



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

MONDAY, 20TH FEBRUARY 1995

MOTION -

Consideration of the Draft Constitution of the Republic of Uganda [Pg 3134]

Monday, 20th February, 1995

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

PRAYERS

(The Chairman, Hon James Wapakhabulo, in the chair)

The Assembly was called to order

LAYING OF PAPERS ON THE TABLE

CONSIDERATION STAGE OF THE DRAFT CONSTITUTION OF THE REPUBLIC OF UGANDA:

CHAPTER 12 - PUBLIC SERVICE

ARTICLE 192 - PUBLIC SERVICE COMMISSION

MR. BAGUMA ISOKE: Thank you very much, Mr. Chairman. The Paper laid on the Table before you is the Report of Select Committee One on Chapter 12 dealing with the Public Service. Mr. Chairman, the Public Service is what most people know as Government because those are the people who are full of technical and professional know-how and those are the ones who always advise the leaders and rulers we call Government. It is the active arm of Government which implements Laws, Policies, Programmes, for the provision of services to the populace. It will always play an instrumental role in building democratic institutions necessary to ensure political stability, social progress, security, democracy and prosperity. This can only be achieved if Public Service performs with loyalty, integrity, impartiality and political neutrality.

In the consideration of this Chapter therefore, Select Committee One has highlighted the need for the Public Service to be independent so that appointments are made purely on merit and not on political pressure and patronage. The Public Service is today and may continue to be for sometime, the most important single body that offers employment to the people of Uganda. In this regard therefore, Select Committee One has recommended that although there is need for efficiency and merit in appointing officers into the Public Service, candidates from all areas of Uganda should be considered. This will promote harmony and regional economic progress,

and even then, both efficiency and merit may be achieved. Select Committee One has noted that since 1955, when the Colonial Laws established a Public Service Commission, that Public Service Commission has undergone a lot of changes. The 1967 Republican Constitution stripped the Commission of its powers and rested them in the Executive to appoint, leaving it merely as an advisory body. The Committee has therefore recommended that the creation of an Executive Public Service Authority with the powers to appoint, promote and discipline public officers will be like the original Public Service Commission prior to the 1967 Commission. It would be responsible to Parliament and will act as an ability Body for various Commissions, District Boards and individual civil servants who are aggrieved over decisions of the Boards and Commissions. The Authority will have independence as an establishment which will enable it correct the status coup of political or other influences on the present Public Service Commission.

Mr. Chairman, Select Committee One has proposed a Public Service Authority exercising the role of the Executive that is being exercised by the executive with regard to appointments today. It has also proposed Service Commissions as I am going to enumerate them: The Civil Service Commission, the Education Service Commission and Health Service Commission, operating under the Public Service Authority. Below the Public Service Authority - the main consideration for doing so was to address problems of professionals and non-professionals that work in these bodies:

Education, Health and General Civil Service: We know that Education and Health Service affects the majority of our people and hence call for special attention to the public servants who serve therein. In order to have continuity within the Public Service, the terms of the Members of the Authority and the Commissions are staggered as we shall see - the Chairmen and Deputy Chairmen have a term of four years and the other members of the Commission and the Authority have three years so that they do not all relinquish their offices at the same time.

Members of my Committee resolved to consider Amendments pertaining to the relevant Chapters after they have been synchronised. We considered a lot of Amendments having gone through the Legal and Drafting Committee per synchronisation. We

had, at the beginning of the debate on this Chapter, to set up a sub-committee from our own Committee which went to consult and consider the possibility of establishing this new institution - the Public Service Authority. We did that on the 6th day of October, the sub-committee worked on the 7th day of October, 8th day of October, 9th day of October and came out on the 11th day of October with a recommendation which was presented to the full Committee and was accepted. We consulted widely within the Ministry of Public Service including the head of the Civil Service and other senior officials in the Ministry. In the subcommittee Report, a proposal for the establishment of the Authority and Commissions under it was made. I now have the pleasure, Mr. Chairman, on behalf of Select Committee One, to present our Proposals, recommendations to the Plenary and as I do so, I request the Hon. Delegates, through you Sir, to read our Proposals, recommendations hand in hand with the Odoki Draft starting from Page 86, Chapter 12, Recommended Article 192.

THE CHAIRMAN: Thank you and your Committee for the work you have done to have this Report ready and presented before us. I hope we shall expedite this Consideration in the same way we did the other Reports that have come from the Committees so that we complete the Chapter within this week, if not within a few days. But as we agreed on methodology, we shall go recommendation by recommendation.

MR. BAGUMA ISOKE: Mr. Chairman, Select Committee One recommends that Clause (1), Article 192, be amended by deleting "Commission" and substituting with the word "Authority" so that it reads: "There shall be a Public Service Authority for Uganda." The reasons for this are ten as enumerated. But as I explained in the preamble, Mr. Chairman, this Authority is stronger than the Commission earlier recommended by the Odoki Commission in that this Authority is taking most of the powers hitherto exercised by the President, in particular in Article 197 on Page 89. So, the Authority we are establishing is not at par with the Odoki proposed Commission. This is an entirely new and stronger Authority and Institution.

THE CHAIRMAN: Hon. Delegates, the recommendation in Clause (1) is that Clause (1) of the Odoki text of Article 192 be amended by deleting the word "Commission" and substituting the word "Authority" to read: "There shall be a Public

Service Authority for Uganda" and the reasons are given by the Chairman of the Committee as you see them set out below.

MR. KITARIKO: Thank you, Mr. Chairman. I have read carefully the reasons by the Committee for the creation of a new centre of power called the *Public Service Authority*. I am not convinced that these reasons are good enough for the creation. Mr. Chairman, the first reason given is that it should oversee and improve terms of service. I believe, although they met the Permanent Secretary Ministry of Public Service - some information might not have been available to them which would prove that what they want to do is already in place. But following the Public Service Review Commission, in which I was Deputy Chairman, we agreed that there should be an ongoing revision of salaries in terms of service rather than wait for normal appointment of Public Service Review Commission. There is, I believe, in the Ministry of Public Service, a Review Commission which should do ongoing revision of terms of service of the employees in civil service. So what they are trying to attribute to the Public Service Authority is clearly the domain of the administrative Reform Commission in the Ministry of Public Service which has been given experts to take that job. That Commission, Mr. Chairman, does job analysis, job descriptions, job specifications in order to arrive at a reasonable structure and the establishments in Public Service. So, I believe that that role is being played by that department in the Ministry of Public Service and should remain there.

All the reasons they have given for the creation of a Public Service Authority is that it should be a body for hearing cases between civil servants and the Commissions, but they should also know that there is a mechanism against the decision of the Public Service Commission as contained in the Public Service Act 1969. That Act lays down that if the civil servant is aggrieved, they can appoint a tribunal whose findings can challenge in a Court of Law. That too has not been addressed and I believe even if you wanted to update the Act, that would perhaps be the best place where these people can go. You can go to a Court of Law.

The other reason given by Committee Two for the creation of a Public Service Authority is the establishment of a single, unified Public Service so as to enable the public officer to move from a professional area to another area without impediment. We did

recommend, Mr. Chairman, in the Public Service Review Commission, that it would be better to set up a unified Public Service where people could move from one professional area to another without being hindered, and that was accepted by Government and this actually is being done. So, that would also be a role which is being played already by a department in the Ministry of Public Service and Cabinet Affairs.

If Hon. Members took pleasure to see the department of Ministry of public Service, it has got about six departments: Personnel Management, Pensions, Personnel Development, Management Services, Records and Information, the Remuneration and Fringe Benefits Review Services in the Department. Therefore, the department in the Ministry of Public Service is already left to play this role, and that cannot be a good reason for creating the Public Service Authority. The Public Service Commission or rather the Public Service Review Commission recommended and it was accepted by government that a unified structure should actually be put in place and should be working now. All officers should advance to the highest position in the Civil Service irrespective of how he is disciplined. That is, you can be a doctor and become a permanent secretary, you could be a physicist and become an administrator. Because you go to university, that is the basic attainment, and you can do anything after university. Yes, that is what it is. We had very good permanent secretaries who were physicists. We had even a man like Adu, who was hiding in the East African Community, he was a physicist, he was not an administrator. Yah, you can change. So, I believe, Mr. Chairman, that there are no good reasons really to create this position. Let us go back to the Public Service Commission as recommended in the Draft Commission.

You are saying, they should be appointed by the President with approval of Parliament. Now, I believe this is where accountability is. If parliament is composed of these tribes here, and you are appointing a Public Service Commission, you should make sure that they are well spread geographically and can cater for all Ugandan interests. So, why do you want to have a Public Service Authority which will be different from the Public Service Commission? Because Mr. Chairman, I believe the President will be worried in proposing the chairman, deputy chairman - a person will come from Katakwi, one from Kabale, one from Buganda so that everybody

is represented. And this should be the check point in presidency to show that all Ugandans access this position, Mr. Chairman. And Mr. Chairman, Chapter Three of this Constitution says: "*All the people of Uganda shall have access to leadership positions at all levels, subject only to this Constitution.*" Article 5 says: "*The composition of Government shall be broadly representative of the national character and social diversity of the country.*" Given Chapter 3, *Objectives*, and given the fact that the Public Service Commission will be appointed by Parliament, you cannot really have any other good reason why we should have another authority to do the job. Mr. Chairman, with those few words, I really oppose this amendment.

MR. ONEGI OBEL (Jonam County): Thank you, Mr. Chairman. Mr. Chairman, I had a problem as it stood, even before receiving the recommendations from Committee One. Mr. Chairman, what disturbed me there and disturbs me even in the recommendation is what appears to be, to me, a departure from what should be handled first. We are talking, Mr. Chairman, about the Public Service. But the next thing we go to, the very first thing we go to, we should talk about the Public Service Commission as if the two are the same. And similarly, Mr. Chairman, in the recommendation of the Committee, we are talking, we have a heading there, "*Public Service*", but we go straight ahead and talk about the Public Service Authority as if the two are the same. Mr. Chairman, I would have wanted or I ask for a clarification, if it would not be decent or better to first of all say something about what the Public Service is all about before we go on to set up some bodies to manage what this Public Service is all about. Mr. Chairman, I find that a problem to be clarified by the Chairman of Committee One.

DR. KAKUNGULU (Presidential Nominee): Thank you, Mr. Chairman. I stand to oppose this amendment on the ground that creating these authorities is creating more power centres. This one further dilutes the idea of shifting power away from the centre to where the people can be able to hire and fire the Public Servants. For so long, Ugandans have been very fond of going by the tide of the times, we are so fond of changing names for the sake of the times. Now that there is a revenue authority, someone thinks up an idea, why shouldn't there be a Public Service Authority. I think it is high time we realised that a rose, by whatever name you call it, will still smell sweet. Mr. Chairman, I am wondering at

the rationale given by the Chairman of Committee One. It says that it is to eliminate nepotism. I wonder whether nepotism is created by either a change of a word or not. I do not believe that mere creating of an authority will remove the idea of nepotism. In number 9, you are talking of ensuring that Public Servants are politically neutral in their work but this is still a dream. Mr. Chairman, I still insist that we should have a Public Service Commission, rather than an Authority. I thank you.

MR. LUBULWA MIGADDE (Katikamu South): Thank you, Mr. Chairman. Mr. Chairman, when the Chairman of Committee One was presenting his Report, he was suggesting that we should have an authority, Public Service Authority. But traditionally Mr. Chairman, we know that Public Service is usually under the Executive. But when the Chairman was presenting his Report, he was saying that this Authority is going to be under Parliament or responsible to Parliament. I am worried that if we are going to shift responsibilities from the Executive to Parliament and yet the Executive is the one responsible to see that, government policies, laws and programmes are implemented by Public Service. If these people now are going to be responsible to parliament, I see a problem of really fulfilling the responsibilities of the Public Servants correctly. Because at one time, they would not know who is responsible for them. Is it the Executive or is it the parliament? Mr. Chairman, because of that confusion, I think I would ask the Chairman to clarify. I see a problem how the Civil Servants who are responsible to implement policies and programmes are going to be again answerable to parliament. Thank you, Mr. Chairman.

MR. KAMYA (Terego County): Thank you, Mr. Chairman. Mr. Chairman, first of all, I noticed that the introduction of the Committee to this article is almost in the same words as it appeared in the Draft of the Odoki Commission and surprisingly, they have drawn completely different conclusions on the draft. But nevertheless, that being as it is, Mr. Chairman, when you create an Authority, and below it you have commissions, which in my view are going to be managed by technical people, for example you have the Commission for Health, I believe that will be managed by health people; Commission for Education which will be managed by Education and all these and supervised by an Authority, you are creating a conflict because the various other commissions which are supposed to be supervised by the

Authority will strive to preserve their technical competence away from a general authority which is supposed to supervise them. And therefore, you are going to have a serious conflict in the management of the whole Public Service system.

Secondly, it is clearly known that it fails to assume that an Authority is going to be more independent than a Commission. Because even as it is spelled in this report, the very process of each appointment through parliament and only being subject to parliament, makes it subject to parliamentary manipulation in the form of possible candidates campaigning to be parliamentarians and therefore politicizing the whole process of appointment of the Authority, something I believe this committee had wished to avoid, but in fact, they are indirectly building it in. And third and last, Mr. Chairman, it may believe that, as it is stated in the introduction of this Committee's report, Public Service is the major source of technical and professional advice to government. It is the active arm of government which implements government laws, policies and programmes. You cannot, in my opinion, completely divorce the Public Service which is supposed to implement Government programmes from the Political authority of the day. But what you can do is give it a degree of autonomy by managing each affairs through Parliament which has been clearly spelled out in the Draft. So, on those three points, Mr. Chairman, I would oppose the amendment of this Committee One. Thank you, very much.

BRIG. KYALIGONZA: Thank you, Mr. Chairman. In light of what the Hon. Members have already expressed in their contributions, I am increasingly getting worried the way we are debating on issues which, in my view, seem to be diverting our own minds from the realities of life and causing this constitution to appear as if there is a friction between the Executive and other authorities. I am equally worried that where you have governments which have got no authority of management, it is equally as amorphous as some of these undemocratic leadership that we might be creating. Two, Mr. Chairman, revolutions are not always made to create democracies. Sometimes they create dictators. So, if we continue talking that we must appear to be democratic, to remove interferences of the Executive from certain functions, we are more-or-less grooming future dictators because the president or the executive of the day, when he finds himself completely stripped of any authority of management, he will

have no alternative, but sometimes to dictate to those so called fellows who do not want to be interfered with to exert his power, and at the end of the day, he will become a dictator. So, Mr. Chairman, this constitution should save future leaders, it should protect both the leadership and those who are supposed to benefit from it. It must be a cooperative constitution where both understanding each other.

So, if we talk about establishing an authority that is free from interference by anybody, and then we talk about guaranteeing that every region is adequately represented, you know very well, Mr. Chairman, that Public Servants are supposed to be employees of government. They actually come looking for employment and they undergo certain interviews, and they qualify on merit according to their capacities and efficiencies. But if we start rationalizing these appointments by regions, sometimes certain regions may have some prerequisites of certain qualifications. We should have a Public Service, that has got efficient Public Servants. And then we are taking the rationale the committee is recommending, that the committee felt that both the Chairman and the Deputy Chairman should be elected by Parliament to reduce undue influence by the Executive as regards appointment. Now, what type of Chairmen are these who are just elected by Parliament? Now, are you trying to protect them from interference of politicians? Now, what type of interference are you not likely to get if these people are appointed by Parliament? So, with that, Mr. Chairman, I oppose the amendment.

REV. FR. BATANYENDE: Thank you, Mr. Chairman. On page 1 of the report of the committee number one, it is written and the Chairman read it to us that *“Public Service is the major source of technical and professional advice to government. It is the active arm of government which implements government laws, policies and programmes etcetera.”* This Public Service implements. So, this means it is an employee of a certain organisation or of a certain body if it has to implement the policies of that body that employs this Public Service. And personally, I believe that Body is the Executive. And yet, if you go to number 2, and we say this Body should be independent, to me then that is a contradiction. It is going to implement and at the same time you want it to be independent from the employer, which really becomes disastrous. Then some people are worried about this regional balance. I knew in the past, Mr. Chairman, we used to have the president

appointing these bodies on his own without approval of parliament, but now we are saying no. This has been too much. Now we are saying the President will appoint with the approval of Parliament. So, in that parliament, all regions are represented. Therefore, this regional imbalance will not arise because in that parliament, all the regions of Uganda, will be represented. Therefore, Mr. Chairman, to avoid confusion and anarchy because of fighting for power at the centre, I call upon my fellow delegates to go back to the original text in the Draft and we totally reject this amendment, Mr. Chairman. Therefore, I oppose it.

MR. BAGEYA: Thank you very much, Mr. Chairman. Mr. Chairman, looking at rationale number (1), we are being told that, this Authority will be there to establish an executive Public Service Authority in place of any Advisory Public Service Commission in order to ensure that an independent Public Service Authority, free from interference by anybody is created. As far as I am concerned, Mr. Chairman, Public Service is an arm of government and that is part of the Executive. At one stage, when the Executive is performing, parliament will query. I do not see how the Parliament will query the Executive on the authority upon which it does not have powers. The rationale here on Public Service is very clear that the Public service is the active arm of Government which implements government laws, policies and programmes. It is involved in collection of taxes, providing services like health, teaching, postal services, transport etcetera. Now, if the Executive is loaded with this kind of problem and on one hand you say, the Public Service Authority will be autonomous, it will not be answerable to anybody, where do you leave the Executive? I think this could be an oversight.

Even in number 2, they want this Body to appoint officials instead of their being appointed by government, what are we doing? Are we working against government or for government or with government? As far as I am concerned, I am totally opposed to this amendment and I believe it could have been an oversight that this body is supposed to be the implementing arm of government which happens to be the Executive, which the Parliament will question for whatever action or inaction that government has undertaken. Now, to take it away from government, I think we are going back to square one. And we are saying, we want an Executive and we do not want it. If you are talking about separation of powers, this is the right place where the Public Service Commis-

sion should be directly under government - under the Executive so that it operates effectively and it is in a position to answer to Parliament when a query comes up. But the moment we take it away from government, then I think we are landed with a big problem which we will not be able to redress. Therefore, I strongly wish to oppose this amendment and whatever merits it had, so that at least we go back to the Public Service Commission which is well under government - the Executive. This is the only way the government will be able to operate. Therefore, Mr. Chairman, I stand to oppose the amendment and propose that we go back to what is in the Draft. I thank you.

THE CHAIRMAN: Now, I have tried the field and it seems everybody is opposing, can I hear those who are supporting the Motion?

MR. CHEBET MAIKUT: Thank you very much, Mr. Chairman. Mr. Chairman, I belong to Committee One from which this Report has been made. Mr. Chairman, I think it will be naive of me to run away from the collective responsibility approach of the outcome of this Report.

Mr. Chairman, first of all, let me highlight some few things. When we were discussing the setting up of this Authority, first of all, I wish to reinstate that we are not writing the Constitution to suit the wishes and interests of the present day incumbents of offices in the Public Services or its related present Commissions. Mr. Chairman, when our Committee was consulting widely, there were a lot of discrepancies in the membership of the present Ministry of Public Service. There were also contradicting views from the present Members of the Public Service Commission and the Teaching Service Commission. Mr. Chairman, after this wide consultation, it was the view of the Members in our Committee that we need to set up a kind of Public Service Authority that will deal with certain categories of Public Servants. A civil service authority rather than a Public Service Authority which will also deal with, among others, certain problems that have confronted the civil service and have not been addressed by any other relevant authority. Examples are that there are cases when a need arises that civil servants may need for example, increased pay, and as you know our Laws provide that civil servants cannot act like trade unions.

Secondly, Mr. Chairman, it appears to us, during these consultations that the present holders of offices

of the present Public Service Commission had different conflicting views from those of the main stream Ministry of Public Service. So, Mr. Chairman, when we looked at all this, we came up with this recommendation in good spirit not that we wanted to strip the Executive of the rightful function they should exert on the Public Service.

MAJ. KATEREGA: Point of Information! I would like to inform the Hon. Member holding Floor that the Commission based its recommendation on the contents in the Draft Constitution, basing on the concern of the people. For instance, corruption was widely addressed, misuse of Government property and so on. I am wondering whether when you were making the recommendations, you took this into account.

MR. CHEBET MAIKUT: Thank you for that information. I would like to say that the Committee fully discussed the question of corruption, misuse of office and abuse of Government property during the setting up of this Authority. Secondly, the Committee also took into consideration the provisions because it was still the same Committee discussing the Leadership Code of Conduct and Inspectorate of Government. So, the queries that are being raised by Hon. Katerega were fully taken care of during the deliberations of this Committee when it came out with these recommendations.

Mr. Chairman, it will be naive of us for some Hon. Delegates to succumb to the intensive lobbying which was going on when we were discussing this subject matter. This is the truth of the matter and a number of circular letters from some members of the Public Service Commission kept on coming circulating to all Hon. Delegates here, including those of Committee One. Similar lobbying documents were also received from the teaching service commission and Mr. Chairman, I am sure your office is very much aware of this. So, I would like to appeal to Hon. Delegates that let us not succumb to this question of intensive lobbying but look at the problem of the civil servants from the neutral point of view to rationalise and come out with the Public Service that can respond to the demands of our society or to any Government from time to time. They are achieving their work very effectively.

So, Mr. Chairman, we did recognise that the President also needs to be protected from not unnecessarily going right up to the door to the civil servant of scale U8 or group employee because the Public

Service Commission Statute which set up provides that the President is the overall Chairman of all the Public Servants of the Executive Arm of the Government and that is why even if a headmaster is being appointed in a primary school, it is always said that by instructions or directive from the President, so and so has been appointed. So, Mr. Chairman, I wish to appeal to the Hon. Delegates that let us look at the whole problem in a good perspective rather than this question of saying let us do it now. So, I strongly support the recommendations of the formation of this Authority. I thank you.

DR. ANIKU: Mr. Chairman, I belong to Committee One whose recommendations we are considering now. Mr. Chairman, if we go back to the history of the civil service in this country, up to now, many, many Ugandans complain that all the top jobs are being given either because of political affiliations or because of tribal affiliations. We wanted to save any future President from the embarrassment. Mr. Chairman and Hon. Delegates, you will recall a *Monitor* reporter interviewing our present President and trying to put him in a corner that all the top jobs are going to Westerners. Now, Mr. Chairman, even a recent *Monitor* asked a similar question and even gave figures of certain tribes who dominate top jobs. In future, we would like an independent Body to appoint people so that the President's hands can be clean so that President's Party Members cannot come and heckle him for top jobs.

Mr. Chairman, while we were sitting to consider this Chapter, we received some strong lobbying from the present Public Service Commission and one of the queries was that the present membership is about 11 and now we are recommending only seven. What will happen to the other four? I think this is normal. The Government has amalgamated ministries before, and some Ministers have lost their jobs and some Permanent Secretaries have lost their jobs. This is normal. The other four people will look for jobs elsewhere. Mr. Chairman, when you look further in the recommendation, the Chairman and his Deputy will not really be the work of Parliament alone. The Parliament will elect these people from a list of names given by the President the same way we elected the Chairman of this Constituent Assembly. We considered all these points and I think if we adopt this Authority which will be independent, then all future Presidents will be saved the embarrassment or accusation that they have given top jobs to their relatives, party members or some friends.

Thank you very much. Therefore, I support this Amendment strongly.

MR. OWINY-DOLO: Thank you. Mr. Chairman, I strongly support the report by the Committee as placed before Members in Plenary here. Hon. Chairman, the problem we have in discussing the merits and demerits of the Public Service Authority is because those who are closed in the old tradition do not allow change. Anything they are not used to cannot have any virtue at all. I am saying this Mr. Chairman, because just when we proposed the Article creating the Public Service Authority, before even discussing the functions, the present membership of the Public Service Commission were up in arms without knowing what difference there will be between the Public Service Commission and Public Service Authority.

Mr. Chairman, permit me to allay the fears of the membership of the present Public Service Commission that the Public Service Authority is not meant to make them lose their jobs. If they qualify, they all could be appointed on the Body of the Public Service Authority. Mr. Chairman, I have heard today from the Members who have contributed before me in opposition, that how can we create a Public Service which is independent? I stand to be corrected. The creation of the Public Service Authority does not create an independent Public Service, it creates a Body which deals with Public Service which is Independent. The membership of Public Service would still be doing the very same thing they have been doing up to now, but the Body we are creating and which we have good reasons for creating, is supposed to be independent in the carrying out of its function. Why have we done this Mr. Chairman? Mr. Chairman, it is the vulnerability with which the present members of the Public Service in this country hold their office that we thought there must be a change for the better so that the Public Servant in Uganda today can serve with courage, knowing that if he does the right thing, nobody in the name of public interest, tribe, or religion, whatever it maybe, will say over radio that you no longer hold you job. That is the main purpose why we wanted to create an independent Public Service Authority to carry out its function.

Mr. Chairman, the only thing the public servant will leave when they eventually retire is their name. Even that name is open to us.

MR. KASOLE BWERERE (Buwekula County): Thank you very much, Mr. Chairman. Mr. Chairman, I am a member of Select Committee One. I cannot shy away from that. Mr. Chairman, I am surprised that Ugandans - and this has proved that Ugandans do not want to have new things for the sake of not wanting, it may be a culture. We critically looked into the area of creating the Public Service Authority and, in any way, we are not taking away the powers of the Executive. We made very wide consultations, we met different people with experiences. Equally, we got circular letters from different bodies opposing this idea especially those people now occupying the offices - *(Interruption)*.

THE CHAIRMAN: No, let him finish. Fr. Gaitano, please do not harass the honorable Member.

MR. KASOLE BWERERE: Thank you, Mr. Chairman, for protecting me. Mr. Chairman, by creating this Body of Public Service Authority, in any way we are not trying to deny the future Executive the powers to have a say on public service. The Public Service Commission as they were before, if you go further in our report, are still there, we have given them even more powers. All that we do intend to have are mainly the following: One, the Public Service Authority will have the supervisory role mainly to supervise the Commissions, to streamline the services of the different Commissions but the Executive will only have a say either to discipline or to do anything in consultation.

All of us are aware, fully aware, of the evils the Public Service has so far done to this Uganda. We want a Body that will have powers to supervise all other commissions, specialized commissions - only to supervise. We are giving powers to the President to give five names to Parliament then peoples representatives will have a say in electing these people. The President will have to appoint after the approval of Parliament. Secondly, the Authority will have to coordinate all other commissions. Hitherto, different professions have been enjoying different terms and conditions of service. It is this Authority which will have to coordinate and advise the Executive. Therefore, Mr. Chairman, we are not taking away the powers from the Executive. If at all, we are trying to help the Executive from the abuse of office, that is all we are trying to do, Mr. Chairman. Thank you very much.

THE CHAIRMAN: Thank you, Hon. Delegates,

I think we have had a thorough debate on this one, otherwise we will just continue in circles. I would now want to put the question on this recommendation. The recommendation is that instead of the statement "*There shall be a Public Service Commission for Uganda*", it is recommended that it should be written to say "*There shall be a Public Service Authority for Uganda*". That is the recommendation we are voting on. Now, let me put the question.

(Question put and negated)

(Interruptions)

THE CHAIRMAN: Order! Could the Hon. Members resume their seats please, the number of 51 was not reached. Now, having negated this, I would like to seek guidance from the Chairman of the Committee how he proposes to proceed in view of this because this means now we go back to the - *(Interjection)* - yes.

MR. BAGUMA ISOKE: Mr. Chairman, I have been on that thing, Public Affairs, for now more than twenty years. I have never been confronted with a situation like this one. *-(Laughter)-* But, Mr. Chairman, I am a Chairman responsible for collective responsibility of a select committee of this Assembly. Let me narrate the dynamics of Select Committee One to the Assembly to know why we are where we are now.

THE CHAIRMAN: No, no. Order, order!

MR. BAGUMA ISOKE: Mr. Chairman, it appears the Assembly already knows what I was about to say.

THE CHAIRMAN: No, they don't. Well, I think they were alarmed that you were going to elaborate on the work methods in your committee and why you came to a certain conclusion. My interest is this that because now we should proceed this way, that the recommendation was negated, we could then go on to vote on the text as it appears but then if we do that - because I think according to the description and the explanation given, the Chairman is saying that his committee went into seeking to create commissions with an Authority. Now, do we go to the Uganda Public Service Commission and therefore destroy the question of the Health Commission, the Civil Service Commission and all these or *-(Interjection)-*

because now it may not be logical to follow the recommendations in view of the decision just taken. Now I am trying to find out a way of how we can proceed in view of the decision we have taken because many of the recommendations here seem to have hinged on the fact that there will be an Authority and three other bodies below it but we have now rejected the question of the Authority, how do we proceed. This is what I was trying to get from the Chairman, what does he suggest! Hon. Sabiiti are you a Member of the committee?

MR. SABIITI: Yes, a very strong member of the committee. Thank you, Mr. Chairman. I know you have very ably transacted the business of this House and you know the Rules but I want to refer you to Rule 48 (7). This Rule entitles Delegates to fully discuss the issues in this House. You are aware, Mr. Chairman, that the issue of the Language was fully discussed which I felt even was not all that important than this very issue. Some of us who wanted to fully contribute on this matter have been neglected. I therefore feel, Mr. Chairman - *(Interruption)* - oh, yes - I feel, Mr. Chairman, that before you throw away the report of Committee One, we be given a chance to discuss this matter thoroughly.

THE CHAIRMAN: You see, while I know that Rule 48(7) says "When all Delegates who wish to speak have spoken" I think we did agree in our other own working method that having come from the Committee, we shall not have full blast debate on all issues as if we are just starting anew. And I think the Chair did fairly - *(Interjection)*

MR. SABIITI: How many did speak on this?

THE CHAIRMAN: And I think the Chair did fairly, when I noticed that the people speaking - I was picking on the Floor at random - were all talking in one direction, I shifted to listen to those who were speaking in favour of the Motion and I think we do agree that sometimes good reasons in support of an argument can be more or less exhausted and the rest is repetition so that to save ourselves continuous hammering of the same thing, the Chair gauges and sees that we have reached a stage where we should really pronounce ourselves on any matter and that is what happened today. The only thing now is in view of the fact that the structure of the report, particularly relating to the institutions were structured on the existence of the Public Service Authority. I am saying now we want to find a way of proceeding in view of the decision we have just made.

MR. BIDANDI SSALI (Nakawa Division): Mr. Chairman Sir, my opinion is that since the report of the Committee, the bulk of the report was based on the Authority we have rejected and since this was a collective recommendation by the Committee, it is a bit difficult for the Chairman, I think, to say by himself what the procedure should be. My view is that at the risk of losing this one hour or one hour and a half, this matter should be taken back by the committee, they convene immediately so that we have something to work on tomorrow on the lines of the Public Service Commission. That is my view, Mr. Chairman, thank you.

MR. BEN WACHA (Oyam North): Thank you, Mr. Chairman. Mr. Chairman, Sir, I look at the report of Committee One in respect to Public Service as an amendment to the provisions of the Draft Committee. Now, according to the procedure of this House, if an amendment to a particular provision is defeated, there is no other alternative but to go back to the original which is in the Draft. I do not see any other thing that the committee is going to come up with which is going to vary with what we can now go back to in the original Draft.

MR. AGGREY AWORI (Samia Bugwe North): Mr. Chairman, I had tried to raise the same point but I did not have the opportunity but, Mr. Chairman, I am glad Hon. Ben Wacha has said exactly what should be done. We have rejected the amendment by the Committee. Mr. Chairman, we have no cause except to revert to the Draft amendment and we deal with it accordingly, Mr. Chairman. For us again to adjourn and give another opportunity to the Committee, it is more or less abuse of our Rules, Mr. Chairman. I beg to support the amendment that we revert to the Draft Constitution.

THE CHAIRMAN: The procedure would have been quite simple if the recommendation under Clause (1) stood on its own. The problem is, do we now say - because we can go back to 192(1) as it appears in the text and pronounce ourselves on that. If we did, then it means the Committee and other recommendations they have got now we have simply to follow what is in this text as if the Committee never met.

MR. AGGREY AWORI: Yes, let them bring them here and then we deal with them accordingly.

MR. KIRENGA (Mityana North): Mr. Chairman, I agree with you that it would be unrealistic to pretend that this Committee did not sit. They sat and did some job but we have rejected the major part of it. I think, in my opinion, there is sense in what Hon. Ben Wacha has said and also there is sense in what Hon. Bidandi Ssali has said. The two can be married together, in the result we shall have to go back to the clauses as they are in the Draft but then if we did that, we would be having a lot of amendments coming in and we would never finish the job, it will be as if this Committee had not been created. So I would suggest, in view of that, Mr. Chairman, that the job is thrown back to the Committee to come with another short report in view of what has happened. We cannot pretend that nothing has happened but at the same time, we want to avoid unnecessary storm of amendments which will make our work very difficult. So I suggest that they go back and get us something better in view of what has happened today then we proceed.

MR. PATRICK MWONDHA (Bukooli County North): Thank you, Mr. Chairman. The effect of our decision to reject the proposal of Committee One in establishing the Civil Service Authority is now to leave Chapter Twelve as it is in the Draft. In effect, it means that Committee One never did any work. I would therefore go by your proposal or for that matter Hon. Bidandi Ssali's proposal that I think we should give some opportunity to the Committee to look at Chapter Twelve again, now not basing their work on assumptions of a Civil Service Authority as they had done but with a new position from the Plenary. Otherwise, if we take it as it is now, I think it is also going to complicate our work in the plenary.

THE CHAIRMAN: Hon. Member. Hon. Elyau, you are a member of the Committee. are you?

MR. ELYAU (Kalaki County): Yes. Thank you, Mr. Chairman. We took trouble to sit, this is one of the Chapters which took us weeks and now you ask us to go today or tomorrow. I thought now by the Members rejecting these proposals from us, I thought that now the knowledge is here in this plenary. Why do you send us back, let us do this work here if it was possible because we did very much to our best, here it is turned down so we should do it here because the medicine is here.

MR. ADYEBO (Kwania County): Mr. Chairman, I really feel very sympathetic to Committee One after spending a lot of time on this work but, Mr.

Chairman, this is part of democracy. When at the end of the day the majority of the Hon. Members rejected this proposal, that does not mean that this Committee never did any good work. However, Mr. Chairman, you will recall that last week, we here assembled did also consider extension by one week to enable some two committees accomplish their work and revert here next week on the 27th. Mr. Chairman, in this respect I would plead with my Hon. Colleagues to accept the recommendation from Hon. Bidandi Ssali that we give this Committee at least some reasonable time so that they go back knowing that it is now not going to be the Authority, it will be Public Service Commission because, Mr. Chairman, even if we were to take the Draft Chapter Twelve as it is, there can be and there will definitely be amendments. We may not endorse the whole thing here and in this respect, the Committee will do us a better service by going back, receiving some of the amendments from Members so that they synchronize and come back here possibly one week from now, Mr. Chairman.

DR. BYARUHANGA (Kitagwenda County): Thank you, Mr. Chairman. Members will recall that the amendment to create the Authority was tabled by Hon. Nekyon and myself. We had got together with Hon. Nekyon because my idea on creating an all round Public Service Commission with committees to cater for Civil Service, to cater for the Teaching Service and to cater for the Medical Service, I had even included the Audit Service were virtually tallying with his idea of creating an independent Authority. Now that the Authority has been rejected, it would be quite easy for me now to move my original amendment starting from 192 (2) because the only difference that we had with Hon. Nekyon which I accepted and ended up going with him was this 197 that the powers that had been given to the President by this Chapter were given to the Authority. Otherwise, I believe we can still accommodate these other bodies that they had created, the commissions, if we call them committees under one Public Service Commission and, therefore, as I have indicated, since the report by virtue of the fact that this House has refused, the "Authority" has fallen aside. We can revert to the Draft and then move our amendments as we go along.

DR. MUSANA (Buikwe County North): Thank you very much, Mr. Chairman. I am a member of Committee number one. Last week we had to plead for an extension of an additional week to be able to complete the Chapter on Land and now if this August House bounces back this Chapter on Public Service

again to Committee One, it will mean that we will not have time to work on Land. So I would beg the indulgence of the House that since this Article has been rejected now we consider the Chapter on Public Service in the House collectively so that we can take may be three weeks but we will have to do it here and leave Committee One to continue with the Chapter on Land.

THE CHAIRMAN: Okay, I have surveyed the field and I would like to suggest as follows. That particularly in view of the fact that we need the Chapter on Land completed and also the fact that the Committee took a lot of time and trouble to come to this report which, unfortunately, has fallen because of one item which was crucial to the life of the entire report, I would like to suggest that we continue to handle this - we shall handle this now basing ourselves on the text as it appears in the Draft Constitution but we start first of all - sorry we do so by going through a process of synchronizing any amendment that may come so that we do not find ourselves being deluded by numerous amendments and for this purpose I am suggesting that Members frame their proposed amendments to the various articles on Chapter Twelve as it appears now in the text and these are synchronized by the Legal and Drafting Committee, then they come back and on the basis of those amendments, we shall go article by article and any amendment then can be taken up as we did some other time before.

MR. BAGUMA ISOKE: Clarification. Mr. Chairman, I will begin with where you ended. We have got forty-five amendments that have gone through the Legal and Drafting Committee duly synchronized in view of the Odoki text. So if the Clerk could cause circulation of the same, the plenary can handle the Chapter with these amendments because we never touched them in the Committee because we were considering a different concept, an Authority in its - *(Interjection)* - Yes!

THE CHAIRMAN: That is even better.

MR. KARUHANGA (Nyabushozi County): Mr. Chairman, from the history of the Committee which handled Public Service, it is very interesting to relate this in order to come to the proposal I want to make. I understand that on the 5th of October, a week-end before Independence, thirty one Members of that Committee attended and on the 11th the same thirty one came and attended and passed the Public Service Authority. A day later the 29 who had been absent

during the Independence Holiday came and rejected the Authority but they were a minority - *(Interjection)*

THE CHAIRMAN: But we do not have a minority report so you are taking us back -

MR. KARUHANGA: No, Mr. Chairman. I am saying this because I want to develop an idea. Since that time, the Committee never had an opportunity to revisit this situation. Now, Mr. Chairman, it means if we did what we did in Committee Four where even when we passed some recommendations as a majority but we realised that we had a sizeable minority, we did create a task force to see whether we can reconcile the minority and the majority position so that we can revisit some of our decisions in Committee Four. This seems to be helping but this did not take place in that Committee. Therefore, Mr. Chairman, where we have reached, I would like to make a proposal that we follow the recommendations which are spelt out in our Rules namely Rule 37. Rule 37 of our Rules of Procedure says that if the Assembly - I am just summarising the idea of the Rule - if the Assembly gets a situation of this nature where it is stuck, the Assembly may nominate some Members and form a Select Committee on any matter of such nature to go and make a recommendation within a given stipulated time and come and report. Rule 37 - because, Mr. Chairman, what has happened is that where we stand, now we have rejected - because the whole purpose of creating our committees was to advise the Assembly to come to a reasonable conclusion. Now, apparently the advice we have received from that committee seems to have been rejected - *(Interruption)*.

MR. PATRICK MWONDHA: Point of order! Mr. Chairman, is the Hon. Member in order to continue probing a matter over which you have already ruled? The one concerning the procedure. I thought the Chair had already ruled that there was need - that we proceed and treat article by article of Chapter Twelve in the plenary, considering amendments as they will have been synchronized by the Legal and Drafting Committee!

THE CHAIRMAN: I think Hon. Karuhanga, we can not begin working backwards. The only thing that I found of value was that there are already synchronized amendments which were put before Committee One but because their approach was different in terms of concept, they never considered

them and instead of calling upon Members to go before the Legal and Drafting Committee, we can take those amendments as synchronized and we go down article by article and therefore the Clerk actually can work today and tomorrow morning to get those circulated and if we are ready by the afternoon, we can have a plenary session and we start article by article on the basis of those. I can see Hon. Obua Otoa, do you have to improve on that?

MR. OBUA OTOA (Erute County North): Thank you very much, Mr. Chairman. I am not going to contradict what you have just said, Mr. Chairman. I just want to be clear that your suggestion does not exclude anybody who has any fresh amendment also bringing it up. That is the only small point I wanted to raise, Mr. Chairman.

THE CHAIRMAN: Subject only to the provision that those amendments will be different from those synchronized by the Legal and Drafting Committee. Of course we are now having a new field. So if you have new amendments, you could go - first of all, I think it is better you receive what we have and then see whether you have something new to add and if you have something new to add, then you contact the Chairman of the Legal and Drafting Committee and you sort it out there.

MR. OBUA OTOA: Thank you very much, Sir.

MR. ONYOK-ETUK (Moroto County): Thank you very much. Mr. Chairman, what I want to find out from you, Mr. Chairman, is that while we look at the report of the Select Committee One, apart from the Public Service Authority, we have some recommendations which are not actually under the Public Service Authority. For example, Teaching Service Commission which was put as Education Service Commission, is it not going to be rather showing that we are rejecting the entire amendments - the recommendations - completely or are we going to pick up some of the recommendations which have been approved by the Committee One and let it be discussed directly?

THE CHAIRMAN: If for instance on Public Service you are saying you are adding new ideas like the Teaching Service and so on, those can be amendments that you can put before the Legal and Drafting Committee as a separate concept and then we discuss them as new insertions when we go article by article because it does not prevent us putting in something

new. The only thing is that it was that one which caused confusion to the rest.

MR. WANENDEYA (Budadiri East): Thank you, Mr. Chairman. Mr. Chairman, I would like to be guided by you in the sense that there have been pressures in the past. For instance, when this amendment came up, our Head of State who is supposed to be impartial made some comments. The same thing happened with the Chairman of the Public Service Commission - *(Interruption)*

THE CHAIRMAN: Hon. Wanendeya, are you debating the question of how we are going to work or you are starting the debate anew?

MR. WANENDEYA: Mr. Chairman, I am not starting the debate but I am saying how are we going to counter this kind of what I would call freedom of the Delegates.

THE CHAIRMAN: Now, Hon. Delegates, I do not think really it is for me to say how Members work. For me, I am supposed to guide this meeting. Who you interact with and how you interact is not my business, whether through caucuses or person to person. For the time being, we have agreed on how we shall handle the Chapter on Public Service. The Clerk will circularise the amendments as synchronized and in the hands of Committee One, Members who, having read those, would like to make new additions are welcome to do so then we shall consider everything in the plenary article by article. I would like with that to adjourn until tomorrow 2.30 p.m. here in the Main Hall. Thank you. We stand adjourned.

(The Assembly rose and adjourned to Tuesday, 21st January 1995 at 2.30 p. m.)