the International Conference Centre, Kampala.

P R A Y E R S

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

ADMINISTRATION OF OATH.

MR. MASIKA GEORGE:

COMMUNICATION FROM THE CHAIR

THE CHAIRMAN: Before we go to the next items, I would like to congratulate Hon. Masika for rejoining us and I am speaking on your behalf that now our numbers have come back to full strength and we congratulate him on having successfully gone to the people and come back to join us. Hon Masika you are wellcome. *(Applause)*

CONSIDERATION STAGE OF THE DRAFT
CONSTITUTION OF THE REPUBLIC
OF UGANDA

CHAPTER FIVE ARTICLE 50

THE CHAIRMAN: Hon. delegates, yesterday we started work on Chapter Five of the Draft Constitution to discuss the details of the various provisions. We had completed the amendments proposed on the Title of that Chapter. Now we go into the various Clauses of Chapter Five.

MR. WACHA BEN: Deputy Chairman of drafting committee, Mr. Chairman, you will have noticed that in our circulated amendments we had proposed that Article 50 Sub-article 2 and 3 be combined, and that amendment was going to be proposed by Hon. Zubairi and Hon. Mugenyi, however, it has transpired that Hon. Grace Akello has an amendment in Clause - it should be Clause 50 sub article (2). There is a circulated paper which says Article 51, but I think my understanding is that, she wants every person in Uganda to have a right to own and inherit property. If you could clarify from hers Mr Chairman.

THE CHAIRMAN: The text I have with me which bears some alterations from the technical committee

indicates that Hon. Grace Akello seeks to amend Article 51. But the Deputy chairman of the legal and the drafting committee is saying that, it is possible that she wanted to amend article 50 Clause (2). Could we get information from Grace Akello - Honorable as to what her intention is really.

MS. AKELLO GRACE: Thank you, Mr Chairman. Actually, it was article 51 which we thought should be amended. However, if the chairman of the drafting committee thinks that the amendment is more appropriate higher up, we would consider it even at that article on Fundamental Rights and Freedoms. But we really wanted to peg it down to article 51 and make it Clause - I do not know I am not a lawyer - Clause (2) rather than to the present Clause (2).

MR. WACHA: Thank, you, Mr. Chairman. We had considered this of course, all amendments, Mr. Chairman, and we had thought that the principle behind it could have been handled by the combination of sub-articles (2) and (3) of Article 50 as proposed by Hon. Zubairi which reads, "Every person shall enjoy equal protection of the law in all spheres of political, economic, social and cultural life". Now if there is a proposed amendment, I think that if we should follow logically under (2) so that we have sub article - if possible sub article (2) under 50.

THE CHAIRMAN: And then 3 becomes - and so on and so forth.

MR. WACHA: That is right.

THE CHAIRMAN: Let me get the others also to be with us so that we can make our comments when we are all knowledgeable. What the Deputy chairman is suggesting is that we would take the amendment proposed by Hon. Zubairi and Hon. Mugenyi but then also interpose a new Clause (2) and that the others are renumbered accordingly. Because in view of the legal and drafting committee, that would be the better home for this particular provision which is being proposed by Hon. Grace Akello. Now you have been wanting to make a statement, is it in connection with this?

AN HON. DELEGATE: Mr. Chairman, I wanted clarification in view of the amendment we made on the Title yesterday of this chapter

THE CHAIRMAN: No, we do not go back to discuss the Title, we have finished with that one.

MR. NABUDERE: Mr. Chairman, I think the proposed amendment by Hon. Akello in my view, would properly come nearer to Articles 56 and 57 which deal with property - with protection from deprivation of property, that 56 and 57 - Right to privacy of persons home and other property. I think it is better around there than in 50 or 51 which deal with the general principles of - with more general issues than with property or any particular issue.

THE CHAIRMAN: Could we hear the wording of Hon. Grace Akello's proposed amendment so that we can see whether this is - where it should be. Could you read it out.

MS AKELLO: Mr. Chairman, I will read the wording, then I will put in a word about why it should be - in our opinion, why it should be higher up than 56 which talks about property.

THE CHAIRMAN: It makes no difference in terms of law anyway.

MISS. AKELLO: But it says every person in Uganda has a right to own and inherit property. This is for us - should be an inherent really.

THE CHAIRMAN: Hon. delegates, I think 51 enumerates rights and their protection and then amplifies on them in articles, for instance, protection - deprivation of property without compensation is amplified in 56. Now the only benefit of putting it here without it being amplified upon would be that, you are saying, a fundamental right to be protected right away. I think the best answer to this one would be - the House should be guided by advice of the legal and drafting committee whom we have given the job of advising us on these matters. In view of the comments the Hon. Nabudere and Hon. Grace Akello, what does the Deputy Chairman of the legal and drafting committee say so that we can proceed.

MR. WACHA: Mr. Chairman, I think let us discuss the principle behind it, the place where it should be situated could be left for the legal and drafting and technical committee to decide upon. We could discuss just the principle behind accepting this amendment as it is, and whether it differs specifically from the ones being proposed by Hon. Zubairi and Hon. Mugenyi, and we decide where to put it or where to

place it, so the House could give us that mandate. Mr. Chairman.

THE CHAIRMAN: But the only problem for the chair is that, to know when to call upon -

MR. WACHA: We could call it as proposed by Hon. Akello under 51 and specifically saying it is not proper but we could still call it for purposes of discussion under 51.

THE CHAIRMAN: With that clarification, we now proceed to the amendment and the first amendment for today is by Hon. Zubairi Atamvaku and Hon. Mugenyi. They seek to amend by adding a new Clause to Article 50.

MR. ATAMVAKU ZUBAIRI: Thank you, Mr. Chairman. On behalf of my Colleague, I wish to state that, having examined the material aspects of the two Sub-Clauses, that is Article 50, Sub-Clause (2) and (3), I beg to move that Article 50 Clauses (2) and (3) page 19 be such that, Clauses (2) and (3) are deleted and we insert the following new Clause: "Every person shall enjoy equal protection of the law in all spheres of political, economic, social and cultural life" Mr. Chairman I beg to move.

THE CHAIRMAN: Is that seconded? It is seconded okay you can speak on your Motion.

MR. ATAMVAKU ZUBAIRI: Mr. Chairman, as I have indicated in a personal way in moving this amendment, our concern here is really with the material dimension of the two clauses. We are so much concerned with the formal aspect because that really relates to the duty of the legal and drafting experts. However, Mr. Chairman, we made thy grace -(Inaudible)- big in the formal aspects if that really does touch upon the validity or the vital aspects of the two Clauses. We considered it worthy moving this Motion of amendment in respect of the Article and these Clauses in question on five grounds.

Mr. Chairman, in Article 50, Clause (2), there is already a categorical affirmation of the right of each and every person to receive and or enjoy equal protection of the law. Mr. Chairman, it is our humble opinion that, this is a proposition of primary right to which no derogations can be appendages. And indeed, we recognize that that Clause rightly does so. However, Mr. Chairman, we are also aware that, the person enjoys equal protection of the law as a human

person with his or her own volition desirous to fulfil his or herself in the society. For that matter, that person is a part of the dynamics of society wherein the person engages in certain activities which may be political, economic, social cultural or all those simultaneously.

Mr. Chairman, these activities indeed are valid and they stretch through and through. It is actually in the course of realizing the common good in all various spheres of life that the protection of the law is enjoyed. Now, Mr. Chairman, by asserting one aspect of which is already contained in 50. Clause (2) in a more or less automated way where there is a secondary consideration into this in the following Clauses, we feel that, the primary right is being watered down. This compromises an aspect which we considered to have been primary, and categorically already stated in Clause (2). This fact is evidenced Mr. Chairman, by the fact that, there is a shift in the usage of the language. In Clause (2) we read, *"Every person shall enjoy equal protection of the law"*. But in Clause (3) there is a shift, we no longer talk of protection of the law, but we say men and women shall be equal under the law.

We believe that this shift of language usage renders what was already primary in Clause (2) to a secondary position. For that matters Mr. Chairman, we submit that the former usage is much more exact, more categorical, more compelling and indeed more precise requiring no more repetition. Again, we say that *"every person"*. This expression *"every person"*, already takes care of man and woman. It is free of any gender insensitivity as it is free of any gender negligence. Now to reduce the same article which is already asserted in (2), Mr. Chairman, into men and women, is to restate the obvious and moreover to do so unnecessarily.

Mr. Chairman, we finally, wish to submit that our amendment tallies with the need for brevity and comprehensiveness of both the desired and intended meaning. Hence, the amendment contains all the concepts that are scattered throughout in Clauses (2) and (3) namely, the person, irrespective of gender and other discriminatory differences in social categories, enjoyment of equality, protection of the law and so on and so forth. With these few words, Mr. Chairman, therefore, we consider that this could constitute sound basis for moving this Motion of amendment. However, we also wish to observe that our amendment may appear to be a mere linguistic

gymnastics. But I wish to allay the fears here. I wish to say that, where there is a danger of semantic interpretation in various ways, the constitution or we the makers of the constitution have to adhere to brevity because such an interpretation or room for interpretation may leave room for manipulation for that matter. Mr. Chairman, I pray that, the August Assembly accepts our amendment. I beg to move. Thank you.

THE CHAIRMAN: Okay, let me propose the question first so that we can debate it. The question is in texts of the amendment moved by the two Hon. Members that Clauses (2) and (3) of Article 50 of the Draft Constitution be deleted and in there instead be inserted a provision to the effect that every person shall enjoy equal protection of the law in all spheres of political, economic, social, and cultural life. The question is now available for debate.

MRS. MATEMBE: Thank you, Mr. Chairman. Mr. Chairman, I wish to oppose the Motion on the grounds that the mover is purporting to marry the two Clauses thinking that they say one and the same thing except for words but that is not true. Mr. Chairman, Mr. Chairman, Clause (1) says a different thing from what Clause (2) is saying, and I will explain by using two examples. Mr. Chairman, Clause (1) says, every person shall enjoy equal protection of the law. It is -

THE CHAIRMAN: That is Clause (2). I think you are referring to Clause (2).

MRS. MATEMBE: Clause (2) Yes, we are on Clause (2) and (3), I beg your pardon. Now on Clause (2) it says, *"Every person shall enjoy equal protection of the law"*. Of course, it is taken to include all persons both men and women, that is why it is saying *"every person"*. What this means is this, that this law which we have in this country must protect everybody equally. For instance, if there is for instance a criminal - the Criminal Code Act says, *"If anybody causes grievous harm to another person, he has committed a crime and he must be charged and punished for it."* That means that, every body who causes that grievous harm to anybody, that person, anybody - be it a woman or a man, should go to a court of law and get protection of the law. That is what it is saying. I am not going into the details of it because even if I was going into the details, you know very well that when we say, a man beats a fellow man, the beaten goes to court, they

arrest him and he faces the law and he is punished. But when a man beats his wife, things are different. Mr. Chairman, I would like to ask the Members to kindly really listen to me because these are the true facts. When women go to report to police, they say please, Madam these are domestic matters, go back home. Honestly the gentlemen know that that is happening. Nevertheless, -

MR. RINGWEGI: Mr. Chairman, I have listened to the Honorable presenter on the Floor, and I find a bit of difficulties. I am now trying to find out, Mr. Chairman whether she is in order to mislead the House on a point of law. She has rightly stated that the law about causing grievous harm does not discriminate between woman or man, the point I am trying to say here is that, it is misleading for her to go further to say that when a woman reports the case of assault to the police, the police refers the woman back to the husband or to go back to her home. It is misleading because, here, the law provides that a woman has a right to report a case of assault but if the police in their own decision, or in their own discretion refuse to implement the laws, that does not mean that the law is not in place. That is a question of the implementors. Therefore we should not be confused by the Honorable presenter that the law in itself discriminates. Is she therefore, in order, Mr. Chairman to make that confusion on the Floor of this Assembly?

THE CHAIRMAN: What you have just raised does not amount to a point of order. In fact you are only making counter arguments against hers.

MRS. MATEMBE: Thank you Mr. Chairman. I hope the Member will get his time to talk on this matter. But what I am emphasizing here is protection of the law. Protection of the law -

THE CHAIRMAN: But may be Hon. Matembe if you can confine yourself on the conceptual understanding of the provision - protection of the law as against your experiences in the field.

MRS. MATEMBE: Mr. Chairman, I am confining myself to the distinction between these two provisions because they are certainly different. One is saying protection of the law, and what it intends is that, once you two go to Court, you should be equally protected by the law. Now, number two, Clause (3), every person - no, men and women shall be equal under the law in all spheres. What it means here is

that, the law which is made is made in such a way that it treats all people equally. What it means here, Mr. Chairman, I will also explain with an example; when you look at our current laws, for instances when you look at the laws of divorce, you will find that the Marriage Act is treating a husband and a wife differently. Because it says, that when a husband is to divorce a wife, he needs to prove only one ground and that is adultery. The same law comes to the woman, and it says that for woman to divorce her husband, she must prove two grounds, or three or more. But at least it must be more than one - adultery plus another one. So, that means that, the law is treating people differently not equally. Even when it comes to custody of children, even when it comes to the very constitution of 1967, which actually embodies an equal treatment -

MR. OMARA ATUBO: Point of information, Mr. Chairman, I am fully in agreement with Hon. Matembe but I would like her to look at Article 61 and Articles 13, 14, 15 and to decide whether those Articles and Clauses do not really go far enough to protect women in the direction which she is arguing. Therefore, what she is arguing to be included now in her argument against the amendment may be superfluous and unnecessary because Article 61 and Articles 13, 14, 15 are already catering exactly in the line of her argument. Mr. Chairman, thank you.

MRS. MATEMBE: Mr. Chairman, I am glad about the information but I want these provisions to remain here at this opening chapter of fundamental human rights and freedoms. They are very important statements from which all the rest come. It starts by emphasizing as you see from the side note, protection of fundamental human rights and freedoms, here they are general, the other ones are specific provisions but I would rather we have this general provision as the opening provision of all these articles entailed here. But at least, what Hon. Omara is saying that the distinction I am bringing is there, it is genuine it is right, and you cannot join the two with this one Clause which presupposes that there is one meaning. I thank you, Mr. Chairman.

MR. MASALU MESENE: My understanding, Mr. Chairman, of Clause 2 is that it provides for the protection of the law to everybody. Now when it comes to Clause 3, it guarantees equality to men and women. So, to me, the two are completely different, and we should therefore not misconstrue this concept of privity of the constitution to amalgamate two

different provisions meaning two different things. Mr. Chairman, the two are different in that, the intention of Clause (3) is to protect women against oppression either politically, economically, socially or otherwise. Mr. Chairman, we know of some cultures for example in some parts of this country which discriminate against women. There are some cultures for example, that women should not eat hens or chicken, there are some cultures which make it mandatory for women to be inherited when a husband dies. A woman is to be inherited by clan members. Now, at this stage when there are so many problems in the world, such cultures are negative. So the aim of Clause (3) is to guarantee equality of women that they should not be discriminated against. Or for example, even the law of inheritance in some areas, although it has been now redefined but you would find that, there was some aspects of discrimination against women. So, I stress the point of Hon. Matembe that it should be stressed as a fundamental human right that, men and women should be guaranteed equality in all spheres of life. So the two are completely different and they mean different things and therefore, they should not be amalgamated. I therefore, oppose the amendment. Mr. Chairman. *(Applause)*

MR. ATWOMA: Thank you, Mr. Chairman. Mr. Chairman, I stand to support this Motion all heartedly because, I would like to draw the attention of this honorable House to a definition which had been previously given to this House about humans. That human - these are all in all one. The question between men and women is just a matter of coincidence of creation, but otherwise they are all human beings. And the making of the laws that we always give are basic and you will find that laws are made of political behaviors in the country and economic and even socially and culturally. So when we talk of the law it fits under these categories. So, Mr. Chairman, I would like to allay the fears of Hon. Matembe by saying that women always receive different treatments when they go to the police to complain for wrongs done to them. This one, I would say, may be the neglect of the police men at that point of duty. But just should not be taken as a weakness of the law of the country, and for this reason, Mr. Chairman, I think let us see very "perspectively" and very clearly in our minds that we are dealing with human beings. And this is giving us the equality that the women are always clamoring for, that they want to be equal with men, they want to be treated as human being. If this amendment is just taking them that we

all fall under the same category to be treated like human beings, and now here it is discriminating against men. To say who should be treated differently, I am a very sorry about it. I support the Motion.

MRS. BAGARUKAYO JANET: I strongly oppose the amendment. Not because I am a Lady, but because I am talking on what really has been going on in society. When we look at humans in society as far as men and women are concerned, those people look at the men immediately, and as Hon. Matembe has said that, this is an opening Clause or protection of fundamental human rights and freedoms so I do not see why we do not include a Clause after every person and we specify what type of persons we are talking about. We should have the men and women and having their rights considered. Thank you very much. Mr. Chairman.

MR. LUMALA: Point of clarification. Mr. Chairman if these Clauses are enacted in the constitution, will that mean that daughters will have a right to be heirs to their fathers when the father passes away.

THE CHAIRMAN: The provision does not say so specifically, but other laws can flow from it subsequently.

PROF. KABWEGYERE: Thank you Mr. Chairman. I would like to join those who are opposing the amendment on two grounds. One, as already pointed out by Hon. Matembe that (2) and (3) are talking about different matters. Secondly, if one was to accept the amendment as proposed, one would wonder whether to have number 4. Because I think we should look at the article as a unit because of the brevity that is supposed to be positive as now expressed in the amendments, should stand for the whole article. Because why should we now talk of no person should be discriminated against on grounds of sex, race and so on because if every person shall enjoy equal protection of the law, it would mean even that will be wavered. But I think we should know that as the title says they are general, we are trying to be definitional and therefore help enrich the vision of the provisions. And think having the three, I mean the four, as outlined in the proposals, we are enriching that whole chapter. Because the rest will draw from this general statement. Now the general is usually general, and I think when you become too, too narrow as the amendment is proposing, I think it depicts the purpose. I oppose the amendment.

DR. MUGYENYI: Thank you Mr. Chairman. I am a co-sponsor of this Motion on the grounds that my amendment was, on the advice of the legal committee which is technical, indicated to us that - actually I can quote even Hon. Karuhanga who indicated to us that actually the two are saying the same thing, and we were advised in this House that we should take the advice of the legal and drafting committee as technical advise.

Mr. Chairman, article 52 is talking about protection of the citizens by the law. 53 is talking about opportunities: men and women having equal opportunities in the spheres of political, economic, social and cultural life. The only problem with those articles was that, Article 3 was leaving out children who should also enjoy equal protection in those spheres indicated for men and women. I want to indicate here that people should not take it that we had intended to remove the rights of women. I am a strong supporter of women's rights and I am a strong supporter of enacting laws that do not discriminate against women. But we combined the two articles because we thought the two are talking about the same thing.

Two is talking about equal protection, three is talking about equal rights under the law and Mr. Chairman, we thought they could carry the same meaning if they were combined together. Thank you, Mr. Chairman.

MRS. MWESIGYE HOPE: Thank you very much, Mr. Chairman. Mr. Chairman, I would like to oppose the Motion. The proposed amendment is too restrictive, it talks only of - clause (2) that is of the principle of protection under laws and it leaves out the very, very fundamental principle of equality which is actually the corner stone of raising the status of the hitherto disadvantaged. Mr. Chairman, the two Clauses are very explicit and are very different. Under the principle of protection under law, Hon. Matembe has laboured much and I would like to compliment what she said. If we look for instance at the law of adultery - criminal adultery, criminal adultery provides that if a man has sexual intercourse with an unmarried girl, that is not adultery yet, when a married woman has sexual intercourse with an un married man, that is adultery. Surely clearly, that shows that the protection of the law in that sphere is different for the man and for a woman. And when we talk of civil adultery, a woman is supposed to give two grounds upon which a divorce

can be effected when a man brings only one. Surely that also clarifies that the protection of the law leans more towards the man than the woman.

If we look at Sub-Clause (3), that is the one talking about the principle of equality, I would like to clear some of our minds here that, equality in that respect talks of legal capacity and talks equal opportunity. If I could expand on legal capacity, it means that for instance, if a woman wants to have her child endorsed in her passport, there should not be a requirement that her husband must consent when the reverse is not true. When you look at the Guardianship Act, if a father of the child dies then next person entitled to be a guardian is the male relative of that child and not the mother. That presumes that that mother is not an adult of sound mind. She is treated as a minor. So that is the legal capacity we are talking about which is actually enshrined within this principle of equality.

Then of course the principle of opportunity, it talks of equal opportunities in employment so that there is no discrimination in employment, in education, in owning property, in rights within the family and so on and so forth. So those two principles are very, very clear each one of them deserves an article by itself.

There is an honorable Member who raised the issue of Article 61. Article 61 talks of the dignity of women. To me, dignity is different from equality and therefore, these Sub-Clauses could not be encompassed under Article 61. He also talked of articles 13 and 14. 13 talks of the protection of the family, and we know that the family is a unit composed of women, men and children, it is a general article and even 14 which recognized the role of women. Actually, that role is in respect of women's contribution to development and in addition, Clauses 13 and 14 are contained in the Chapter setting out the principles and objectives of the text yet we want the text to have both principles there, and we want specific provisions talking about protection, equal protection under the law and equality under the law. I thank you, Mr. Chairman.

THE CHAIRMAN: I think we had a very useful discussion of this matter. I will take on the two speakers from this side and we go on to vote.

MR. WAGIRA: Point of clarification, Mr. Chairman, I am confused and I would like to be clarified, if possible by the chair. I would not mind, because in

my understanding. I do not know whether it is right. I think that this constitution was written as the result of the history of our country, at least, being put into consideration. And I think that this blanket provision for protection of every citizen under the law was there in our previous constitutions and I think there could have been an attempt to go further, beyond this to find out why, in spite of that provision of protection of every citizen under the law, there has been an imbalance, especially on the part of the disadvantaged groups like the women. And I feel that may be this could have been the source of the emphasis because if you look at Clause (2) *(Interruption)*

THE CHAIRMAN: No, now you are going into contribution. You wanted to be clarified on what?

MR. WAGIRA: Now the clarification I seek, Mr. Chairman, am I right to believe that that article goes beyond that blanket by having in it an element of gender and affirmative action, and therefore, quite independent of (2), and therefore serving a different purpose?

MR. MULENGA: Thank you Mr. Chairman. Mr. Chairman, I hope I can assist the previous speaker this way. I see the two provisions being confused because they both use the word equal. But in fact, they are talking about different rights. In Clause (2), what is being declared as a right is the right to be protected by the law. In Clause (3), what is being protected is the right to equality. You can say men and women, you can say every person but the essence is, we are protecting equality. In the first one, we are protecting the right to protection by law. So the use of the word equal in both may have caused confusion but really, the two are different. Therefore I also oppose the amendment. *(Applause)*

MR. KOMAKEC: Thank you, Mr. Chairman. I am in support of the Motion of the amendment on the Floor on the grounds that under this section, we are now only dealing with general principles of the protection and promotion of human rights and so, we have to be fairly general and accommodative indeed. The equality the last speaker Hon. Mulenga was saying there is quite true that, there is equality in the essence of the idea, merely the idea of being equal in anything. Whereas the second part actually qualifies it in what respect will the law protect that equality. The equality as a principle, is not divisive, you cannot divide it into parts. We are only saying that it will be effected in these areas in the social affairs,

getting passports, in economics, equally opportunity in politics and the like. So, I would like to say that, since we are only dealing with the general principle of the protection and promotion of this, these two could be easily accommodated if we are - this is a very small amendment to the original commission that, every person shall be equal under the law and shall enjoy equal protection of the law in all spheres of political, economic and social life.

So I would like to combine the two that, this equality is effected in those fields by saying that the law shall protect the equality in respect to this area. So, my amendments therefore, the amendment to this one is to include the words *"every person shall be equal under the law, and shall enjoy equal protection."* So, I beg that the mover of the Motion could accept this one because the two coordinates really enforce each other because we are dealing with the general principle of protection, Mr. Chairman.

THE CHAIRMAN: That one would be if it is seconded.

HON. DELEGATES: Yeah!

THE CHAIRMAN: It has been seconded and let me frame it so that we know what we are talking about. We shall dispose of this one then you can move yours otherwise, we cannot have two amendments running concurrently. That the Motion be amended, and I would like to ask the mover to put it in writing as our rules require and bring it here so that we send it to the chairs but I would hazard to summarize what he said. The amendment reads *"every person shall be equal under the law and shall enjoy..."* In other words, the words which are being inserted are, *"be equal under the law and shall enjoy equal protection of the law in all spheres..."* The rest remains as it is. Now we debate this amendment first, we shall dispose of it before we go to the earlier amendment.

MR. BIDANDI SSALI: Thank you, Mr. Chairman. First of all, before I give my contribution on this, I was under the impression that really if we have to move an amendment, or if one feels something was left out, that is one, that it should be included. Two, if something was included which should not be included, three, if something was included and it dilutes or negates the offence of any particular article. But if something was included and it amounts to an emphasis, I think it is a waste of time of this

House to come and say, remove an emphasis or include an emphasis, amend an emphasis, it is just a wastage of time. Mr. Chairman. *(Applause)* But to come to this particular point, even the original amendment really is trying to remove -

THE CHAIRMAN: I think we are talking about the amendment of the amendment.

MR. BIDANDI SSALI: Yes, I am just making a background. Even the original amendment is talking about the emphasis and not substance not anything left out, not anything that dilutes, not anything that negates. Now this particular one, if now this amendment - the second amendment, say is rejected, it means by this precedence, I can move another amendment to this particular amendment so that we can have as many as ten amendments to an amendment, and it is really, Mr. Chairman, in my own view a waste of time. *(Applause)*

On this one, we have had discussion against and for, and both the mover - both the fellows - the honorable Members who moved the amendment gave contribution. It would only be natural that we get rid of that. This is another way of moving an amendment on the Floor. So, Mr. Chairman, I definitely oppose this particular one because what is included is here, as explained by so many honorables, is very obvious, the two are different as put by Hon. Mulenga and Hon. Matembe and so on and so forth. It does not make any difference, in fact the amendment now, to me as a lay man I would say that, is there no law which is out side the spheres of political, economic, social and cultural life? Is there no other sphere which, at this moment, we might not have taken into account. It says the environment included in here is anything as included in here. So Mr. Chairman, I end by opposing the second amendment, I end by opposing even the first one, I end by advising very strongly or rather expressing an opinion very strongly that even those who are making and planning to make amendments for the good of what we are doing, should really go to the substance which negates, to the substance which dilutes rather than anything to do with a removal of a comma, of emphasis. Thank you, Mr. Chairman.

MISS. BYANYIMA (Mbarara Municipality): Thank you, Mr. Chairman. I associate myself with the remarks of Hon. Bidandi Ssali but I would like to say that in fact the first amendment and the amendment of the amendment actually leave out the pur-

pose of Clause 3. That we explicitly state the principle of equality between men and women and I beg the House to understand that women in this country have brought this struggle a long way, the struggle for the equality of men and women and this country is a party to treaties that state very very explicitly this principle of equality between men and women. Those who have moved this amendment seem to want to take us back to the 1967 provisions which provisions were not sufficient, were not explicit and we know that in our cultures, that in our ways of life, that in everything that we do, we have not yet accepted that principle. So those who are moving this Motion want to reverse the gains that the people of this country have made towards achieving this principle. I believe so and I have seen in this House that those who are advancing this reversal of the gains that women and men have made towards total liberation of human kind are in fact the multi-partyist, I am afraid to say. That is so far as I have noticed, Mr. Chairman *(Interruption)*.

THE CHAIRMAN: No, you are now bringing in a different element into debate.

MISS. BYANYIMA: Mr. Chairman, I will qualify what I am saying.

THE CHAIRMAN: No, no. I think we are debating Hon. Komakec's amendment and we should not go beyond that and bring in other ideas which have yet to reach the floor.

MISS. BYANYIMA: Thank you for that correction, Mr. Chairman. I will modify what I am saying. What I am saying is that those who are advancing this Motion that we reverse these gains should consider that some of us are going to advocate for a political system that is going to liberate the whole of human kind, they should revise their position. If they want us, later on to consider political systems they are advancing, Thank you, Mr. Chairman.

THE CHAIRMAN: Members should not anticipate debate of what is going to come on the Floor in their speeches now. Now, let us vote on this one. I think we have had enough discussion on it. We are now voting on the amendment by Hon. Komakec of the original amendment. Hon. Komakec wanted to amend the original one so that it reads: "*Every person shall be equal under the law and shall enjoy equal protection of the law in all spheres of political, economic, social and cultural life*". Once we

dispose of that one we go back to the Motion by Hon. Atamuvaku and I will also be conducting a vote at that stage. So let us now vote on the Hon. Leander Komakec's amendment.

(Question put and negatived).

THE CHAIRMAN: Now, we go back to the original Motion. I want to put the question. The original Motion was to amalgamate (2) and (3) in terms I have already read out.

(Question put and negatived).

THE CHAIRMAN: Now, the next amendment. Order. I have before me a schedule of Members' Motions that have been moved to amend other provisions of Article 50, and this one is by Akech Okullu and Egunyu Fiona. They would like to amend Clause (2) of 50. I give the Floor to Hon. Akech Okullu.

MRS. AKECH OKULLU (Women - Gulu): Thank you, Mr. Chairman. I beg to move, Mr. Chairman, that the word "birth" be inserted immediately after the word "tribe" in Clause (4) so that the Article reads "No person shall be discriminated against on grounds of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing or political opinion." My reasons for moving this Motion and my Colleagues are few (Interruption) - No, it has been seconded.

THE CHAIRMAN: There is a point of order.

AN. HON. DELEGATE: Mr. Chairman, on the advice of the Vice Chairman of the Legal and Drafting Committee, I beg to stop there.

THE CHAIRMAN: Yes, he has withdrawn his intention to raise a point of order. That is the summary of it all.

MRS. AKECH OKULLU: Thank you very much. My reasons for moving this Motion, according to the UN Convention on Human Rights and Freedoms to which Uganda is a signatory, all human beings are born free and equal in dignity and rights and in Article 2 of the African Charter Of Human and Peoples Rights of the OAU, 1991, discrimination on the grounds of birth is prohibited. In moving this Motion, Mr. Chairman, I would like Uganda to conform to this international Standard of Human

Rights and Freedoms. If we accept that all are born free and equal, then we should accept to show this out clearly in the Constitution. Omission of or silence on the word "birth" has grounds of discrimination, it can be misconstrued to mean agreement or acceptance of this discrimination on that ground. Silence, we all know, is normally supposed to mean agreement. This can easily compromise the state if left and it can actually legalise discrimination on this ground if the Constitution does not address it seriously. Two, let us remember the social stigma that certain children undergo because of circumstances of their birth, just because they are born out of wedlock. I am aware that there are no legal provisions that stop a child from being legitimate, in other words we do not have illegitimate children in Uganda but I know that a number of children are stigmatized, they are denied support, they are denied education, they are denied even property ownership because of this social stigma which is attached to their circumstances of birth. Those are very unfortunate and actually, they can bring about psychological sufferings to such children.

I am also aware that within the Draft Constitution, we have social standings and I have been approached and many people tell me social standing is actually synonymous to your circumstances of birth but I disagree because I know you can be of high social standing through your education, through your social or state power, through your acquired wealth but you can never change your circumstance of birth. You can never change your circumstance of birth through those factors I have listed above. If we look at the Indian caste system which many people tell me is ethnic but I know it has some circumstances of birth attached to it, we find that in India a person of low caste, however rich he is, he may be the richest in the whole world but he can never be accepted as a person of high caste. Many people tell me that this is not happening in Uganda now but we are making a constitution that will last the test of time, ten years, twenty years from now. Are we assured that such discrimination will not arise? On this ground, Mr. Chairman, I beg to move that this House support this Motion. Thank you very much.

MR. MULONDO (Mityana County South): Thank you very much, Mr. Chairman. I want to support this proposal, Mr. Chairman and I feel that everybody is supporting it because discrimination of this nature would not be for the good of our people. Without wasting time, Mr. Chairman, I would like to move that the question be put.

AN HON. DELEGATE: Seconded.

THE CHAIRMAN: It will not be necessary to vote on that Motion given the attitude of the Floor. Now, let me put the question.

(Question put and agreed to.)

THE CHAIRMAN:Hon. Members, we have a proposed amendment by Hon. Patrick Mwendha. *(Interruption).*

MR. MAZIMA (NUDIP): I sent you a note and yesterday I sent you my proposed amendment and you are moving on to the next one.

THE CHAIRMAN: Okay, if you could move your amendment.

MR. MAZIMA: Thank you very much, Mr. Chairman. Mr. Chairman, I beg to move that the words "*or disability*" be inserted at the end of Clause (4) of Article 50 of the Draft Constitution so that it reads as follows: "*No person shall be discriminated against on grounds of sex, race, colour, ethnic origin, tribe, birth, creed or religion or social or economic standing or political opinion or disability.*"

THE CHAIRMAN: Is that seconded?

HON DELEGATES. Yes.

THE CHAIRMAN: You seem to have been seconded by the whole House but it has to be debated so let me now propose the question that we add at the end of Clause (4) the words "*or disability*".

MR. KABUGO (Nakaseke county): Thank you, Mr. Chairman. I would like to improve on that wording by inserting "*physical disability*".

THE CHAIRMAN: It seems that has not been popular.

DR. KIIZA BESIGYE (N.R.A): Thank you, Mr Chairman. I am very sympathetic to the inclusion of non-discrimination of disabled people but I am seeking clarification whether the inclusion of that would, for example, bar people seeking to recruit people into employment to discriminate those who have certain disabilities because you may find may

be a soldier needs to have a very good sight or a pilot or somebody and it may be put as a discriminatory factor that people with such disabilities may not be allowed. I do not know whether in such a situation this would be in contravention of this Article.

THE CHAIRMAN: No, I will give you chance to answer this.

MISS OPOTI DHUGIRA (Okoro County): Thank you, Mr. Chairman. Just like Hon. Kiiza Besigye, I have all the respect for disabled people but in a situation where we generally Consider mental disability or madness also to be included, in any case where an issue like that comes up, okay in politics they say that you cannot vote or you can't stand for election when you have been known to have suffered from mental disability, so I wonder if this could be also quantified in addition, to an issue raised by Hon. Kiiza Besigye.

THE CHAIRMAN: I will ask the last speakers, Hon. Pinto and then Hon. Zziwa then Hon. Mazima will answer those issues and then we vote.

MR. PINTO (Kakuuto): Mr. Chairman, I support the amendment in its entirety and for clarity, I would like to advise, to give information to the previous speaker, Hon. Dhugira, that when you talk of mental disability that would be a case of competence to hold office but we are now referring to discrimination that they shall not be discriminated against on grounds of mental disability. If however, there were to be elective office or any other office which requires competence, the mental disability may itself become a criteria for non-competence. Thank you Mr. Chairman.

MRS. MARGARET ZZIWA (Kampala): Thank you very much, Mr. Chairman, I want to echo also the words of Hon. Puto. Realistically, the worry behind the word "discrimination" does not feature here so I wish to support the section as it really stands and as it has been amended. When you talk about being discriminated against, there is nothing like qualifying it in terms of employment for the fact that competence in itself is a virtue which can be measured, whereas if it is just a discrimination, there would be no ground, you will just feel that you are not, you should not be here and that is that. So, I think the term being referred to "discrimination" as may be Hon. Kiiza Besigye is worried about, that can be called a qualification which justifies somebody to qualify for the job.

THE CHAIRMAN: I do not think it is necessary for Hon. Mazima to come back. I think we vote.

(Question put and agreed to).

THE CHAIRMAN: Now, Hon. Patrick Mwendha would like to add a new clause. *(Interruption)*. Clarification.

MAJ. GEN. TINYEFUZA: Clarification. Sir. Mr. Chairman, I would like some clarification from You Mr. Chairman, and may be through you to Hon. Mulondo because my mind is not clear. I am sorry to take you back on something already passed but it is on Article 50 Clause 4 moved by Hon. Akech Okullu - *(Interjection)*.

THE CHAIRMAN: But that has been disposed of.

MAJ. GEN. TINYEFUZA: Yes, Mr. Chairman, but I want to be clear to know what has been passed because I do not know what exactly it means.

THE CHAIRMAN: What has been passed is that the word "birth" has been added.

MAJ. GEN. TINYEFUZA: Yes, therefore, Mr. Chairman, does it mean that for instance now everybody in Buganda can ascend to the throne of the king of Buganda? This is what I wanted to know from Hon. Mulondo especially.

THE CHAIRMAN: If the people of Buganda, in view of this amendment want to set up new rules for becoming Kabaka, that is a different matter I do not think it should concern us here. I will give the Floor to Hon. Patrick Mwendha please.

MR. MWONDHA (Bukooli North): Mr. Chairman, I intend to move that we add two new clauses to Article 50, Clause 5 and 6. For those Members who have this circular, please, I want on the outset to ask you to delete my proposed 6(c) "for achieving any object, acceptable in a free and democratic society." On second thoughts, I think that is redundant so please delete that one.

Mr. Chairman, I am not going to take a lot of time of this House. I think this is a straight forward amendment and I would like to move that Article 50 be amended to add a new Clause 5 and a new Clause 6 I beg to move.

THE CHAIRMAN: Don't you think that you would like to adjust the wording of some of your proposed Clause 5 in view of the amendment you have just effected before?

MR. MWONDHA: Yes, they will be taken into account. I thought that was a matter of details for the technical committee.

THE CHAIRMAN: Has it been seconded?

MR. MALINGA (Usuk): Mr. Chairman, this is just a provision to define what we mean by discrimination. That is what 5 is all about.

THE CHAIRMAN: I am sorry I think I should have proposed the question first because I was looking for seconders really. The question is in terms of the Motion as moved by Hon. Mwendha the details of which are already with you anyway. I do not have to read through again. The first speaker will be Hon. Malinga, please go ahead.

MR. MALINGA (Usuk): Mr. Chairman, as I was saying *(Interruption)*

THE CHAIRMAN: I thought the Mover said he did not have to elaborate that is why I took it - because you said - that is why I gave the Floor to another person.

MR. MALINGA: Thank you Mr. Chairman. Clause 5 defines what discrimination is but since we are also concerned about affirmative action, it is necessary to include Clause 6 which gives power to Parliament to pass a legislation giving affirmative action. So, that is all these provisions are: One is to define what we mean by discrimination and then (6) is to permit affirmative action generally. In here are other areas where affirmative action is stated but here we are just giving an enabling clause which will enable Parliament to pass laws to give redress to disadvantaged groups.

MR. LUBULWA (Katikamu South): Thank you, Mr. Chairman. I want to oppose the proposal particularly in line of replacing. I would imagine that actually, if you are talking about a definition, this should be in the area where definitions of discrimination should be - interpretation sorry - instead of putting it here under the Chapter. I would therefore propose that if we are to carry it, perhaps we take it under the interpretation. Thank you Mr. Chairman.

MRS FAITH MWONDHA (Woman - Jinja): Mr. Chairman, I stand to oppose the Motion on the following grounds. First of all, in my opinion, I find that the definition is really unfounded and uncalled for. It is self-explanatory in the Draft Constitution. Secondly, Mr. Chairman, it waters down the whole principle of affirmative action in the Constitution.

We are writing a new Constitution for Uganda and the amendment purports to provide for affirmative action generally and fails to consider the imbalance which has been created by history and tradition and customs, against the women, people with disability, the youth and the like and thirdly, if this amendment is carried, I am of the opinion that Article 61 (3) would automatically go so as not to be rendered redundant and that goes, of course, without saying that the purpose would have been defeated, the purpose which had been embedded in the making of the Draft Constitution. Mr. Chairman, it is my opinion that political opinions of the Mover think that they too have suffered, perhaps they have suffered in a different way and this cannot be dealt with in the same way people with disability, the women and the youth should be dealt with. They should be dealt with in a different manner. Fourthly, Mr. Chairman, I find that Part 6 of the amendment is also hanging. I find no relevance at all. I find no relevance what-so-ever to the definition which is purported to be made in the Draft Constitution and finally, Mr. Chairman, I feel that this amendment, if it is left it will defeat the whole principle of affirmative action in the whole Draft Constitution which is aimed at checking the imbalance of traditions and customs.

MR. WANDERA OGALO (Bukooli South): Thank you, Mr. Chairman. Mr. Chairman, I think if we took the words of Hon. Bidandi Ssali more seriously, we would get some work moving. What this amendment seeks to do is to start defining words and if we go on this way we shall soon start defining almost every word we come across. Somebody will come and say what does the word "freedom" mean and then we put it there and we shall be wasting time. Mr. Chairman, I think the question of defining is not really our work and we should leave that to either the Drafting and Legal Committee or we could still shift it to Article 286, it could come in Article 286 where we have the interpretation.

Mr. Chairman, the second ground on which I oppose the Motion of my neighbour, Hon. Mwendha is, if

you look at the whole thing, Article 5 as it is, the one which he wishes to add, it is so lengthy. We are trying to make an understandable Constitution, let us make a Constitution which is understandable by all our people but this one sentence is - I do not know how many words, I do not know how a man on the street will really understand this one sentence which is composed of almost a hundred words. I feel, Mr. Chairman, it will defeat the whole essence of making a simple Constitution which is understandable and in any case, Mr. Chairman, it is also just a question of making the Constitution so bulky and one of the principles which has been advanced here is that we should make something which is short and understandable rather than making a very bulky constitution.

Lastly, Mr. Chairman, when I come to this proposed sub Article giving Parliament powers to make laws, I think this is redundant because if you look at Article 132 of the proposed Constitution, it gives Parliament powers to make laws. So if we put this here, then we shall possibly keep on adding everywhere. Parliament is given power to make these laws to give them effect when there is a specific Article that is Article 132 which already gives Parliament this power. On those grounds, Mr. Chairman, I oppose this amendment.

CHAIRMAN: I think we are reaching a stage when we should vote on this one so that we move really. The Motion is detailed in front of you and I have already proposed it. Yes, the Mover would like to say something.

MR. PATRICK MWONDHA: Thank you, Mr. Chairman. In the beginning, I thought this was a straight forward matter and would attract no major debate but in view of what has transpired, I beg to be allowed to make a few observations. Mr. Chairman, discrimination is an extremely momentous matter. It has terrible stigmatizing effects and struggles the world over have been waged because of discrimination. It is not something that we should treat lightly when we are making a fundamental law. I agree I have no problem where you put the definition but we have to define it, especially in a contemporary age where we do not only now have negative discrimination but we also have positive discrimination. Members should know that in nature, every positive has its negative and if these are not clearly defined, we are going to land the judicial process and all processes into chaos. Mr. Chairman, what happens now if

Clause 4 is left on its own, what would happen to a boy who scores eleven points and a girl who scores eleven points and a girl is taken to Makerere because of 1.5. Wouldn't that be discrimination against the boy? Therefore we have to define and provide for the affirmative action. I thought this, unless we have that definition, the boy would be right to sue. Please Members, I want you to come along with me in this matter, let us define it, I do not care where we put it, I do not care in what words we do it, there is a legal and drafting committee, there is a technical committee, they can always help us with the drafting. I am not a Draftsman but I think it is very important that definition is made, Mr. Chairman, I thought that Clause 6 in fact is bringing consistency. It is bringing consistently. Left as it is it would immediately contradict 6.1. Mr. Chairman, I thought I would say a few words so that members can review this matter.

THE CHAIRMAN: We had agreed that we go to the voting so that we dispose of this matter. I will put the question.

(Question put and negatived).

There are no further proposed amendments on Article 50. I will now put the question on Article 50.

MAJ. GEN. TINYEFUZA: Point of clarification. Mr. Chairman, I am seeking clarification from you specifically. First of all, I would request, if need be that, we invoke Rule 43 of our Rules of Procedure to reverse or to stay the passing of the decision that we cannot reconsider. Already, we have passed clauses in this Article, so that we deal specifically with Article 50 (4) for two reasons, Mr. Chairman, if it is acceptable to you that we invoke this Rule. Mr. Chairman, I find it a bit unsatisfactory if this thing goes as it is without clearing our minds, especially a person like me who is coming from the Armed Forces where it is apparent that in one way or the other, discrimination has to be there. For instance, on matters of disability, there is no way you are going to tell me that a person who is lame is going to be recruited. It is going to be very difficult. There are other matters like we have just inserted which I was told, for instance, that the Commission left out intentionally for instance on this amendment of birth which contradicts also with the new instituted cultural leaders. So, I would like us to be very clear on some of these points so that in my view, I wanted us to invoke this Rule so that I move, should it please

you, Mr. Chairman and fellow Delegates, that we shorten as much as possible this Article 50 (4) to "No person shall be discriminated against on grounds of sex, race, colour, ethnic origin, tribe, creed or religion." Because the others are very amorphous, they are pregnant with all political ambiguities and they are likely to bring problems so, Mr. Chairman, I beg that we invoke Rule 43 and revisit this Clause. Thank you, Mr. Chairman.

THE CHAIRMAN: The House spent quite a considerable time discussing this particular provision, they were making progress. What the Hon. Member is saying is that we should bring up again - *(Interruption)* I am just trying to explain so that we know what we are doing - that we call back Clause 4 and revisit it essentially to strike down the amendments which were made plus also removing some words relating to economic, social and political. Now, the only way we can do that is by relying on Rule 43. He has moved a Motion. It has been seconded. That one does not require that we debate it. So I put the question.

In other words, what you are voting on is this that so much of the Rules or procedure be suspended as we prevent the House reconsidering Clause 4 of Article 50. That is what you are voting on. *(Interruption)* No, no, this one does not attract a debate. I think let us be clear when we are going to vote. You are voting on a proposition that so much of the Rules of Procedure be suspended as will prevent this House revisiting Clause 4 of Article 50. If you pass that then we revisit it. If you say we are not passing that then we go ahead. So now let us vote. The vote is on Hon. Tinyefuza's Motion.

(Question put and negatived).

THE CHAIRMAN: Now, let me put the question on Article 50 as amended. The question was that Article 50 do stand part of the Draft Constitution. I will now put the question that Article 50 as amended do stand part of the Draft Constitution.

(Question put and agreed to).

THE CHAIRMAN: Now, we proceed to Article 51 and the first amendment is being proposed by Hon. Chango Macho - sorry by Mr. Chango Macho, he has reminded me that I am becoming stereo-typed. He would like to amend I think Paragraph (a) of Clause 1.

MR. CHANGO MACHYO (Samia Bugwe South): Mr. Chairman, I want to move an amendment to Article 51 Clause 1 sub section (a) to read "Every person in Uganda shall enjoy the fundamental rights and freedoms of the individual namely, the right to earth and the following..." Now (a) should read "Life, liberty, dignity, education," then I want to put "employment" between "education" and "culture" so that it will read "life, liberty, dignity, education, employment, culture, security of the person, fun, hearing and protection of the law." Now, Mr. Chairman, I have got a friend here who is scared of this amendment but my reason is that if you want people to enjoy these rights, then they must have the means to do so. I do not see how someone can enjoy life to right, liberty, dignity, education when he has got no means and these means can only be achieved through gainful employment. Now, Mr. Chairman, in 1974, the United Nations Development Programme Symposium held in Mexico declared that "The purpose of development must be to meet basic human needs. These are food, shelter, health and education". An unemployed person Mr. Chairman, cannot afford to meet these needs. (b) They said that the goal of development must be "To ensure the equality of life for all with productive base compatible with the needs of the future generation". Now, without productive employment, this cannot be achieved. Again they say that a gross process that benefits only the wealthiest minority and maintains or even increases disparity between and within countries as well as between individuals and groups of individuals within a country is, I quote: "not development, it is exploitation". Now, Mr. Chairman in 1955 the Woodlow Foundation and National Planning Association of the United States declared - (*Interruption*).

MRS WINIFRED MASIKO (Women Rukungiri): Thank you Mr. Chairman. Is it in order, Mr. Chairman, for the speaker on the Floor not to use the microphone so that we miss some of his points?

MR. CHANGO MACHYO: May be the microphone there is faulty.

THE CHAIRMAN: Now, you are getting heard properly.

MR. CHANGO MACHYO: Now, Mr Chairman, I repeat that in 1955, the American Woodlaw Foundation and National Planning Association set

up a study Group and in its report it said, inter alia, "Today social values and attitudes do not permit a government to acquiesce in much encouraged increasing unemployment and declining income except in most dire national emergencies." Mr. Chairman, we have got parents struggling to educate children and when these children go even as far as Makerere, there is no employment for them. I think this is a violation of human rights. Employment must be a right and not a privilege. I beg to move.

THE CHAIRMAN: But is the Hon. Member seconded before we go on?

AN HON. DELEGATE: Yes.

THE CHAIRMAN: Okay, there are enough seconders. The question which is arising out of the Motion moved by the Member is that we should insert the word "employment" immediately after the word "education" in paragraph (a) of Clause 1 of Article 51

MR. KARUHANGA: Point of clarification, Mr. Chairman, I wanted the Mover to assist me to understand this reasoning because it has not been very clear to me. Does he mean to say that if the government educates people through Makerere, it must also give them employment, and if they do not get employment, they can sue the state and be compensated for unemployment? I would like to know whether that is the case and whether he would like us to entrench that or whether we should also educate people to be job creators other than job seekers.

THE CHAIRMAN: That is a contribution more or less

MR. KATUREEBE: Further clarification, Thank you Mr. Chairman. I am making this clarification as a member of the Legal and Drafting Committee because the proposed amendment did come to us, not from Hon. Chango Macho but from Hon. Theopista Ssentongo and Hon. Amandrua. They brought that amendment, we discussed it and one reason we did not forward it was the question like this that Hon. Karuhanga is raising. The rights we are providing for here are rights which every person must enjoy and can go to court and seek enforcement. One question that was discussed was that if tomorrow I am in employment and I loose it or I have no employment, can I seek redress at court? Thus I thought I should

bring to the attention of the House that the issues were considered but since Hon. Chango Macho was not there to participate in the debate before the Legal Committee, he was entitled to bring it here, but we were required to say that the thing was considered. Thank you.

THE CHAIRMAN: Well, the information which came on the Floor yesterday was that his amendment was lost and could not be traced so the Chairman in discretion said that "Hon. Chango Macho, if you can trace your amendment, we shall consider it." But I think now that it has been moved, it has been seconded and it is available for debate, let us debate and then pronounce ourselves on it.

DR. NYEKO (Nominated): Thank you, Mr. Chairman. I stand to oppose the Motion on a very simple ground. The provision of employment under this Article would make it ambiguous because somehow, as was mentioned earlier, the employment which Mr. Chango Macho is proposing, is it going to come, say, from the Government only or is he also talking of self employment? So in this case, I do not think it would be useful to this House if we pass the Motion because the responsibility of the state should go towards educating the nation whether there are jobs or not from the government. The nation should be trained in order to create jobs by themselves. Thank you, Mr. Chairman.

DR. BYARUHANGA (Kitagwenda County): Mr. Chairman, unless we first legislate for a marxist socialist state, Mr. Chango Macho's amendment is misplaced because it is not enforceable and it is not achievable under a free economy. So, Mr. Chairman, I oppose the amendment.

DR. KABAYO (Kassanda South): Thank you very much, Mr. Chairman. I wish to add my voice to those who have opposed the proposed amendment to this Clause for the reason that I consider employment to be a negotiated relationship between the employer and the employee and it seems the proposed amendment does not take into consideration the employer because he does not seem to be required to concede to this. We have taken care of the discrimination against all nature and I do not see why we should also include employment among the rights of the individual because it is a negotiated arrangement between the employer and the employee, therefore, I oppose the proposed amendment. Thank you, Mr. Chairman.

MR. ABALIWANO (Bugabula South): Mr. Chairman, I support this amendment. Since we are trying to make this Constitution for many years to come, we should not think to the current situation where the government, as they say, is the greatest or the biggest employer. In other economies, government is not the biggest employer, the private sector employs but this right gives me an opportunity, if I am discriminated against being employed anywhere, I can say, look I have a right to be employed. It is not saying that the government necessarily will be sued that because I went to school and I am not employed, there could be reasons why you are not being employed and the government can have or anybody else would say you are not being employed not because there are no jobs but because you are too lazy to go round looking for a job. So I would support this change in that liberties as they are all rights, as they are without decent employment, without decent housing, without decent life, without decent wages, these rights would not work, they are useless rights. We need to give our people these sort of services and abilities to live decent lives rather than simply continuing saying yes, you have a right to life. Yes, a right to life, a miserable life. What is the point! This is why I would prefer that this question of employment should be included in the rights of an individual. As our economy improves and as the years pass by, we will find this more and more relevant. Thank you, Mr. Chairman.

MRS SSENTONGO NABULYA (NOTU Delegate): I am very happy to see that Mr. Chango Macho had guts to bring about the amendment that earlier on irritated our minds as workers of this country because as my employer has rightly put it that there is no way one could enjoy his life, liberty, dignity, without work. It is ambiguous. Yes we know that we are now under the implementation of structural adjustment, unemployment is becoming too much but then we can not help it. Let us find a way of accommodating employment as a right and, secondly, I want to remind this House that Uganda has suffered brain drain at a rate which is so exorbitant. Are we right to continue with this? A poor peasant pays his little money for the school fees of his child and at the end of the day, the boy or the girl educated decides to go away for greener pastures somewhere outside the borders of Uganda, is that what we work for? Are we intending to develop our country in that way by educating people to go outside the country and work for other people and leave our country? How are we going to develop? Does it help

our economy anyway? So I support the amendment with all the rigors. Thank you very much.

MRS. LAGADA (Lamwo county): Thank you very much, Mr. Chairman. I oppose the amendment on two grounds and one is that it is going to destroy another amendment which is coming, or which will allow Ugandans to practice their professions and carry on business or trade elsewhere which is self-employment but if you put it here, it means that somehow somebody must guarantee that employment to somebody who is entitled to it. In a free enterprising society like this, it is difficult to guarantee that there will be employment. So I oppose the inclusion of the word employment.

MR. OGWEL (Moroto Municipality): Thank you, Mr. Chairman. Mr. Chairman this amendment is very surprising although it could be very logical, but supposing we have the 17 million Ugandans and sometimes we think when we go for education we only acquire skills but there are other Ugandans who have never gone to school but they have got skills and also to provide employment. Now, I could not imagine now that you say every Ugandan has a right to get or be employed, I do not know how many will now write to all heads of departmental places to be employed and how many will run to courts so that they may be given their right of employment but I think Mr. Chairman this has no purpose and I think I oppose the Motion because it is not practical. We can only give education skills that they can sell which can provide them employment and also people will have self employment. So, I do not think if we say we give this liberty to the people, I think we shall - maybe, our courts will be full of a new elite from all institutions in this country. So, I stand to oppose the Motion, Mr. Chairman.

MR. ERESU ELYANU: Point of clarification Mr. Chairman, I seek clarification from the House on the concept of employment. It seems the House, according to me, now is discussing the concept employment here to mean that there is an employee who will be seeking employment from somewhere. But I thought as the Amendment stood on the Floor, it simply gave an open ended statement in connection with employment, meaning that you can be self employed, you can be employed and you can create your own employments. So, if we have that in mind, I do not see the fear of us saying who will employ who? The fact that you will be doing something, whether on your own self, in itself is employment. If

you are doing it for someone, you are being employed. If you are trying to create one, you are actually creating employment. Thank you very much.

MRS. EGUNYU: Point of clarification. Mr. Chairman, I would like to make the following clarification. The Amendment which Mr. Chango Macho has moved seeks to establish a welfare state in light of article 50(1) whereby it is the duty of government, Executive etc to ensure that these rights are, actually, observed. If you look at it in light of that, then what we are trying to do is to establish a welfare state whereby it is the duty of the government to ensure that all citizens are gainfully employed. And in the advent that there are those ones who are not employed, then the government is duty bound to provide for their welfare. Hon. Abaliwano has said that this would end discrimination in employment. Discrimination in employment is adequately outlawed under Article 50(4) which says that no person shall be discriminated against in the economic, etc, and also there are rights of employment covered under article 67(1). I think that what we should now look at is whether we can afford to have a welfare state or not, and Mr. Chairman, after that clarification, I strongly oppose the Motion. Thank you, Mr. Chairman.

MR. AMANDRUA (NOTU Delegate): Mr. Chairman, I think those who have spoken against this Amendment are misunderstanding the whole thing. I think what we are asking here is that the right of employment, once someone is employed, the right should be enjoyed and this is after one has already got a job, and again what is the point of training our people like doctors, like teachers, like Army men, Policemen, what do we train them for? Do we train them and do not give them employment? And they should not enjoy this kind of employment! I think they should enjoy it and now under this very Article that we are trying to - of subsection we are trying to amend, there is also culture here. Some people are asking questions as to whether the employment will be enforceable, are they going to reinforce the culture, how they are going to reinforce it? I think in this way, employment is almost like a culture, no difference between each. Thank you very much.

MR. RUZINDANA: Point of clarification. Thank you, Mr. Chairman. I was seeking clarification, maybe, from the Legal and Drafting Committee, actually, whether the right to education and the right

to culture fit in with the other civil and political rights that are reflected in this particular part of the Article. The right to life and right to liberty and dignity and so on, and the other rights - civil and political right, and they are quite indeed fundamental rights and freedoms that are traditionally known as civil and political rights but education, culture, because of their existence here that is why the other Amendment is being wrongly also added, and they actually do not fit in together. Maybe, if we do want to retain these rights, they should have a separate section of their own but not to be mixed up with these other civil and political rights. So, I wanted a clarification as to whether, actually, even the right to culture and the right to education and now the right to employment being added on should be mixed up with these other civil and political rights. Thank you

THE CHAIRMAN: Then I ask a Member of the Legal and Drafting Committee, Hon. Katureebe, could you respond to that!

MR. KATUREEBE: Thank you, Mr. Chairman. There were questions that we considered, but as Hon. Egungu has said, we are guided by the principle we have just passed in article 50. You are looking at rights that are justiciable, rights that I can go when I have been discriminated against, when I have been denied that right, I can go to court and say, I have been denied this. Yes, the right to culture is justiciable, indeed Hon. Members will have read in the Press people going to court, especially, in Kenya saying I have a right or somebody has a right to be barred according to this and this culture. There is something that can be ascertained as culture of a community and if I belong to that community, I can demand certain rights within that culture. This is enforceable and justiciable. We had a problem with a right to education, because how far do you go and we accordingly suggested to the Technical Committee to come up with an amplification of that right because what you see in article 51 is an enumeration of rights, and then subsequent articles elaborate specifically on each of those individual rights and I believe there is an Amendment that is coming that will amplify on what we mean by the right to education, how far you can go. But the problem with the right of employment, when you read it together with Article 50 (1), then you are saying if I lose a job and indeed, Hon. Amandrua has just said that when somebody has a job, when you are sacked, when you are declared redundant, when you are retrenched, then I should go to court and say my constitutional

right has been violated. Is that possible? That is the clarification I can give, Sir.

THE CHAIRMAN: I think we have reached a stage we can decide on this one otherwise, we shall go around in circles. Let me remind you of the question and then we vote to find a consensus. Mr. Chango Macho has moved an Amendment to Article 51 clause 1, in paragraph (a) to insert the word "employment" thereby obtaining a guarantee and protection of the right because the opening words are, "Every person in Uganda shall enjoy the fundamental rights and freedoms of the individual, namely, the right to each and all of the following..." In other words, we amend (a) and insert "employment" as one of such rights to be enjoyed and protected by the Constitution. Now, I will put the question.

(Question put and negatived.)

THE CHAIRMAN: Now, there is the next Amendment to Article 51 clause 1, paragraph (d) to be moved by Hon. Mrs. Cecilia Ogwal. You have the Floor.

MRS. ATIM OGWAL (Lira Municipality): Thank you, Mr. Chairman. Mr. Chairman, before I move this Amendment, I feel that the statement made by my sister Hon. Winnie Byanyima, directed at a certain group of people in this House cannot go unchallenged *-(Interruption)*

THE CHAIRMAN: No, what I did was that, I told her and I ruled that she was not entitled to make that statement.

MRS. ATIM OGWAL: She did not withdraw, Mr. Chairman.

THE CHAIRMAN: It was not on a point of order, the Chair took the initiative and she did indicate that she was not going to pursue that line.

MRS. ATIM OGWAL: But, Mr. Chairman, I feel that in the spirit we are in here where we are all committed to make a good document out of the Draft, I think we should be judged in that light. I feel making a provocative statement directed at a certain group really does not help us in this exercise and I feel that my sister must withdraw that statement *(Applause)*

THE CHAIRMAN: Now, let us first of all determine the nature of our procedure now. She digressed and she was called to order.

MRS. ATIM OGWAL: She must withdraw!

THE CHAIRMAN: No, she digressed and she was called to order, you have made your objection and it is on record and noted, and the Chair now appeals to Members that while we are - and I did, in fact, say it that, while we are discussing issues before us, we should not digress to other fields which are not part of the discussion. Instead of creating winner and loser situations, we should take it on that basis. I think I shall not allow any further discussion of this matter. Please, go ahead.

MRS. ATIM OGWAL: Thank you, Mr. Chairman. I beg to move that in Article 51, clause 1, we delete "slavery" and insert "slavery and servitude" Slavery, servitude *-(Interruption)*.

THE CHAIRMAN: Now, can I understand you properly before I check whether you have been seconded and then we proceed.

MR. ATIM OGWAL: Yes, please.

THE CHAIRMAN: You are saying that paragraph -

MRS. ATIM OGWAL: Article 51 (1) paragraph (d). We are just adding one word "servitude" after the word "slavery" and now the paragraph will read: "*Protection from slavery, servitude and forced labour.*"

THE CHAIRMAN: Okay, now I understand because you were not clear whether you were leaving out the other words or you were retaining them. Yes, the Motion is seconded, and the Motion is in the following terms; that paragraph (d) of clause 1, paragraph (d) of clause 1, of article 51 be amended by inserting, immediately after the word "slavery" the following, "comma, servitude" and then the rest remains as it is. It has been seconded and I will allow some debate right now. Hon. Kalema.

MR. ATIM OGWAL: Mr. Chairman, can I give some background information why we felt -

THE CHAIRMAN: Sorry, yes go ahead and speak to your Motion.

MRS. ATIM OGWAL: Mr. Chairman, I made consultations with the technical team and with the Legal and Drafting Committee, and they feel that this word "servitude" could have been left out by error. In other words, it was purely an omission. Secondly, Mr. Chairman, I would like to inform the House that slavery and servitude are different things, slavery applies to outright denial of a person's freedom, where a person is reduced to the status of property of another. Servitude on the other hand, Mr. Chairman, is more subtle, it could be applied to social and economic arrangement where a person appears to be free and yet he is subjected to exploitation. So, I feel very strongly, Mr. chairman, that the House be persuaded to include that word "servitude" I beg to move.

THE CHAIRMAN: Yes, Hon. Kalema I had given you the Floor in advance of the reasons for the Motion.

MRS. KALEMA (Kiboga County East): Thank you, Mr. Chairman. Mr. Chairman, I would like to support the Amendment of Hon. Cecilia Ogwal, but I am just confused because I do not see how this could be proved, how it could be identified and how it could be proved, that is my problem. This would happen, I imagine, in homes where people, usually minors and the underprivileged, are employed and underpaid. Now, my problem is who is to see who is this person or persons who are under-employed, who are employed but under paid, and in most cases treated with indignity? How can we enforce this in a Constitution? But otherwise, I like the concern she has raised here, and in our society are we really clear about slavery and servitude as very much different and slavery has not been here for a long time, how are we to show that one is a slave of the other and one is kept under conditions of servitude? I would like clarification and then I am prepared to support her Amendment.

MRS. ATIM OGWAL: Mr. Chairman, maybe, I will be helped in debating this Amendment, if we look at certain areas where the same situation was expressed, that is in article 55(1). So, I tend to agree with the legal expert that this was just an error, because in 55(1), they have used the two together - slavery and servitude. So, I feel that for consistency, we may have to consider that word, Mr. Chairman. Thank you.

THE CHAIRMAN: I think that is important because as it was previously pointed out, Article 51, clause 1, sets out the various freedoms and rights then these are amplified in subsequent provisions, and if we are going to use the same terminology, it will be better that we remain consistent. I do not think we should really waste any further debate on this. I was going to put the question really *(Interjection)* - Hon. Wanendeya but very briefly.

MR. WANENDEYA (Budairi East): Mr. Chairman, that word *"servitude"* is very important in the sense that right now, you will find that people in the Western countries, the World Bank, the IMF are using all sorts of tricks in order to derail our economy, because 50 American cents which is half a dollar may not buy anything in the United States but if somebody comes here with his dollars, literally he gets the services almost free of charge. And in addition to that, Mr. Chairman, you will find that we in Uganda we are talking of getting a middle class or bourgeois class so that when we get that class through corruption then the rest can be made to live in servitude - well, literally slaves or will be subjected to being slaves. Mr. Chairman, therefore, this clarification is important and, therefore, I thank you.

THE CHAIRMAN: Hon. Members, let us now express ourselves on this Amendment. I put the question.

(Question put and agreed to)

THE CHAIRMAN: Now there is an Amendment to Article 51(1) in paragraph (e), that is by Hon. Teopista Ssentongo and Hon. Amandrua. Okay, Hon. Teopista Ssentongo could you move your Amendment?

MRS. SSENTONGO (NOTU Delegate): Thank you very much, Mr. Chairman. I want to move on behalf of my Colleague Amandrua an Amendment to include two more sub-articles under Article 51, clause 1 on page 19 and this is in regard to deletion of the word *"and"* and (e) to insert the following - But, Mr. Chairman, before I go far, I wanted to add a little more Amendment on the second Amendment that I want to effect, that is to add the word *"lawful"* between occupation and trade. Thank you very much. Now, we are moving this Amendment to read as follows, after (f) and on deletion of *"and"* we say we should have (f) to read: *"With the labour without being exposed to criminal penalties"* and the sec-

ond one is, (g) to read: *"practice any profession or carry on any occupation, lawful trade or business."* So, I beg to move.

AN HON. DELEGATE: Seconded.

MRS. SSENTONGO: Thank you very much, Mr. Chairman. Mr. Chairman, today it is persistently recognized in Uganda that majority of employers have failed to honour working contracts whether written or verbal with their employees. This includes failure of paying monthly wages of such employees and this sometimes goes up to months or a year and poor workers continue rendering their services to such employers because they need the employment. We are quite aware that structure adjustment programme is in implementation today. So, we find that poor workers abruptly get disheartened with instructions from the employers either through Radio or letters asking them or informing them that their labour is no longer needed by such employers. Poor people pack up and go home, but where do they go? They go without being paid their last unpaid months, without retrenchment packages, if it is retrenchment for that matter, and even not being given transport to, at least, take them back to their places of origin, hence leaving them starving, loitering along Kampala street or wherever they work from, and the landlords have no mercy about this, they will always chase them out of their houses because of failure of paying their house rents.

So, in my view or in our view, we say that such employers are no better than slave lords. So, we move this Amendment, the first one especially, because we are aware that some workers are involved in essential services, but this does not hold. If Uganda Electricity Board, Post Office, National Water Board have a legal right to withdraw their services from users when bills have not been paid, which of the services is more essential than such? Perhaps, if we upheld this Amendment, the first one, it would gradually eliminate the rampant corruption that is prevailing in our country today and probably bring back these irresponsible employers to their senses to understand that once you engage somebody with employment, you have to fulfil all the obligations attached to the contract that you have with that employer and himself. So, I submit, Mr. Chairman but then if I am given time also, I can talk about the second Amendment, or I might be called upon again. I do not know, whether I can continue, Mr. Chairman.

THE CHAIRMAN: What you are doing is you are moving one Amendment which has effect of inserting two additional paragraphs, so we shall vote on them once, we are not going to vote on them separately.

MRS. SSENTONGO: Thank you very much, Sir. So, now on the second one, with the current retrenchment exercise in the country to ably and fully implement the government policy of self creation of jobs, and to diminish the would be created insecurity in the country, it could be befitting to have the second Amendment included in our Constitution. I beg to move, Mr. Chairman. I end there. Thank you.

MR. NABUDERE (Budadiri West): Thank you, Mr. Chairman. I beg to support the Amendment because it gives further protection to the rights of workers. At one point, Hon. Ruzindana raised a question as to what is the proper content of the whole of this Article. A clarification was made by Hon. Katureebe, but I felt that we should have added that there is, of course, a complication in the Article, because it includes both what we call first generation and second generation rights. The first generation rights are contained in Article 51(b) that are the original civil rights and then the second generation rights which came in later on after the Second World War, in the United Nations declarations are those which are contained in (a) and (c) and so on, and I think this one which is added by the representatives of workers also comes under the category of second generation rights, and I think this should be recognized and entrenched into our Constitution because they are selective to protect workers in withholding their labour, also to protect those who are engaged in lawful profession and trade. So, I beg to support, Mr. Chairman.

DR. KAKUNGULU (Presidential Nominee): Thank you, Mr. Chairman. I stand to oppose this Amendment, Mr. Chairman, in that when we make such a dangerous inclusion in the Constitution, we are bound to breed the following. Laziness in the service, when someone knows that he cannot be prosecuted or even terminated from his work by not offering his labour, it will also breed strike action in industries and other sectors; it will be a very dangerous precedent in my profession as a doctor, when I know no criminal prosecution will be taken against me when I withdraw my services as a doctor. So, it is very, very dangerous to be included here. In the private sector, although you are protecting the em-

ployed, you are not protecting the employer. I beg to move that we should not include such a provision in our Constitution. Thank you, Mr. Chairman.

MR. KIRENGA: Point of order, Mr. Chairman, is it in order to debate an Amendment which is meaningless? Namely, when I look at the supported (f) it reads: "*withhold their labour without being exposed to criminal penalties*". I do not know whether I am confused or whether I am right but, whose labour?

THE CHAIRMAN: No, that one is supposed to read starting from (1) that "every person in Uganda shall enjoy the rights and freedoms of the individual and namely the right to each and the following..." the rest is drafting really. It should have began with, "with the right to withhold..." but that is just drafting, I was coming to that. So, the question is that we are discussing the inclusion of two paragraphs moved jointly by Hon. Amandrua and Hon. Ssentongo by adding those two paragraphs in respect of workers, and I had given the Floor to Hon. Wasswa Lule.

MR. LULE WASSWA (Rubaga Division North): Thank you very much, Mr. Chairman. The Amendment seeks to enhance the provision against slavery and servitude both in the public and private sector. It is also in line with an Amendment that I intend to move later which allows for peaceful means to seek redress against grievances by allowing for peaceful strikes without fear of legislative oppression. The Amendment goes further to protect against legislation, which might decree which line of business practice one might be engaged in. I think it is an enhancement on human rights, once there was emphasis on the right of protecting employers, I think employers also need to be protected against the - employees need to be protected against the potential excesses of employers. They both have rights and I think the employee has a right to feel aggrieved and to demonstrate that he is aggrieved within the confines of the law. With that, Mr. Chairman, I beg to support the Motion.

MR. BAGENA (Bufumbira County East): Thank you, Mr. Chairman. Little earlier on we threw out an Amendment which would have made it a citizen's right to be employed. Here, it seeks to say we have a right to withhold our labour depending on circumstances and it would be inconsistent of us to say we have no right to work and to say we have no right not

to work. So, I would like to support that we have this Amendment such that the workers feel protected against forced labour which we passed, and to ensure that the good life chosen by the workers is actually, guaranteed under the Constitution. Thank you, Mr. Chairman.

MR. KAYONDE (Gomba County): Mr. Chairman, I wish to oppose this Amendment. Before somebody seeks an employment, there is normally a contract between the employer and the employee, and the terms will be specified. Now this provision protects one party and that is the employee. Because if we have entered a contract with a worker, specifying the terms and he does not follow the terms of the contract, why should he be protected from court proceedings? So, Mr. Chairman, I oppose this Amendment, because it is only protecting one party of the contract.

MR. AMANDRUA (NOTU Delegate): Mr. Chairman, I stand to support this Motion on good reasons

THE CHAIRMAN: No, you are not supporting, actually, you sponsored it.

MR. AMANDRUA: Yes, I sponsor this Motion with good reasons, Mr. Chairman. We support this on the ground that labour is the only precious commodity our creator God has given to all mankind - everybody. Out of labour, one enjoys one's sweat and maintains life and satisfaction, be proud of what one has initiated and also one's achievements, protect one's family and satisfy the dependants. It is our human right and freedom to sell our excess labour and be free to negotiate for the price of this labour. In case, Mr. Chairman, where no mutual agreement has been reached, one has freedom to withdraw one's labour without being exposed to criminal penalties. We are saying, Mr. Chairman, why should they be taken to court because your conditions of employment are very poor? Like in other places, some workers are subjected to very, very bad conditions and that, for instance, if you say, going to sewage systems one should have gum boots, one should have goggles, one should have gloves, and then they say they are not here in Uganda, therefore, you continue to work under such conditions, and when you want to withdraw your labour, then why should you be taken to court? Let him go freely and have this kind of freedom. It is this freedom, Mr. Chairman, we are asking for, there should be freedom to work. For instance, we had asked for freedom of enjoyment of

employment, it was thrown out. That means everybody is now left free, then the workers should not be also tightened to day in a working place by force. And we have seen also some forces, not only here in Uganda, but also other places outside Uganda where some workers are not allowed to withdraw their labour. It is not necessarily strikes, strikes are one of them. Of course, if one is not satisfied, one has a right of leaving the work, provided that these are within - *(Interjection)*- Mr. Chairman, I understand that a friend is asking for information - *(Interruption)*.

MRS. EGUNYU: Point of information. Mr. Chairman, I would like to give the House the following information Mr. Chairman, under Article 59(1) (e), we recognize the right of persons to associate in Trade Unions. As the House is well aware, one of the negotiating machinery of Trade Unions is to withhold their labor. I believe that is the reason behind this Amendment that they should have the right to withhold their labour without being exposed to criminal penalties. As a negotiating machinery and since we recognize the right of persons to form Trade Unions, I believe that this would be a good reason to support the Amendment. Thank you, Mr. Chairman.

MR. KIRENGA: Point of clarification. Mr. Chairman, I would like the speaker on the Floor to clarify to me whether there is any provision in our laws which prevents anybody from staying away from work, whether there is any crime known in Uganda to which anybody is exposed if he does not go to work.

MR. BIDANDISSALI: Point of clarification. Mr. Chairman, I just wanted to be clarified by the mover or one of them so that I make up my mind. Some people are selling labour at the Owen Falls Dam to provide power to this country. At the moment, they cannot simply withhold their labour, they can only do it legally through certain channels. I just wanted to know whether the mover is now saying that these fellows can withdraw their labour, either because they feel the pay is less, whatever the case, so that the whole country is in darkness until the matter is clarified? I am wondering whether it could jeopardize the Amendment if we say "lawful withholding". I gave that example in order to be clarified.

THE CHAIRMAN: Okay, let us get the Hon. Member on the Floor to clarify. There were two points, one by Hon. Kirenga whether there are laws

which prevent people withdrawing labour if they just want to go home, and then the question of - I think what the Hon. Member was talking about was the essential services, that if someone is on a table being operated upon by Hon. Kakungulu, should the electricity go off? Could you please clarify?

MR. AMANDRUA: Yes, Mr. Chairman, there are laws which prevent workers to go on strike, these are the essential services; you will find them with the medical services, you will find them with the Uganda Electricity Board, you will find them with postal communication, and then we have - and sometimes these laws are made in such a way that they do not give - they oppress the workers. Employers feel, because there is a law, therefore, they do not do anything to improve the workers condition of service. But if there are, of course this is the principle law and out of this definitely, the laws are going to be changed and when workers have complaints and some of these complaints are not attended to by the employers. This is one point. Another point which was raised by Hon. Bidandi Ssali is, we have negotiations between the Union and the Management, we actually give them notice if we want to go on strike. Sometimes we give 14 days notice, and then with other people, it is 21 days' notice. It is only that law which makes it difficult for us, and if that law is removed - we do not simply walk out from a factory and go away. We normally give notices from 14 days to 21 days, Mr. Chairman.

THE CHAIRMAN: I think we are now beginning to get various contributions under the guise of clarification. Now Members are using clarification for substantive contributions. What we are now going to do is that we have listened from the Mover, from the field and back to a sponsor who is also a Mover. I think the Members -

MRS. SSENTONGO: Thank you very much, Mr. Chairman. I just want to improve on the Amendment basing on the submission of my Colleague that as we normally have negotiations and agreements with our employers, which include the procedures of how a strike can come about, therefore, I want to qualify the withdraw of labour by adding "lawful withdraw" (*Applause*). Thank you very much, Mr. Chairman.

THE CHAIRMAN: Now, let us get this clear. I want to frame what the Mover has stated before we can entertain any further, be they orders or observations. The Mover is endeavoring to insert the word "lawful" or "unlawful" -

DELEGATES: Lawful.

THE CHAIRMAN: Lawful - before which word in your Amendment?

MRS. SSENTONGO: Before "withhold", Mr. Chairman.

THE CHAIRMAN: Then you need to have it properly drafted. If you say *every person in Uganda shall enjoy the fundamental rights and freedoms of the individual, namely the right to each and all of the following: (e) lawful withholding or lawful withdraw* - you see, we are trying to get the drafting correct. Now what is the difference between withhold and withdraw?

MR. MULENGA (Democratic Party Delegate): I believe "withdraw" implies you are in service or in employment and you remove yourself from it. Withhold can be even before you start. But, Mr. Chairman, permit me to contribute and oppose this Amendment. Firstly, in this article, we are enumerating individual human rights and freedoms, not collective (*Applause*). What is being suggested is a right of a Trade Union to strike. Now, my problem with this, Mr. Chairman, why I do not feel it should be put in the Constitution, is that basically, employment is a contractual affair. The employer and the employee negotiate and come to agreement. If we put the right of the employee to withdraw his service, we would probably, to equalize, have to consider whether we should give the right to employer also to withhold some of the terms -

THE CHAIRMAN: No, unless you are talking about a lock-out, so that he locks out the workers.

MR. MULENGA: Precisely so, Mr. Chairman. What I am saying is that let us confine this chapter to the individual fundamental rights. You know there are other rights that are not included in here. So, let us not overcrowd this chapter to bring in rights which are contractual as opposed to fundamental, inalienable, they are not given by man, we inherit them from the creator. One cannot convince me that the right to strike is as fundamental as these other rights we are trying to describe. Thirdly, Mr. Chairman, I have another problem on the Amendment, perhaps, this is procedural. If I am inclined to accept (g), the right to practice a profession and a right to carry on an occupation but I do not support (f), how am I going to express my - if the two are being debated together?

THE CHAIRMAN: In other words now, what is emerging - let us clarify our matters so that we know exactly what we are doing. The Movers moved an Amendment to insert two paragraphs to Article 51(1), in terms already described. I can see a view also developing on the Floor, because the entire debate has been essentially on paragraph (f) until Hon. Mulenga points out that it would be fascinated by (g). Now, it would appear that (g) has not attracted too much adverse comment, if at all. Essentially, some Members are prepared to allow the House to go ahead with an Amendment that guarantees the right to practice one's profession or trade - lawful trade, profession will have to be lawful in the first place, anyway. I do not think you are going to have doctors who are unlawful but also trade or business. Now, we can proceed in two ways: we can proceed by an Amendment to the Motion to strike off, it is the wish of the House and also the Members who are moving, (f) so that it is left out of the Motion as previously framed, or we proceed with voting on the two and they fall together, or the Movers themselves can move the House to make a choice then we go to vote. Now, can I hear from the Mover on this one first.

MRS. SSENTONGO: Thank you very much, Mr. Chairman. First of all, I would like to clear the mind of Hon. Mulenga that even if we use labour, it still falls under here, we could say "lawful" or "lawfully withhold" one's labour. Because a contract could be between a man and a woman, you know, two people, not necessarily a group for that matter. I would not like him to consider that, because we are here for NOTU, therefore, it has to go in that format, collectively. You can work for an individual as an individual, anyway. So, in view of that, I wanted to clear his mind on that, that let him look at this with a sympathetic eye. In regard to the question put by the Chair, I would like to proceed with both, but I wish you can give me a microphone later on after people have debated, Sir. Thank you.

THE CHAIRMAN: No, you see, the Chair is coming to a close on the debate on the Floor, and the Chair is inclined to call -

MRS. SSENTONGO: Okay, Mr. Chairman, may I request that we vote on these two separately, please, than taking them together

THE CHAIRMAN: Okay, since the two are not necessarily related but they were only brought together under one Amendment, I think we can accede

to the request that we pronounce ourselves on the two legs of the Motion.

MR. NASASIRA: Point of clarification. Mr. Chairman, I now wanted a clarification from the Chair, whether after voting on (f) we are going to have an opportunity to ask clarifications or contribute on (g) because some of us were of the impression that we were only debating on (f) and we will have an opportunity to debate on (d).

THE CHAIRMAN: No, earlier on, when the Mover was on the Floor, she sought clarification from the Chair and clarification was given that she should proceed with both because of the manner in which the Motion appears on our amending sheet there, and so both of them have been available, the attention of the House was drawn to (f), (g) attracted Hon. Mulenga's attention but favorably, I would rather that we go on to vote now, because we have spent quite a bit of time. There is a point of order here, everybody give way. Yes.

MR. KUTEESA: Point of order. Thank you, Mr. Chairman. The current state in which article (f) has been moved, reads as follows: "lawfully re-holding their labour without being exposed to criminal penalties." Mr. Chairman, it is clear to me that, if you withhold your labour lawfully, there could be no criminal penalties that you will face. Is it in order for us to retain (f), now that it has been put in this state? It seems to me that, it becomes redundant. I do not want order or guidance, I want you to help me. Now, that it has been amended to make it "lawful withdrawal of labour". How on earth would you lawfully withdraw your labour, and then be faced with criminal penalties? It seems to me that, that will be redundant (*Applause*)

AN. HON. DELEGATE: Thank you, very much, Mr. Chairman. If the previous Hon. Speaker touched on the amendment including the words lawful withdrawal of one's labour, without being exposed to criminal penalties, I would wish to modify this amendment - excuse me, by saying that also withdrawal of one's labour without being exposed to criminal penalties - measures, for that matter.

THE CHAIRMAN: Let us hear from Hon. Amandrua, please.

MR. AMANDRUA: Mr. Chairman, I am not actually contradicting my Colleagues, but we strongly see, if the amendment, the real amendment is true

that, a worker can only withdraw his - I mean illegally withdraw his labour, then the whole thing has become redundant. Because he wanted to fight the other law which is allowing workers to withdraw their labour. Now, again you are inserting it into the constitution, what is the use of it? There is nothing. I am very sorry for this contradiction.

THE CHAIRMAN: Now, this is -

MR. AMANDRUA: For me, I would suggest, if the Motion could remain as it was and let it be thrown out by the House, when it is as it was before.

THE CHAIRMAN: No, you do not have to tell the House what to do! I think what you have done is you brought here a Motion in the House.

MR. AMANDRUA: As we say, it should remain as it was *(Interruption)*-

THE CHAIRMAN: And then let the House pronounce itself on it.

MR. AMANDRUA: And then let the House vote on it.

THE CHAIRMAN: Okay. You are not telling the House what to do. I think really - Hon. Leander Komakec, are you going to add anything new which - because I would like us to go on to the voting stage

MR. KOMAKEC: Thank you, Mr. Chairman, yes I would like to give a contribution. I think, I would like to make my contribution by saying that, we have a Rule here, in this House that, if Members are - have something to say on a Motion on the Floor, they should not be prevented. We have an understanding to that one when we are making our Rules of Procedure. So, I am just making a very strong contribution which *(interruption)*-

THE CHAIRMAN: I do not think that is a correct statement.

MR. KOMAKEC: Okay, let me make my contribution to the Motion here. You see, when we are debating here, it touches two things. That is the protection of lives of individuals as well as that of groups of people in association. You can enter into an employment agreement either as an individual to your employer or in a group with others in which we have what we call a Trade Union. I think the problem

here is that, we have got two types rights. The rights of the individuals to offer or not offer their employment, and the same rights as being used with others in form of Clauses. If you looked at that right, I think we should be considerate. We know that, in the normal right, there are people who want to make money or exploit others in the process of making - of growing rich. And I can say this that, without being selfish - appearing to be rather very selfish, we should try to help under-dogs in our society, those who may be too weak. Labourers have always been very weak in the face of employers.

So, really, I am very sympathetic with the spirit behind the Motion here in that, it would give them the right not to be exploited. We have just said that this attitude and exploitation, should not be allowed. This is one way of re-enforcing it. We must know that, in the circumstances, there are people who are going to be organized in big corporations, and these corporations can always exploit the small people. And so, in this right, I support this Motion that, we should actually retain both (f) and (g), because they are actually addressed to areas that are of importance, in the life of the ordinary people for whom this constitution is going to be of very crucial importance.

If we deny the Ugandans the right to strike, we are only dancing to the tune of the employers here. So, I support this one that, these people withhold. Normally, when people enter into employment, there is an agreement, and it is that that people should now be - when we say, people's right to withhold their labour is actually according to the contract they find. The other one is that, to practice any right can very easily be allowed to go through here because most of us here are employers or prospective employers. But I think we should be more considerate.

THE CHAIRMAN: It is imputing improper motives on the part of Members in advance

MR. KOMAKEC: No, I withdraw that one. You see, we should be - we looked at both sides of the story, and on that basis, I would appeal that, both (f) and (g) should be supported. Because it is one of the rights that are internationally recognized, it is one of the rights that can be very easily breached by overlook. Because *(interruption)*-

THE CHAIRMAN: I think you have made your point. Hon. Serwanga Lwanga you wanted to have something clarified. I think we are coming to some reasonable level.

LT COL. SERWANGA LWANGA: Point of clarification. Thank you, Mr. Chairman. I am seeking a clarification from the Mover or from you Sir. This Article 51(f), is it only referring to Trade Unions, or any person in Uganda? Mr. Chairman, I have a problem. In an institution where I work in the army, when we said the Army to withhold their labour, what happens? So, are we going to create another military or are we saying that, this article should be exercised without involving Armed forces? I am seeking a clarification from you Sir.

THE CHAIRMAN: Let us get this from - Odong could you clarify that?

LT COL. ODONGO: I think with the Army, even if delay is there, if they want to go on strike, they can take their guns and they will go. Yes! So, what we are talking about is - they have done it on several occasions.

THE CHAIRMAN: No, that does not help because we thought - No no, we were talking about a constitutional situation. For you, you are saying that they are alright. I think Let us hear from the last speaker Hon. Nsambu at the back there.

LT COL. ODONGO: Mr. Chairman, I had two points, sorry.

THE CHAIRMAN: No, no. I gave you to clarify on that one, so I cannot give you the Floor all the time.

MR. NSUBUGA NSAMBU: The amendment before the Assembly is manifestly badly drafted and vague. Is it in order for this House to continue debating something which is not yet understandable?

THE CHAIRMAN: The Chair ruled on that point when it was raised by Hon. Kirenga. What I would like to do now, is that, we have spent enough time on this really. Let us now, vote on the two separately. And for the purposes of our voting, we disregard the attempt to modify the original one. Because it created even confusion to the sponsors. So, we take the text as it is, it can be polished up by the technical committee. So, now let us vote on (f), giving the right to withhold labour without penalties.

(Question put and negatived)

THE CHAIRMAN: Now, let us go to the next one. We are now on voting stage, we are voting on the other paragraph (g). Now, what clarification would you like to have - since you are the custodian of the Legal profession?

MR. ABU MAYANJA: Mr. Chairman, as I see it drafted, it is practiced in any profession, it does not say whether he is qualified for it and I find this a little difficult because, as it is drafted, I can now go and claim to practice the medical profession - or in the actual fact I am a lawyer, but the - as a profession to all. So, I think there should be some attempt to define that the person claiming he has a right to practice a profession, is claiming to practice a profession for which he is qualified and which is lawful and is allowed to be done.

THE CHAIRMAN: So, Are you making an amendment?

MR. ABU MAYANJA: To practice any profession for which he is qualified.

THE CHAIRMAN: Yes, Hon. Rukutana, what do you say to that?

MR. RUKUTANA (Rushenyi): Thank you, Mr. Chairman. I am seeking clarification from the Chair as to whether actually, this amendment has been amended to include the word "lawful". Somebody talked about it, but I do not recollect so that we have actually amended.

THE CHAIRMAN: No, when we opened discussions on this amendments, the mover did seek the indulgence of the House to add that word right from the beginning before, they moved. So, as far as we are concerned, the moving was in fact already covered by the inclusion of the provision before that time.

MR. RUKUTANA: Then Mr. Chairman, in that matter, would I know where the word lawful comes, because there is practice - any lawful profession or carry on any occupation. Is it both "wise to practice any lawful profession" or "carry on any lawful occupation, trade or business"?

THE CHAIRMAN: The mover had inserted the word lawful, immediately after the word occupation. But in view of the comment from the Hon. Member from Busuju, we found ourselves with someone who

is about to move an amendment. But let me hear from Hon. Karuhanga, he had some - it seems he has some ideas.

MR. KARUHANGA: Mr. Chairman, the amendment is a good amendment - the proposed amendment is a good amendment.

THE CHAIRMAN: What is it? I have not got it.

MR. KARUHANGA: The problem with it is that, the words "*any profession*" - if you say, "*practice any profession*" is wrong. You cannot say that, "*anybody should practice any profession*". But, once they put the word "*lawful*" before "*occupation*", that helps the "*lawful occupation*". But it does not help the "*any profession*" at the beginning. Therefore, I was suggesting that the words "*practice any profession*" should be removed from the text. And the words should just be "*carry on any lawful occupation, trade or business*".

THE CHAIRMAN: I can see three lawyers, four now, five now, I think now let us start - here you are saying you are seeking clarification, then we come back to Hon. Mayanja who had originally started the idea.

MR. BART KATUREEBE: Thank you, Mr. Chairman. And as Hon. Mayanja has said, what the movers want to say is that, everyone has a right to practice his profession. And when you use - I will make that clarification. When you use "*lawful*", you may have so many lawful occupations or professions. But I do not have a right to practice a lawful profession that is not mine. What you are talking about is that, I have a right to practice my profession, and the word really should be practice his or her profession, leaving it to the technical Committee to work out.

THE CHAIRMAN: But I think let us go on to the principle here. The rest is really wording to bring it into - because we have gender sensitive language apparently in this text. We do not want to go into his or her and the rest, but the Technical Committee can actually come out. But may be the Chairman of the Legal and Drafting -

MR. WACHA: Mr. Chairman, I entirely agree with Hon. Bart Katureebe. I think the principle behind is that the person should be allowed to practice a profession of his calling or her calling. I

only wanted, before we vote on it, to put the whole word lawful in the place I considered more appropriate, and that is before the word occupation. So that, a tax payer of an occupation, trade and business. So that, it would read, "*practice one's profession or a profession of one's calling or carry on any lawful occupation, trade or business*".

THE CHAIRMAN: So, let us vote on that, the Technical Committee has heard it. And the principle is very clear.

(Question put and agreed to)

There is an amendment to be moved by Hon. Grace Akello regarding property. There was an argument whether that is the home of it - I mean for it, but the Legal and the Drafting Committee advised that, we could move it there. The purpose, I think will be explained by the mover. Could you move your Motion please.

MISS. AKELLO (Presidential Nominee): Thank you, Mr. Chairman. Mr. Chairman, I am not a lawyer, and as such I bow to their wisdom, and I have been advised that, it will be most appropriate to move this article to page 21, and debate it as the first article of the articles in 56. You can see I am not a lawyer, I do not even know how to refer to them. As the first clause of article 56, and I would therefore, like to proceed as advised. Thank you.

THE CHAIRMAN: Okay, so you do remember to interact with the Legal and Drafting Committee, so that when those articles come after a discussion, your amendment will also be taken into account.

MISS. AKELLO: Thank you, Mr. Chairman.

MR. KABERUKA: Thank you, Mr. Chairman. I am sorry I handed in my amendment on 51(e), which was straight forward, but it did not come, and since we are coming to the end of that section, I wonder whether we would be allowed to move that amendment, Mr. Chairman.

THE CHAIRMAN: Can we get guidance from the Legal and Drafting Committee whether that amendment for Hon. Kaberuka was received and considered. Because it may have been included in some other amendments. We do not have it anywhere.

MR. WACHA: Mr. Chairman, I do not seem to recollect, whether that amendment came before us.

THE CHAIRMAN: It is neither with the chairman of the Legal and Drafting nor that of the House. So, it seems it is a new development.

MR. KABERUKA: No, Mr. Chairman, I did hand it to the Clerk, as required by the Rules, and this amendment is not a very controversial one.

THE CHAIRMAN: How do you know?

MR. KABERUKA: It looks as if it was just an omission like we treated Hon. Cecilia Ogwal's amendment.

THE CHAIRMAN: Now, could you state it so that we know whether it is not controversial or not?

MR. KABERUKA: Mr. Chairman, on (e), I feel that, between the word "without" and "compensation", there are some words missing especially "where" and "adequate". Because the compensation has to be measured - there must be a measure of compensation.

THE CHAIRMAN: Order. Hon. Kaberuka would like to interpose the word "where" and "adequate". Is that seconded? Could you make very brief remarks then we vote?

MR. KABERUKA: Mr. Chairman, I think I do not have much to add on only to say that, if we leave it the way it is, it is very dangerous, because one's property can go for one shilling or for two shillings, and taken as compensation. Therefore, if this compensation must be fair, and adequate, and in fact I should have added on the word prompt. But I leave it the way I stated earlier on, Mr. Chairman. Thank you.

THE CHAIRMAN: Okay, Hon. Katureebe.

MR. KATUREEBE: Thank you, Mr. Chairman. As we had already observed, article 51 enumerates the rights that you are entitled to. Now, when you come to the amplification of the rights to property, under article 56 which clearly says "provides prompt payment of fair and adequate compensation prior to the taking of possession." So, really, the principle and the concerns of the mover are already taken care of in the constitution.

THE CHAIRMAN: I think the matter has been clarified under 56. So, it adequately does cover, in fact includes the word prompt, and if we wait and come to that, and let Members not fear that they may not pass it. It is unlikely that, it will not be passed. I would therefore request the Mover that, we really do not proceed with this one. In view of 56 which is more specific. Okay. There is Hon. Wasswa Lule on Clause 2.

AN. HON. DELEGATE: Point of clarification. Thank you, Mr. Chairman. The effect of the amendment we have just passed, makes the present provision in (f) - I do not know whether now, automatically moves to become (g)?

THE CHAIRMAN: No. You see - now the rest is for the Technical Committee.

AN. HON. DELEGATE: Okay.

THE CHAIRMAN: Hon. Wasswa Lule, you have an amendment on article 51, clause 2.

MR. WASSWA LULE: Thank you, Mr. Chairman. First of all, I would like to point out that, on the list of amendments, some people have got only page 1 and 2, and there are other amendments which some people have not brought. Because the amendment which I am trying to move, is also connected with another amendment on page 3 No.8 which is intended to be a general omnibus limitation clause to cover the whole of the human rights, and they should be looked at together.

THE CHAIRMAN: No, I think you better move the one first, and then we go on to the next.

MR. WASSWA LULE: Yes I just wanted to draw the people's attention to that, because they would look at it - you know to look at it in light of the two. Because there is another amendment that has been inserted between the two, number 7. Mr. Chairman, I beg to move that article 51 Clause 2 we delete the words "or the public interest".

THE CHAIRMAN: Is that seconded? It is seconded. Yes. Can you speak to your motion please?

MR. WASSWA LULE: Thank you, Mr. Chairman. The words Public interest are very general. It is what we call a claw back clause. Now, what is a claw back clause? A claw back clause is one that

purports to give you the rights and yet it gives the power to withdraw that right, and the words public interest are so broad that, in fact, many of the rights that are enumerated, that, it is possible to demean these rights.

So, as I said, the intention is to have one general omnibus clause that stipulates the manner and extent to which exceptions to the provisions may be curtailed in straight jacket requirement as other than having clauses like this which could be used against the interest of the individual. Claw back clauses have been used to pass laws and they have been used as the rule rather than the exception. And the authority to enact autocratic and oppressive laws has always been derived from our constitutions.

It is because of such claw back clauses that things like Detention Without Trial which is abhorrent, these laws have been passed in our Statute Books, but they are within the constitution because of the interpretation of such broad claw back clauses. So, what I intend is to see that, we have a basis of revaluating and some people tend to think that when you have the limitation as stipulated without public interest, that public interest is not taken into account. On the contrary, public interest is taken into account. Because an individual's rights are limited to the extent that, those rights do not infringe on other individuals. Now, those other individuals are also members of the public. So, public interest in that respect is taken into account, without having a general phrase which can be interpreted beyond that limitation.

There may rights that have been frustrated. Freedom of conscious for example. There are many religious organizations that have been banned over the years and I will give you a few: *Dini ya Musambwa* in 1948, the Pentecostal Church in 1973 which is now operating without issue, the Seventh Day Adventists of Dr. Samson Kisekka, the Salvation Army, the Bahai Faith in 1977, and more recently, *Ntambilwoli Omukama Yuhanga Wamahe Giona* Association in 1991, and the *Oziira Monks Dyei* in the same year. All in all, a total of 45 religious organizations have been banned from exercising their freedom of conscious on these occasions on various sections of the Penal Code. These likewise have also faced the axe in suppression of a free press and expression and such News Papers have included, over the years, *The citizen* which is operating now, *The Economy* which is operating now, *Mulengera* which exists today, *Weekly Topic*, *Sabasaba*, all of these were out-

lawed in 1981, and *The Weekly Digest* in 1986, which I understand compared the ignoramus Idi Amin with the incumbent which is an outrageous statement, but non-the-less, is not good enough reason to ban a publication.

So, as a consequence of the abuse of claw back clauses over the years, we have found ourselves as a country, a sound oppression of suppressing the expression and conscious. Mr. Chairman, for those reasons, I beg to move that we accept this Motion.

THE CHAIRMAN: The Motion before us is that, in Clause 2 of article 51, the words "or the public interest" be deleted. Hon. Kuteesa.

MR. KUTEESA: Thank you very much, Mr. Chairman. As you will see Mr. Chairman, from the same page where Hon. Wasswa Lule has proposed to move this amendment, I have a similar - I have another amendment on the same article listed as number 7, while Hon. Wasswa s is listed as number 6. Mr. Chairman, in the first incidence, I would like to associate myself fully with the fears and the sentiments that have been expressed by Hon. Waswa Lule, about the draconic measures that governments in the past have taken to curtail freedoms of people, and to use what Hon. Wasswa Lule called claw back clauses to set up freedoms that are otherwise fundamental.

It seems to me, Mr. Chairman, that Hon. Wasswa Lule's Motion is based on a fear of performance by future governments, and I think it is a fear that is adequately justified. So, while I appreciate his fear, I think he has run to a conclusion of wishing to delete the phrase in public interest, I think maturely or lawfully. In the first incidence, other than the abuses that have been ascribed to the clauses of this nature, the clauses themselves could have been used to protect public interest which always exists anywhere in the world and certainly here.

We have had a problem of leadership that abuses these clauses. For example, Mr. Chairman, if you do not leave individual power to parliament to enact certain laws, that for example would enable any administration to control epidemics. Let us assume that an epidemic, a plague - a plague epidemic broke out in there - let us say -(laughier)- even Mawogola, although I had thought Kampala Central would be better. Suppose there was an out-break of plague in

Mawogola, it is true that the movement of people in Mawogola, ought to be safeguarded - freedom of movement. You would have to restrict people within their own houses - within Mawogola

So, in that sense, you want to stop the spread of plague or an epidemic from one house to affect others within Mawogola. But even also, it is said that, Mawogola should now be sealed off. Because the out-break of plague there could effect the whole of Masaka and eventually get to Kampala Central. Now if you impose restriction on the movement of the people of Mawogola, who would have accepted their fundamental right but surely you had also in mind the public interest. There are cases of that nature, that are absolutely necessary. Even if it is not just human beings, movement of property, cattle for example. My Hon. Neighbour here, Pecos Kuteesa in his constituency they keep cattle. Very often, they catch foot and mouth disease. And they move these cattle to Mawogola in my area, to the wealth of my people. Now, Mr Chairman, if you do not empower Parliament to be able to enact - whether there are Veterinary Laws or Public Health Laws that are in public interest, then you tie the hands of parliament about carrying out collective action that will safeguard the interest of society. It is therefore - I should go on, Mr Chairman, there are issues of public morality. For example, if someone is beginning to show the young children in this country - corrupting their morals, who is the complainant? Someone must be able to have power. Parliament must have power to enact laws, for a Censorship Board for example, for films. However, what I am concerned about, just like my Hon. Friend Wasswa Lule is the use of such Clauses like public interest to persecute political opponents (*Applause*).

Hon. Wasswa Lule, has given us a catalogue of such examples of closing News Papers, of refusing to license people you do not like, and those I think of detaining people without trying them. I think those are the objectionable parts of the clause "Public Interest", and we must outlaw them. That is why, Mr. Chairman, I am opposed to the Motion by Hon. Wasswa Lule, to delete the phrase, "public interest" because in certain circumstances, such a clause is necessary to empower the legislature, to make appropriate laws for public interest indeed. I therefore, would rather limit or rather qualify what that public interest will not include. And I have attempted to do so in my amendment.

THE CHAIRMAN: Well, you cannot speak to your amendment yet.

MR. KUTEESA: It is not yet time to speak to it, but I would like to invite my Hon. Friend Wasswa Lule, to look at my amendment now because my hands will be tied, Mr. Chairman, if this House was to uphold the Motion by Hon. Lule to delete, then I cannot amend what is deleted. And if the Legal and Drafting Committee put them in this order of 6 and 7, then my hands will be tied, the hands of this House will be tied, that is why I invite my Hon. Friend Wasswa Lule, to look at this proposal of mine, because I entirely agree with his reasoning and see if we can amalgamate them, and look to them because it actually takes care of his fears which I also share. Thank you, Mr. Chairman.

THE CHAIRMAN: Well, Hon. Members, before I give the Floor to another speaker, the rules of procedure tell us that, when we have more than one amendment to an article, you deal with the one which is nearest to it first. Of course, when you compare the two, - yes, let me see. You call them in the order in which they relate, 48(11) does talk about "...which in the opinion of the Chairman departs furthest from the text under discussion". Yes, that is correct. And if I may ask for guidance - if I may ask opinion of the House, which one departs furthest from - if you take the two, the one which deletes departs furthest is it not? It nullifies. So we deal first with one which - if by adopting Hon. Wasswa's Motion, the House deletes those words, then I am afraid Hon. Kuteesa will have nothing to amend. And in that way, we shall have finished the business. Which departs not furthest. Which departs furthest. Now, this which actually removes it all. Let me see, let me seek guidance from the Legal and drafting Committee.

THE CHAIRMAN (Legal and Drafting Committee): Mr. Chairman, we considered those amendments and we felt that deletion of the word "public interest" from the sub-article goes furthest from the principles of the sub-article, and then the Hon. Sam Kuteesa's which preserves the basic principle of the sub-article, comes nearer to it.

THE CHAIRMAN: In other words, the Legal and Drafting Committee took the correct view that we do not start with amending when we are going to remove it, because we would be wasting time. So let us decide the fault of it, before we amend it, if we have to amend it. So, now, the Motion is that, we continue

-I mean the point is that, we continue with the Motion of Hon. Wasswa, unless Hon. Wasswa wants to heed the appeal by Hon. Kuteesa of Mawogola. I give the Floor to Hon. Wasswa Lule.

MR. WASSWA LULE: Thank you, Mr. Chairman. This is the very reason why I say that, my amendment should also be looked at in light of amendment number 8, which seeks to add a new Clause stipulating the circumstances in which limitations can be enacted and perhaps if I read that, you will probably get it in context, and I say there that: *"where under the constitution, the limitation of any fundamental right or freedom guaranteed by this article is authorised, (a) any law providing for the limitation shall not derogate from any essential element of that right or freedom, (b) be of general application and (c) not be aimed at a particular individual"*. Now, the argument that Hon. Kuteesa put forward, where he talks about epidemics, if you think about it, if there is an epidemic in an area, and you are restricted so that the epidemic, which you know, does not spread and affect other people. That is the limitation on infringing the rights of other people. That is why we have laws, and that, I think, is allowed for within the limitation that individuals should not infringe on the rights of others. And that is why I said in my submission that public interest is taken into account because individuals are not normally allowed to do whatever they like, they are always limited to the extent not to infringe on the rights of others. That is why you have things like speed limits. If you drive a vehicle at 500 - you risk the lives of other individuals, and therefore, you infringe on their rights, and that is why those laws are allowed. But when you use the phrase *"public interest"* it broadens the possible derogation of those rights. And that is why I said that it is possible to have a straight jacket clause that stipulates clearly the circumstances which must be referred to when enacting legislation, other than opening the door wide open for any infringement into people's rights. And that is the thing behind the proposed amendments.

THE CHAIRMAN: Anyway, the thing is that, in summary, we do not agree with the procedure suggested by Hon. Kuteesa which means that we are going to have to proceed in three stages. The Legal and Drafting Committee has graded them as follows. The one which deletes, then the one which modifies, and the one which is attempting to insert a new provision. Because that not within 11. Now, what

we do is to proceed with the amendment. Of course I do not know whether Hon. Wasswa was trying to say that, if you fall sick you are infringing on other people's rights. I do not think that is - because you are saying that if you fall sick you are infringing on other people's rights, so you can be restricted. I think what Hon. Kuteesa was looking at, was for instance paragraph (e) a deprivation of property without compensation, or even requisitioning of one's property because of an emergency - like an earthquake, they can take your vehicles to go and be used and then be returned, because of a certain situation. But I think what we do, let us proceed with debating Hon. Wasswa's amendment, come to conclusion about it, then if we delete of course, then the other falls by your side. Hon. Babu.

CAPT. BABU: (Kampala Central): Thank you, Mr. Chairman. I stand to oppose this amendment. I am opposing it on very simple grounds. I have heard attentively, people talking about abuse, and abuse seems to be the center point that everybody is facing in some of these amendments. Now, if you look at law and order, and that is if you are in a modern state, and you what to have an organized system that is democratic, you are going to expect your government to be able to enforce law and order. That is point number one. Point number two, in democracy, you are going to expect people to have their rights. Those two are opposed to each other, and therefore, there must be some sort of a balance and a compromise. Therefore, when we are passing a law here, we have to look at the abuse, whether the abuse will be there, whether the law is there or not. Because there is a tendency for us to believe that, if we continue watering down some of the central authority of government, then we have achieved the ends. But sometimes, you might water it down so much so that the government becomes impotent.

I would like therefore, to be very careful here. When we are balancing and coming to that area, where you have to balance the two, whether the previous governments were abusing this particular clause illegally, or they were abusing it knowingly and following the law. What they were doing, actually, was abusing democracy totally in this country. There was nobody even who would stop them from doing it. Because they took the law in the hands of dictators.

But we are trying to establish a democratic system, a process where government will be elected, going through democratic means, and therefore we expect

a government of the people, that will protect the public. So, I come back here and say, if now you tell me, you are going to have a government which is not going to protect this, then why are we here? And therefore, if you are going to make that government impotent because of the past history, not to be able to look and protect the public, then what are we doing?

I was very happy that, Hon. Wasswa who is my very good friend said that, there is a speed limit on the law Books. And in this country, we drive on the Left Hand Side. And therefore, that is done in the public interest to make sure that, there is an orderly flow of traffic, and that traffic does not infringe on the public. There are other laws which are like that, which are in the interest of the public.

Therefore, before we delete "*public interest*", we must look at the concept and this concept is, law and order and the rights. How far can we water this down!

THE CHAIRMAN: Honorable at the back waving.

MR. OWOR (Aswa County): Thank you, Mr. Chairman. I would like to support the Motion, for basically two reasons. One is, I would like to state that, it is on record - historical evidence that, there is wide-spread abuse of this question. That the problem that is facing many governments in the world, especially third world is not a problem of too little power by the executive, but rather the problem of too much power by the executive. And usually, this too much is exercised under the guise of what exactly the Hon. Wasswa Lule is trying to delete - public interest. The executives usually arrogates to itself the role of being a custodian of public morality and public interest, and many of them exercising it in their individual capacities are ill equipped to be in charge or the custodian of this very weighty matter. And, Mr. Chairman, I believe that, if we are going to see good government in Uganda, one of the things we should watch against is the problem of having too much power on the executive where they have too much discretion and exercise it in such a way that they have something to hide behind and you cannot take them to task, and this is what this article will achieve if we do not delete this word.

Secondly, I would like to repeat that, when we talk of public interest, clearly it should really be the

protection of the rights of individuals or other individuals which I think the Hon. Wasswa Lule, has ably argued is well taken care of in that same article. And Mr. Chairman, I believe that, we have not yet had problems at all with the executive having too little power. We have in fact had problems with the executive having too much power, and this Constitution, if it is true that, if anything, should work at reducing that power and making the executive more accountable to the people. Thank you.

THE CHAIRMAN: Your neighbour.

AN. HON. DELEGATE: Mr. Chairman, I found myself taking sides with Waswa Lule -

THE CHAIRMAN: Could you say, who you are for our record?

MR. OWINY DOLLO (Agago County): Mr. Chairman, I am rather surprised that the draft as it stands provides for the protection of rights and freedoms of the people and continues to provide for protection by some strong "*animal*" called the "*public interest*". Mr. Chairman, this "*animal*" called the "*public interest*" is amorphous. I have looked at the interpretation section, it is not defined. It would appear, "*public interest*" differs from Rights and Freedoms of the people. That is the danger in providing for "*public interest*". One would have thought, "*public interest*" in fact was the rights and freedoms of the people. Now, we have already provided for the rights and freedoms of the people, and then hastened to add the "*public interest*" without providing the definition or test for that public interest. This is an unfortunate anomaly and actually, it will be used more in the abuse than in the protection of the rights and freedoms of the people. As it stands, if it is meant to cover all the rights and the freedoms of the people, then it is idle. It is actually superfluous unless it means something else.

MRS. MUKWAYA (Mukono County, South): Thank you, Mr. Chairman. I stand to oppose the Motion, by giving this information. Suppose you have a jigger in one of your toes, you do not cut it off. You get a safety pin, remove the jigger, and heal the wound. Furthermore, Mr. Chairman, adding on to that, I am saying that currently, we are using the 1967 constitution. So, the same executive we have now, have the same powers as those other executives who were here before. But I think the difference is seen on how the other executives used to use the

clause and what this present executive uses the cause for. So, it defeats my understanding, and I think the user, the personality of the executive is a problem rather than the clause. So, I stand to oppose the Motion and if it is only for interpretation, let us adopt Hon. Kuteesa's amendment. Because it does explain what public interest is.

THE CHAIRMAN: Hon. Magezi

DR. MAGEZI (Jinja Municipality, East): Thank you, very much, Mr. Chairman. Mr. Chairman, in view of the lack of interpretation, for this public interest, I have to strongly support the proposed amendment (*Applause*).

Mr. Chairman, is "public interest" necessarily majority interest, or is it minority interest, or both, depending on the person using it? Mr. Chairman, we are not making a constitution to be used by the National Resistance Government, which is level headed, and which can be distinguished on a number of issues in the constitution. We have to make a constitution which can take care of people who are ready to suppress opposition using the articles in the constitution. And it is always political - civil servants have been retrenched in public interest. You cannot determine public interest by referendum, you can only determine it by a small clique within the corridors of power and therefore, for lack of better English, may be I will say that, "public interest" is - we need a properly defined norm, and I think within the context of what is to come under the interpretation clause, something could have been put there, by the Odoki Commission. In its absence, I urge members of this august House to strongly support this proposed amendment (*Applause*).

MR. BASOGA NSAJU (Busiki County): Thank you, very much, Mr. Chairman. I stand to oppose this Motion, Mr. Chairman. I do know that, when we are talking of "public interest", certain past governments have definitely abused this particular clause, as Wasswa put it. I mean, Hon. Wasswa put it. But I would like to say, that the key word there is "abuse", in the name of something which should be promoted. Because definitely, Mr. Chairman, individuals have interests, but the public collectively have certain intrinsic interests that should be protected. I know, I was a victim of this thing they call "public interest" that should be protected. I know, I was a victim of this thing they call "public interest" and I know some News Papers have also been

victims and I know some news papers have also been victims, and I know certain religious sects have also been victims, but the ulterior motive has always been political. Political in the sense that, one is trying to victimize the other individuals, for political reasons. Mr. Chairman, for me I was detained for one year, sometime back, but there was no redress. So, I see in the amendment of Hon. Kuteesa - (*Interruption*) -

THE CHAIRMAN: Although you are not permitted to debate it yet.

MR. BASOGA: I am not permitted. But when we are looking at the political implications, one has to refer - is there a possibility that, there can be some redress. This is what we are looking for. Because, like one has quoted, in the case of an epidemic, like the one that has occurred in Rwanda, a whole section of society was dying from a certain disease and the rest of the country - if this thing is happening in Busiki, the people in Kampala Central may not know. So, it is in the interest of those in Kampala, those in Mukono, those in Jinja that we cut off a section of society and say please stay here. It is in the interest of the larger collective whole, that may not know that the people in Busiki are suffering from a certain health hazard. This is part of it. So, when we are analyzing this public interest, we do not only need to confine it. Because this happened to a particular region, therefore, the whole of it is dangerous. Like Hon. Mukwava has said, a jigger in the leg does not necessarily mean that you cut off the whole leg or you kill the whole of the person.

So Hon. Chairman, I would like to say that I think we need to recognize the sovereignty of the whole, the sovereignty of all the people and I know we can interpret and interpret but finally the sovereignty of the larger section of society must always be upheld. I therefore oppose the motion. Thank you.

MR. AMBROSE ATWOKI: Thank you Mr. Chairman. I would like to support the motion of Hon. Wasswa Lule on three grounds. First of all, it is difficult to determine what is in public interest and there is no objective scale which is used to measure what is in public interest and this has been used by our past and present political leaders to deny the fundamental rights of some individuals in society. So I support the motion on that ground. Secondly, it is not that the word public interest is not good but the problem is that it has not been used sincerely. In a situation where there is an epidemic, it is used

sincerely but in a situation where it demands political decision, it is used insincerely and therefore you find that there is no way we can leave this clause just to go like that. It has to be qualified Thank you.

MR. ONYOK-ETUKU: I stand to support the motion on the following grounds. One as mentioned by the youth, the public interest has no boundaries. It is infinite, it is wide. You can interpret it in the way you want. In this paragraph two, it is worded in such a way that the word "public interest" may swallow the whole guarantee which has been put in the beginning. I refer to the requirement that in the enjoyment of the rights and freedoms, no person shall prejudice. But then later they said in the public interest. Remember that the exception or if we want to qualify it comes on top of the provision which means a person in power has the right to disqualify all these guarantees in the public interest. Now Mr. Chairman, the term "public interest" is subject to a variety, as I said, interpretations by the authorities. Many politicians, you are aware, are unable to distinguish between their personal interest, party interest or even the public interest. So since they are the public at that material time, they will claim to have all these public interests while others will be there to suffer. As mentioned by one honorable, I forget his name - many civil servants have been dismissed from their jobs -

THE CHAIRMAN: Hon. Magezi

MR. ONYOK-ETUKU: Hon. Magezi, thank you. They have been dismissed from their jobs in public interest. But if you go further to find out, who in the public complains about the man dismissed, you never find out, but those in authority will say it is in public interest. *(Applause)*. Mr. Chairman, since there is no barometer to measure the public interest, I would beg the Assembly to consider very, very deeply and see that we are not making this constitution for those who were there misusing or abusing the public interest yesterday. We are not making it for those who may be abusing but we are looking at the future. Let us have everybody - you see Mr. Chairman, when you say the rights and freedoms of others are not supposed to be interfered with, that covers the entire public. So I beg to support the proposal. Thank you.

AN. HON. DELEGATE: Thank you very much Mr. Chairman. I do stand to oppose the proposed amendment moved by Hon. Wasswa Lule for two

very simple reasons which have already been alluded to by Hon. Babu. First of all, if you delete the word "public", you will, in my view, be creating a very weak government and weak governments can breed dictatorship in my view. I will give you an example. UNLF was in itself a very weak government and it tended to be a dictatorship in its own way. Number two, it will also create instability in the country because you will not be able to implement any decision in the interest of the public. Number three, it will encourage coups because the army will come up and say, we have overthrown this government because it has failed to protect public interest. *(Applause)*. Now let me just qualify that Mr. Chairman, I would propose that what we do is that we define the word "public" and it should be interpreted under clause 286 so that it is properly defined. Thank you Mr. Chairman.

DR. HIGIRO: Mr. Chairman, we have all heard all cases for and against. I think we understand both cases Mr. Chairman. I would beg your indulgence that we put the question.

THE CHAIRMAN: Hon. Members, we have, I think, had a very broad survey of this question because we have had speakers from each and every angle of this House. *(Interjections)* Yes we did. Okay, if you do not want to finish the debate, I will take Hon. Higiros motion as a motion that the question be put. We vote on that one first and then we come back to the other. Hon Higiros has moved that the question be put now. Now let us vote on that one.

(Question put and agreed to)

THE CHAIRMAN: So now, having moved that far, we only go straight to putting the question. The question is that the words "or the public interest" appearing in Clause 2 of Article 51 be deleted.

(Question put and consensus not reached)

THE CHAIRMAN: Let me put it again. On this matter, we shall go to a division, the "Ayes" and the "Nos"

(Division called)

THE CHAIRMAN: Hon. Members, could the Delegates instead of lobbying themselves, make up their minds because I can see a lot of arguments still going on. Hon. Delegates, we have three positions.

There are those who are for the motion and those who are against the motion but our rules also require us to record those who have abstained and I will ask that those who abstained remain in their seats. Could the clerks please carry out a quick survey of the situation so that we get the results?

NOES DELEGATES

NAMES OF DELEGATE	ELECTORAL AREA
1. Hon. Akello Grace (Ms)	Presidential Nominee
2. Hon. Aniku Jacob R.F (Dr.)	Madi-Okollo County
3. Hon. Babu Edward Francis	Kampala Central
4. Hon. Bagarukayo M. Janet	Women-Ntungamo
5. Hon. Bagena Anthony M. S.	Bufumbira County West
6. Hon. Bageya George Patrick	Kigulu County North
7. Hon. Bamwenda Toterebuka Bonefence	Buyaga County
8. Hon. Bantariza Francis	Buhweju County
9. Hon. Basoga Nsaju	Busiki County
10. Hon. Batanyenda Gaitano (Rev.Fr.)	Presidential Nominee
11. Hon. Bateganya Mukuve Dick	Bukooli Central
12. Hon. Bidandi Ssali Jaberu	Nakawa Division
13. Hon. Bwambale-Walemba Ivan	Bukonzo County East
14. Hon. Bwambaale Biira Loice	Women- Kasese
15. Hon. Byanyima Winnie Karagwa	Mbarara Municipality
16. Hon. Byarugaba Bakunda Alex	Isingiro South
17. Hon. Byenkya Beatrice	Women- Hoima
18. Hon. Chebet Maikut	Kween County
19. Hon. Chebrot S. Chemeiko	Tingey County
20. Hon. Chepsikor Muhammad	Youth Eastern Region
21. Hon. Engola Sam	Presidential Nominee
22. Hon. Guma Frank (Lt.Col.)	Bukanga County
23. Hon. Gumisiriza Guma David (Lt.)	Ibanda North
24. Hon. Jamwa Tezira	Women - Tororo
25. Hon. Jurua Alex	Vurra County
26. Hon. Kabayo John Patrick	Kassanda South
27. Hon. Kaberuka William	Ndorwa County West
28. Hon. Kabirisi Luberenga Hope	Women - Bushenyi
29. Hon. Kaheebwa Fox Johnson	Bujenje County
30. Hon. Kaija John Wycliffe	Kibanda County
31. Hon. Kajubi Senteza William	Kyadondo North
32. Hon. Kakungulu Shannon	Presidential Nominee
33. Hon. Kalikwani Irene	Women -Kamuli
34. Hon. Kamanda Bataringaya Cos	Bwamba County
35. Hon. Kanyike Anthony William Henry	Buikwe County West
36. Hon. Karuhanga Elly	Nyabushozi County
37. Hon. Karusoke Constatine	Ntoroko County
38. Hon. Kasangaki Pantaleo Kaahwa	Buruli County
39. Hon. Kasole Bwerere Lwanga	Buwekula County
40. Hon. Kasujja Aziz	Presidential Nominee

41. Hon. Katureebe Bart Magunda	Bunyaruguru County
42. Hon. Kavuma Steven B. K.	Kvadondo South
43. Hon. Kawooya Amia	Women - Masaka
44. Hon. Kavizzi Asanasio	Kassanda North
45. Hon. Kayonde Israel	Gomba County
46. Hon. Kibirango Gyagenda (Maj.)	NRA Delegate
47. Hon. Kiiza Besigye	NRA Delegate
48. Hon. Kimera Vincent	Bukoto East
49. Hon. Kinyata George Stanley	Kinkizi County East
50. Hon. Kirenga Emmanuel	Mityana County North
51. Hon. Kisenbo Muleju George William	Burabya County
52. Hon. Kiyonga Chrispus W.C.B.	Bukonzo County West
53. Hon. Kulany Gertrude	Women - Kapchorwa
54. Hon. Kule Muranga Kighoma Joseph	Busongora North
55. Hon. Kutesa Pecos Onenessmus (Col.)	Kabula County
56. Hon. Kutesa Sam K.	Mawogola County
57. Hon. Kweronda Ruhemba	Kajara County
58. Hon. Kyaligonza Matayo	Buhaguzi County
59. Hon. Liiga Alotious C.M.	Buvuma (Islands)
60. Hon. Lubowa Moses Paul	Budiope County
61. Hon. Maliro Gaston John R.	Mwenge County North
62. Hon. Masalu Musene Wilson	Manja County
63. Hon. Masika George Jafferh	Mbale Municipality
64. Hon. Masiko Winfred	Women - Rukunguri
65. Hon. Matembe Miria R. K.	Women - Mbarara
66. Hon. Matovu Byatike David	Entebbe Municipality
67. Hon. Mavujina Akumu Catherine (Mrs)	Women - Benu
68. Hon. Mayombo Noble (Lt.)	NRA Delegate
69. Hon. Mazima Eliphaz	NUDIPU Delegate
70. Hon. Miringo -Kezimbira Lawrence (Dr.)	Bukoto Mid-West
71. Hon. Mugisha Muntu (Maj. Gen.)	NRA Delegate
72. Hon. Mugenyi Posiano R. (Dr.)	Isiagiro North
73. Hon. Mukasa Muruli Wilson	Nakasongola County
74. Hon. Mukisa Solome	Women - Iganga
75. Hon. Mukwaya Abbey Hafez	Busiro County East
76. Hon. Mukwaya Balunzi Janet (Mrs.)	Mukono County South
77. Hon. Mulassanyi David John	Rubanda County West
78. Hon. Mulindwa Birimumaaso	Bukoto West
79. Hon. Musekura Ndaruhutse B. T. (Dr.)	Bufumbira North
80. Hon. Mushemeza Elijah Dickens	Sheema County South
81. Hon. Mwesigwa Rukutana Mugasha	Rushenyi County
82. Hon. Mwesigye Ruhindi Hope (Mrs.)	Women - Kabale
83. Hon. Mwendha Faith (Mrs.)	Women - Jinja
84. Hon. Nahafu Jennifer Robbina	Women - Mbale
85. Hon. Naburri Lorika William	Cwekwii (Kadam)
86. Hon. Nacha Lorika Rose	Women - Moroto
87. Hon. Nankabirwa Sentamu Ruth	Women - Kiboga
88. Hon. Nasasira John Mwoono	Kazo County
89. Hon. Ngobi Mathias	Presidential Nominee
90. Hon. Nsangi Kakembo Mary	Women - Kalangala
91. Hon. Nsibambi Apolo (Prof.)	Presidential Nominee
92. Hon. Obiga Kania Mario	Terego County
93. Hon. Odong Jeje	NRA Delegate

94.Hon. Olega Ashraf	Aringa County
95.Hon. Omeda Hebron O`Max	Serere County
96.Hon. Ondoga Amaza (Maj.)	NRA Delegate
97.Hon. Otafiire Kahinda	Ruhinda County
98.Hon. Ringwegi Sam Flester Surf	Padyere County
99.Hon. Ruzindana Augustine	Ruhama County
100.Hon. Rwabita Deo K.	Ibanda South
101.Hon. Rwomushana Charles	Rujumbura County
102.Hon. Sebalu Kennedy Mike	Youth - Central Region
103.Hon. Sebi Data Haroun	Koboko County
104.Hon. Semajege Higiro	Lwemiyaga County
105.Hon. Sempa Victoria Esther	Women - Luwero
106.Hon. Ssemakula Nakabugo K. Hawa	Women - Mubenda
107.Hon. Ssendaula Gerald	Bukoto South
108.Hon. Sserwanga Lwanga	NRA Delegate
109.Hon. Tumwine Polly Katahwa	Youth - Western Region
110.Hon. Wambede Seth Massa	Bungoko North
111.Hon. Wamulongo Wahibi Alupakusadi	Bunya East
112.Hon. Wandera Ogalo Dan	Bukooli South
113.Hon. Zziwa George William	Kawempe Division North

AYES

1. Hon. Adimola Andrew Benedict	Gulu Municipality
2. Hon. Adio Winifred	Women - Soroti
3. Hon. Ajiga Abdul	Obongi County
4. Hon. Amandrua Paul	NOTU
5. Hon. Apuuni Longoli Patric	Bokora County
6. Hon. Atamvaku Zubairi Nasseem	Arua Municipality
7. Hon. Atim Ogwal Cecilia (Mrs.)	Lira Municipality
8. Hon. Atwoki Ambrose	Youth - Northern Region
9. Hon. Egunyu - Asemo Flona Lucy	Women - Kumi
10.Hon. Ejoku Samuel	Ngora County
11.Hon. Eresu elvanu John	Kaberamaido County
12.Hon. Eswau Charles Aperu	Kasilo County
13.Hon. Etonu Benedict	Amuria County
14.Hon. Etuku - Onyok David	Moroto County
15.Hon. Kagimu Kiwanuka M.P. Ben	Bukomansimbi County
16.Hon. Kitariko K. Robert	Democratic Party
17.Hon. Kiwagama William Wiberforce	Bunya West
18.Hon. Komakec Leader	Aruu County
19.Hon. Langoya Timony	Lamwo County
20.Hon. Lubega Damiano	Rubaga Division South
21.Hon. Lubulwa Migadde Umar	Katikamu South
22.Hon. Lule Wasswa	Rubaga Division North
23.Hon. Magezi Daudi Suubi	Jinja Municipality East
24.Hon. Mulenga N. Jeseeph	Democratic Party
25.Hon. Mutagamba Lubega Mary	Women - Rakai
26.Hon. Muiyisa John Chrizestom	Bujumba County
27.Hon. Mwaka David	Nwoya County
28.Hon. Mwondha Patrick John	Bukooli County North
29.Hon. Nsubuga Nsambu Yusuf	Makindye Division West

30.Hon. Obua Otoa James Nagai	Erute County North
31.Hon. Ochyengh Dan Michael	Kapelebyong County
32.Hon. Odoy Asoka Alfred	West Budama North
33.Hon. Odur Dick	Dokolo County
34.Hon. Ogola Akisoferi Michael	East Budama South
35.Hon. Ogwel -Loote Sammy	Moroto Municipality
36.Hon. Ojok B'Leo	Kioga County
37.Hon. Okanya James	Butebo County
38.Hon. Okeny Tiberio Atwoma	Cua County
39.Hon. Okula O Charles	Soroti County
40.Hon. Okullo - Epak Yefusa (Dr.)	Oyam County South
41.Hon. Okwonga - Latigo Onesimo	Omoro County
42.Hon. O'let Charles Christopher	Erute County South
43.Hon. Omara Atubo Daniel	Otuke County
44.Hon. Omolo Peter	Soroti Municipality
45.Hon. Oneti batia Samuel A.B	Maracha County
46.Hon. Oryem Akabo Alice	Women - Kitgum
47.Hon. Owiny - Dollo Chigamoy Alfonse	Agago County
48.Hon. Owor William Charles	Aswa County
49.Hon. Seruwu -Bakoja Beatrice	Women - Mpigi
50.Hon. Ssekandi Edward	Bukoto Central
51.Hon. Ssengooba Andrew Ben	Kvotera County
52.Hon. Ssentongo Theopista	NOTU
53.Hon. Tinyefuza David	NRA Delegate
54.Hon. Wacha Ben	Oyam County North

ABSTENTIONS

1.Hon. Akech Okullu Betty (Mrs.)	Women - Gulu
2.Hon. Kimera Ndikabona Rashid Aman	Bunya South

THE CHAIRMAN:Hon. Delegates, I call the meeting back to order. Hon. Delegates, we have just concluded a division on the motion by Hon. Wasswa Lule seeking to delete the words, "for the public interest". Now under the provisions of the Statute and the rules governing our proceedings, the fact that we went to a division is a very important matter but I guess also the subject matter was itself important. Now under the rules, if I may remind the House, a proposition like the one of Hon. Wasswa Lule, if we go to a division, it is lost if it does not obtain more than 50 per cent of the Members present here and voting and it would become contentious if it attains more than 50 per cent but does not attain 57 per cent or two thirds. Now in this case, we had 169 Members in the Chamber, two abstentions from voting, the rest voted and the result is that those for the motion were 54 and those against the motion were 113 and the 54

does not achieve the 50 per cent required and therefore it is lost as a proposition. (*Applause*).

THE CHAIRMAN:Now that disposes of Hon. Wasswa Lule's amendment. We have some other amendments on that Clause but as Members will notice, we have over-shot our time quite substantially and there is also in the House, I mean in the National Resistance Council a debate I think, right now taking place in honour of the late Sam Sebagereka and since a substantial number of us are also Members there, it is only fitting that we give them a chance to go and attend this. So given this, I would like to say we end here for today. Tomorrow we start by considering the second motion on the same article by Hon. Sam Kutesa which appears as item number 7 on the amending sheets and then thereafter, the question will be decided whether to go on to the other

amendments proposed by Hon. Wasswa Lule in light of what will happen to the motion by Hon. Sam Kutesa. So Hon. Delegates, with those words, I adjourn the Constituent Assembly to tomorrow at 8.30 in the morning. Thank you. We stand adjourned.

(The Constituent Assembly rose and adjourned until Friday, 2nd September, 1994 at 8.30 a.m.)