



THE REPUBLIC OF UGANDA

**PROCEEDINGS**  
**OF**  
**THE CONSTITUENT ASSEMBLY**

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OFFICIAL REPORT

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Tuesday 21st 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)*

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

### CHAPTER 12 PUBLIC SERVICE

#### ARTICLE 192 PUBLIC SERVICE COMMISSION

**THE CHAIRMAN:** Hon. delegates when we adjourned yesterday I had decided that we would consider the - this chapter article by article based on the synchronized amendments which have since been circulated. These were I presume synchronized by the legal and drafting committee, unless the chairman indicates otherwise these amendments that we have, could I ask the chairman of legal and drafting committee to confirm or otherwise to tell us whether they went through his committee.

**PROF. KANYEIHAMBA:** Thank you, Mr. Chairman. These have just been circulated at least I have received my copy but I can see from page 1 to 3 that these are amendments which we did synchronize. These were brought by the movers to the legal and drafting committee we discussed with them and we agreed as to the various amendments which should be debated in select committee 1, Mr. Chairman. So these are synchronized amendments. I thank you, Mr. Chairman.

**THE CHAIRMAN:** But they would have been discussed in Select Committee 1 but anyway because of change of concept they were not. So we can now use them in the plenary to guide our deliberations. We are starting with Article 192 Clause (1). I can see a number of - there are two Proposed amendments. Now how do we rank them? Could the Chairman tell us No. 1 and No. 2 I think they are all on Clause (1). One is talking of deleting and substituting, the other one seeks to - no, the first one is seeking to introduce a few words there, an

independent commission by inserting the words "*An independent*" public service commission - an independent. The other one seeks to delete completely and insert, "*There shall be a public service commission which shall consist of various committees as set out there.*" So I - I mean we proceed with No. 2 first.

**MR. ONEGI OBEL (Jonam County):** Thank you, Mr. Chairman. Yesterday I raised an issue without getting - but did not get an answer to it. And I would like to propose by seeking your guidance on the separation between the public service and the public service commission. The latter being an organ of the public services Mr. Chairman, my problem if I am allowed to, would be resolved by removing the word 'commission' in Article 192 (1). To read, "*There shall be a public service for Uganda.*" My intention here, Mr. Chairman, is to define the public service as a unit - before you go on to the - talking about its organs. Maybe the lawyers can help us here or the Chairman, because I do not believe that we go on to straight to an organ of the service without first of all defining what we are talking about. Thank you, Chairman.

**THE CHAIRMAN:** I think what is bothering the Hon. Member is that in respect of other institutions like the Police and the Army, we said that there shall be a Police force or the armed forces of Uganda. How they are to be managed and how they are to be recruited. But he is saying we are starting with the organ that will be responsible for management, recruitment and training and then - and we do not set up the body. But I think what - I think the solution can be found in various provisions. First you are setting up a body which will be responsible for appointments and management of the service. Then the service consists of a number of offices established in accordance with under the draft proposed paragraph (1) Article 196 and then what is meant by public service is defined in Article 200. A public officer holds an office in the public service - public service is defined in 200 and the offices in that service are created in accordance with 196. Then once they are created, then those responsible for appointing and managing it are established under 192 onwards. But let me put it this way. I do not think we should really worry about the structure at this stage because that can be adjusted during the drafting. What now we want to do is to accept the principles whether we should put the creation of offices first and then the

appointing later, or we create the body first that can be a structural question which can be resolved by draftsmen. But the most important thing is to declare ourselves on the principles and then we proceed from there.

**DR. ODUR DICK (Dokolo County):** Thank you very much, Mr. Chairman. Mr. Chairman, if you look at the 1962 and 1967 constitutions, you will find that what we are talking about were provided as titles to the chapter, and I think we could do the same in this constitution to provide it as a title to chapter. Thank you well, the title reads, "*The public service of Uganda in 1962*," and also in 1967, it is "*The public services of Uganda*," as the title to the chapter.

**THE CHAIRMAN:** Okay, but I did say, those we can look at in a structural form, but for the time being let us concentrate on discussing the principles as they appear before us. Now we have got here a schedule of amendments which were synchronized. No. 1 and No.2 relate to Clause (1). Now when you look at the two the second one would have the effect of replacing Clause (1) with a new formulation. So we start with that one if it is carried, then we do not have to go back to No.1.

**MR. PINTO EMMANUEL (Kakuuto County):** Thank you, Mr. Chairman. I rise to support the amendment in 2 -

**THE CHAIRMAN:** I had wanted to give one of the movers a chance to move it then I give you.

**DR. BYARUHANGA FABIUS (Kitagwenda County):** Thank you, Mr. Chairman. I wish to move an amendment to 192. I wish to delete Article 192 and replace it with the following formulation.

**THE CHAIRMAN:** I thought it a Clause (1).

**DR. BYARUHANGA:** 192 (1) sorry and replace it with the following formulation. "*There shall be a public service commission for Uganda which shall be composed of the Civil Service Committee, the teaching service committee, the audit service committee, and the medical service Committee.*"

**THE CHAIRMAN:** But this one does not appear in-

**DR. BYARUHANGA:** I note that what is on the paper is judicial service committee but whether it was a misspelling or it came out at synchronization because as you will note there were amendments by myself and Hon. Nekyon. They were synchronized in the synchronization committee. I am not ready to defend the formation of judicial service committee under the public service commission.

**THE CHAIRMAN:** So you want to make it audit service committee in place of the word 'judicial' insert the word 'audit.'

**DR. BYARUHANGA:** The effect of this amendment is to create one unified service under one public service commission. In the past, Mr. Chairman, and even now we have had two services. The public service and the teaching service, but the operations of the teaching service commission have left a lot to be desired. Because as we talk today half of the teachers for example in this country have never been interviewed and do not even have appointment letters. Although three years back the public service review commission established a promotional ladder for teachers. This has not been possible for the teaching service commission to implement. Therefore, we thought that by creation of one public service commission and one unified service would embrace everybody and even make it easy for anyone wishing to leave one sector of the service to join another. So that we would even end up getting teachers becoming permanent secretaries at one stage in their service to the Republic of Uganda. The second reason was that, by maintaining two services - by maintaining two commissions and their secretariats definitely this country is spending a lot of money, and yet the draft in the chapter on Local Government had already proposed the creation of district service commissions. Now when district service commissions are created it means very little work will be left to the National Commissions. I have been informed that in future the public service commission will only handle headquarter staff of the various Ministries. And this number is such a small number, and we thought it did not require two commissions to handle. In the same amendment we proposed specialized committees to cater for the teaching service, to cater for the mainstream Civil service, to cater for the medical service. We brought in this new area of medical service because although this medical service- all the medical services have been under the public service commission, I do not think they have been fairly treated. If a doctor joins

the service on the same day as an administrator who joins the service as assistant secretary. The assistant secretary will become a Permanent Secretary when the doctor has not even made it to Senior Medical Officer. So we thought that by creating a specialized committee for them it will enable the commission to attend to the needs and aspirations of this essential group in the public service. We had also wanted the creation of the audit service for about the same reasons. We think that audit services in this country are going to become more important as we decentralize. Because when you decentralize you create more accounting units. As we talk now the municipalities are accounting units, the districts are accounting units, Mulago specialized unit - like Mulago hospital and Makerere and now Kyambogo are accounting units and then the ministries. Now if we have over-100 accounting units we shall definitely require a good team of auditors to handle the finances of this country. At least to oversee the expenditure of finances of this country. We therefore, thought that creating a specialized committee to handle the matters of auditors in the service was necessary in this era of decentralization. Mr. Chairman, as I indicated at the beginning, the number of public servants in this country has become less and the number of public servants that are going to be attended to by the public service commission are going to be minimal as we create the district service commission. And, therefore, do not see any need for the creation of the two services which this chapter had created. The teaching service commission and the public service commission and that is why we had wished to create one public service commissions. This public service commission is not going to be independent. It has nothing to do with the authority of yesterday. This service commission does not interfere with the powers of the executive which are elaborated in Articles 196 and 197. What it seeks to do, is just to create one unified service under one body. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Thank you, but Hon. Byaruhanga how do you propose to deal with a question of membership of the committees. Do you intend to have subsequent amendments. Because if you leave it as it is and then another one says the public service commission shall consist of the names, persons, when in fact you have said that the commission shall be composed of committees. So it will be necessary to define the area to say how the committees will be composed before they come together to constitute the public service commission.

**DR. BYARUHANGA:** Mr. Chairman, we had another amendment which was put at 4, it is No 4 on page 2 and we thought that the Membership would be catered under 192 (2) although it creates that problem which you have talked of, of creating the committees before you create the membership.

**THE CHAIRMAN:** Okay, but that one can be fine.

**MR. PINTO:** Thank you very much, Mr. Chairman. Mr. Chairman, I rise to support this amendment on Article 192 which seeks to bring all public servants under a uniform umbrella. In order to coordinate and integrate the public service for efficiency and better management. I believe that will enhance the coordination of the district service committees since we envisage that all the districts of Uganda will be decentralized. As you can see, Mr. Chairman, it provides for specialized committees to cater for the specific needs of the various services. When you asked a question, Mr. Chairman, of how the composition of the service commission and various committees is going to be made, Hon. Byaruhanga has mentioned four which he now wants us to read together. But I can see now that in there, he wants 16 other members four of whom shall be elected by Parliament from each of the four regions out of a list submitted by each district. I do not know how the districts are going to submit names and these are going to be amalgamated at regional level. So while I support the spirit in the amendment, Mr. Chairman, I believe the drafting could be improved upon so that this caters for the suggestions that came out of your question to Dr. Byaruhanga. Thank you, Mr. Chairman.

**MR. ETUKU-ONYOK (Moroto County):** Thank you very much, Mr. Chairman. Mr. Chairman, much as I do not have much objection into having a unified public service commission, I would like the mover to clarify for me the following. He said in his statement that the teaching service commission has left a lot to be desired since it came to effect in his statement, and he mentioned that teachers have not been interviewed or promoted which is true. Officers have no ladder of growth in services and so on, and inefficiency. Now does the mover imply that when you make teaching service commission now become a committee, it will be more efficient than the teaching service commission. If he can clarify that to me, Mr. Chairman.

**MR. KWERONDA RUHEMBA (Kajara County):** Mine, Mr. Chairman, was not a clarification. I am seeking a substantive contribution. Mr. Chairman, from other committees suggestions have been made that we create the medical service commission that we create the audit service commission, teaching service and so on. Mr. Chairman, I support the spirit behind this amendment. One, that some of these commissions are not going to have a mouthful of business and yet they are going to be standing and earning money and spending money for so many years. For instance the audit service commissions I do not know whether it will have many people to appoint and many responsibilities to carry out. Similarly the medical service commission which is going to cater for just one ministry of health it may equally, not have a full mouth business. A teaching service commission may have for substantial business and civil service certainly will have substantial business. But it would be irrational to bring all these bodies under one umbrella and how they divide themselves to take care of businesses of civil servants, teaching servants and audit servants and medical servants, this would be their own internal administration. And I believe so. Mr. Chairman, that at one time we had one body called the public service commission which was taking care of all these responsibilities. Mr. Chairman, it was said here and it is a fact that there is going to be decentralization and I do not know whether under each district we are also going to replicate these commissions. Are we going to have a civil service commission at the district, teaching service commission at the district, an audit service commission and medical service commission at the district. And if not, and at the district level one commission can handle appointments in all these fields. Because if we are not going to have four bodies at the district. I believe we should not have four bodies at the national level. It would simply be logical that, that body should feed just one same body with the similar character at the national level. Particularly now that the number to be handled by the commission will be less as a result of the decentralisation.

**MR. AKURE PETER (Jie County):** Point of information. Mr. Chairman, I would like to inform the Member on the Floor that right now in the district we have teaching services Committee and district service committee. I am saying, right now we have district teaching committee in the district and district service.

**MR. KWERONDA RUHEMBA:** I thank you for that information, and I would like to say that those two bodies are virtually redundant. Half the time they are not doing anything and they are only paid when they sit. Mr. Chairman, I think - Mr. Chairman, these - the compositions of these four commissions are - as spelt out by different committees which have suggested them, comes to a figure of roughly 36 people.

**THE CHAIRMAN:** But could you please send a clear signal, are you opposing the Motion or you are supporting it.

**MR. KWERONDA RUHEMBA:** I am supporting the Motion. Mr. Chairman. Mr. Chairman, if there are four independent commissions, the numbers involved are about 36 or more or slightly less. To keep 36 people on a pay roll is, a lot of expenditure whereas if we brought - we formed a service commission and it was - a public service commission was a unified one, even if we increased the numbers of this commission, it would simply be about 16. 16 people vis-a-vis something like 36 people is a smaller number, and when it comes to paying you can see that certainly a tax payer is not over burdened. It is because of these reasons, Mr. Chairman, that I strongly support the amendment that we should have one unified body called the "*Public Service Commission*," embracing all these committees that have been mentioned. The internal matter of arranging how they should - how each one of these benches will be, is up to them. I thank you very much, Mr. Chairman.

**MR. OBIGA KANIA (Terego County):** Thank you, Mr. Chairman. Mr. Chairman, first of all, I would like the mover of this amendment at later stage during when he is clarifying other points, clarify to me the difference between the structure he is proposing and the equivalent of the authority which was thrown out. Other than substituting for the word "authority," public service commission and the other commissions say the Civil service, Teaching Service, Judiciary and so forth. To me it appears it is a change of words. Secondly, Mr. Chairman, I would wish to oppose this amendment for the fact that particularly teaching service commission needs to be different. Because they are so many teachers such that if you want to administer them efficiently they need the closest attention at personal level, and this can And this can be only achieved by a separate teaching service commission. Thank you, Mr. Chairman. On the basis of those two, I am opposing this amendment.

**OBUA OTOA (Erute North County):** Mr. Chairman, I was raising essentially the same sort of query. Namely how different this new proposal is from the one we rejected yesterday. So I do not take otherwise ten more minutes. I want that point clarified.

**MR. OCHYENGHDAN (Kapelebyong County):** Thank you, Mr. Chairman. In addition to clarification on the difference between this commission and authority, Mr. Chairman, I would also want to seek clarification on several other issues first as to what the movers envisage will be the membership of this commission. As to whether all the members of the committees of the various committees will be members of the commission or part of them. Secondly in view of the decentralization measures being implemented I would have also liked to be clarified on the - on why they chose subject rather than regional representation in the commission. Thirdly, Mr. Chairman, we have already created Police, prisons, the army also has its own. I want the rationale of now combining these others. I want to be clarified on the rationale of combining these others and why the police, prisons and army are also not included. Mr. Chairman. Thank you very much.

**CAPT. BABU EDWARD (Kampala Central):** Mr. Chairman, thank you very much. First and foremost, a lot of information that has been given this afternoon about the teaching commission under the public service commission is not correct. As we stand right now, Mr. Chairman, the teaching service commission is decentralizing to the district and where things have gone wrong in the past, they have been putting them right. And even now as we stand the teaching service commission cannot do all the work. Therefore it should be reinforced to the - if you centralize all this amount of work into one body, you create a bigger problem. So I would like to request very strongly to our Hon. Members who seem to have the same idea because there is a few who feel that the authority should not become a commission to please, kindly desist and help us so that we go forward. The other point that I want to point put forward is that, there is specialization, and when we go into specialization we have got to respect certain disciplines. Somebody was talking about the judicial service commission. I would like to assure you Mr. Chairman, it will be - unfair to trade in the judicial service commission which is a little bit more specialized so will be the teachers and urban authorities for example. I think we should leave them as they are because they are doing a good job. The only thing we

should do is to reinforce them so that they can do a better job than what they are doing already now. And that way, Mr. Chairman, we will have put in the constitution better bodies that can do a better job but not to use the same method, come back with commission, then remove commission, we put another word to describe the same thing which is really authority. So I would like to request that our friends should get away from that. Lastly, we are in the era of decentralization, let us not decentralize power. Thank you very much, Mr. Chairman.

**MR. MULASSANYI DAVID (Rubanda West County):** Thank you, Mr. Chairman. Mr. Chairman, I rise to support this Motion basically because it seeks to bring all the services in the country under one body. With specialization, Mr. Chairman, these commissions have been localized in one particular department, and they have not surveyed problems all over the country. To give an example, Mr. Chairman, when you look at the teaching service commission it is thought that it is the cause of problems in education. There has been a belief that when you increase the salary for the teacher by one shilling or even one cent, the aggregate increase is colossal. Due to the big numbers of the teachers, this is a lame argument. Mr. Chairman. Teachers are an important component of this nation, and they play a very big role in the economics of the country. Teachers should be as well remunerated as others. Mr. Chairman, if we had one common commission looking at all the workers, all the employees of the country the teachers would be put on an equal footing with other workers. There is another lame belief, Mr. Chairman, that teaching is a voluntary service, and therefore, teachers should not even assert their interests they should not go on strike. They should not do this and the other. Mr. Chairman, teachers like any other people should be allowed to fight for their rights and it in this context that I should put the teachers and any other worker in the country under the same umbrella the proposed body by Hon. Byaruhanga. So, Mr. Chairman, for these reasons I want to support the amendment. Thank you, Mr. Chairman.

**DR. MATOVU BYATIKE (Entebbe Municipality):** Thank you very much, Mr. Chairman. Mr. Chairman, one of the problems we have in Uganda, probably most of the African countries is the misallocation of manpower. And I think this is due to some of these allocations being centralized in one commission as it were the public service commission. I know they get technical advice from technical

people when they are interviewing people and so on. But that is not enough, I think we can get away from this kind of problem by having independent commissions for different areas of the public service. The teaching service, the health service, the judiciary and so on. So that these commissions - the problems being faced by these different fields are handled by a group of people, many people who really know about that particular field. Let us have as many judiciary people on the judiciary service commission. And let us have as many teachers as possible on the teaching service commission so that they really handle the problems of teachers or judges and so on very well, independently, and with a lot of confidence. Rather than having a public service commission or an authority with so many people and then you have only one technical man to advise them on that particular field. So, I think I would rather have these different-various independent commissions working independently and not under any one authority to impose itself on the others. So I oppose this kind of set up that is being advised. Thank you, Mr. Chairman.

**MR. OKULLO-EPAK (Oyam South County)**

Thank you very much, Mr. Chairman. Mr. Chairman, for purposes of institutional development, I think I am seeking one or two clarifications. I do understand that various select committees on specialized sectors have recommended service commissions such as Judicial service commissions from another committee, audit service commission from the committee which was dealing with finance. We are also going to have local - the government service commission there is the idea of teaching service commission, medical service commission from whichever committee- it is going to come from. Mr. Chairman, I believe police e.t.c. - I am not going to enumerate them now, Mr. Chairman. My problem is this, Mr. Chairman, these various select Committees have defined the appointments, the service terms, from composition and functions of those various service commissions and in fact I think we have already approved some of them. Now here we have a chapter dealing specifically with a service called public service and I believe all those other services being recommended are also public services unless I am otherwise corrected. When do those public services of specialized sectors come together and get coordinated as a single public service of the Republic of Uganda. In my view, Mr. Chairman, I thought this is the chapter where we would have looked at the way all those specialized services are integrated. Now in

this particular amendment we are considering, Mr. Chairman, it is proposed to meet this kind of concept. I am thinking about that having accepted to have specialized service agencies whatever name you give them. There must ultimately be one coordinating agency in the Republic of Uganda for all public service agencies of specialized type. That is why I support the concept in this amendment. But Mr. Chairman, the nomenclature is now a problem to me, we have commissions elsewhere we have committees here, for specialized agencies and then further on in the synchronized amendment if we look on, this chapter intends to establish more committees. To define their membership composition in terms of service e.t.c. And this is going to be in conflict with those which are going to emanate from other select committees. When are we going to harmonize these divergent creation of service body, Mr. Chairman. This is my worry, but I do accept the concept that we should have one integrating national public service body under which there will be, call them whatever you like committees specialized interests. I think that is fair rather than having a public service dealing with all specialized agencies. I think we need to have special bodies dealing with specialized areas. But they must be coordinated somewhere. Now I do not think Hon. Byaruhanga would clarify me on this, Mr. Chairman, because when, at what stage do we integrate commission, which are emanating from various select committees under this kind of arrangement, Mr. Chairman. I thank you.

**THE CHAIRMAN:** But I thought the argument for setting up separate ones was only to avoid having a central one. Did we approve a recommendation to set up one audit service commission. So that one was not approved in which case it is being suggested here now.

**DR. MUGYENYI POSIANO (Isingiro North County):** Thank you, Mr. Chairman. Mr. Chairman, the attempt of this Motion is to create a coordinating body at the national level which is supposed to coordinate the different committees that are in charge of different public officers. My main worry is that, we may end up having increasing the bureaucracy and at the end of the day we may not solve some of the problems that have hit some of the professions. Mr. Chairman, there are many medical workers, doctors, nurses and other paramedics who have stayed in the service for the last 20 years and have never been confirmed. And one of the reasons has been lack of the technical representation in the

present public service commission. Mr. Chairman, if we create this public service commission to head these specialized commissions, we are likely to increase the bureaucracy and not solving the current problems. I do not see why we cannot leave the teaching service commission alone, create the medical service commission, and have it to take charge of the welfare of the medical workers. Hon. Obiga Kania said that the teachers are many, I want to inform him and Hon. Delegates here that, medical workers are really very many, and they deserve a commission on their own which does not pass through the arm-pit of any other organization. So, Mr. Chairman, in order to avoid stagnation in the public service, in order to avoid workers being appointed and remaining on the same level, the same scale for 20 years which actually kill morale, I would advocate for different specialized technical commissions that take charge of different public officers in which case, I do not support this commission that actually although it is not independent, is almost similar to the authority which was rejected yesterday, but it is a change of name. And I think it is just going to increase bureaucracy and I do not know whether we are going to have technical representatives of different technical groups at this commission. And I do not see the purpose of this if we can have public service commissions, teaching service commission, judicial service commission and medical service commission independently to promote the public servants in the different fields. I would advocate for that and I would implore members to reject this commission and in the process to create different specialized technical commissions. Mr. Chairman, I thank you.

**MR. CHAIRMAN:** But, Dr. Mugenyi would it meet your needs if it was that there will be a public service commission and then the concept says the commission shall establish committee specialized in the following areas, because that was his worry.

**MR. BYARUGABA BAKUNDA (Isingiro South County):** Thank you very much, Mr. Chairman. I would like to echo the words of Hon. Babu who clearly put it to us and - dispelled rumours from the movers of this Motion that actually teachers have stunted in their ladders because of lack of service. Mr. Chairman, as I talk today in Mbarara district administration they are going to start conducting interviews tomorrow starting with all agricultural officers and other heads of departments. Mr. Chairman, even these various commissions we are talking

about are just but a replica of what the public service commission is already trying to do even at the district level up to the level of U2. So, Mr. Chairman, I do not see even the essence, nor the importance of creating all these other commissions when we are all aware as Hon. Ruhemba has clearly put it, that actually the public servants to-date are being reduced more than half way. What are we trying to do, creating jobs for ourselves when we retire from politics? Mr. Chairman, it is unfortunate that I have to oppose this one, especially, coming from a namesake and neighbour at that. On promotion, Mr. Chairman that argument should not hold water at all. Because as I was - I have just elaborated, everything is already put in place, it is just but a professional to imagine that a teacher should also become a Permanent Secretary just like an administrative officer. What about specialization, Mr. Chairman? If we are talking about a doctor let him be a senior doctor, a principle, surgeon, a Mr. just like an administrative officer like Alex will never be a Senior Dr. - will never be a Mr. in that profession. We have that specialization and we should not try to get that level of Permanent Secretary just because it looks bigger or more respectable. Mr. Chairman, again on impartiality which was also another big argument they put forward. I have had a personal experience in 1980, I so happen not to have been particularly a supporter of a party in power. But because of the impartiality of the public service commission, Mr. Chairman, I have here another Colleague who is the Hon. delegate, Hon. Serwanga Lwanga, we were ardent opponents of the government in power but because of impartiality of the commission we were recruited in the public service commission. I still hold a lot of respect for that body, Mr. Chairman. On regional balance, Mr. Chairman, you will all realize if you have been looking closely at the public service commission that, they change according to regions. I remember there was a chairman from the North one time, another time it was somebody from the West, another time it was somebody from Buganda and today as we talk it is somebody from the East. These are internal arrangements which we are all aware in order to try to bring about and out openly this element of regional balance and impartiality, Mr. Chairman. Mr. Chairman, if we are to be a little bit more serious and are trying to take services nearer to the people, we should not be thinking of taking them again away from them. We have already decentralized and this amendment to me seems to be taking these services further away from the people. The structure today as it is, it is quite ideal, most effective, and most suitable

in our time. I beg Members that we throw out this Hon. Byarugaba's amendment and we maintain what is available to us, Mr. Chairman. Thank you very much.

**MR. BATEGANYA DICK (Bukooli Central County):** Thank you, Mr. Chairman. I would like to start by quoting our rules. Rule 48 (17) says, "No amendment shall be made which is inconsistent with any article already agreed up on by the Assembly or any decision already come to by the Assembly." Yesterday we were here and rejected such formulations, we are back here with the same type of arrangements. This is wasting our time, Mr. Chairman. (Applause). The people out there are anxious to see this constitution completed, and they get on with their life. Now if we get involved in such repetition we are foot dragging and we might end up by creating the wrong impression. So, I would like to appeal to Members to throw it out on the following grounds. One, it is killing. By creating this conglomeration, we are refusing to recognize specialization that is involved in all what is recommended here. These are professions which require particular specialization. A teacher is a professional, an audit who is an accountant is also a professional, and they require various types of developments. They require various types of inducements, and a body that does not take this into consideration is not working in the interests of these professionals and the country at large. Secondly, we are decentralizing. The idea behind decentralizing is to take services closer to the people. By making this so-called public service commission as recommended by these two Hons, we are not moving nearer to decentralization, we are not. We are going far away from decentralization which is against what the principle that we have already arrived at elsewhere in the chapter on our objectives and later on in our recommendations as committee (4). So without much ado, I would like to appeal to Members in this House that before we move such amendments, we should also take into consideration what the people have said, what the people said when they were asked to submit their recommendations via memoranda in 1989, and this is reflecting the Odoki report. I appeal to Members to read this report carefully before they make such amendments which in most cases contradicts what the peoples' wishes are. So, Mr. Chairman, appeal to Members to refuse this amendment and throw it out with maximum - and I wish to end by proposing that, you put the question and we move ahead. Thank you very much, Mr. Chairman.

**THE CHAIRMAN:** Hon. Bateganya, do not encourage violence by saying, throw out by maximum force.

**DR. BYARUHANGA:** Thank you, Mr. Chairman. To clarify what Hon. Members have asked me to, I need only to clarify two issues- three issues. One, there is a very, very big difference between what was being created yesterday as an authority, and what is being created today. If you could only allow me to inform you, Hon. Peter Akure - have powers over of recruitment of all civil servants right from the bottom up to the highest. But the Service Commission we are creating is not independent from the executive. As I told you at the beginning, it does not touch Articles 196 and 197. The President will continue to appoint heads of Department and Permanent Secretaries.

**THE CHAIRMAN:** Now, he is now winding up, so that we take care of this one. Go on.

**DR. BYARUHANGA:** One member wondered whether we thought that by creating-by getting of the teaching Service Commission and causing it to be a committee. We would be improving on its efficiency. You may have heard very many members have said that there is a desire for specialised services to have their own commission. But we do not have even among these synchronised amendments- amendments that seek to create separate Service Commissions for all the specialised services we have in this country. Therefore, those who think that for example, the Medical services, deserve a specialised Commission, now that they do not have even the Commission, suggested in the Draft, now that they have not attempted to move amendments for the creation of such services, they will definitely be better off by this arrangement, that at least creates a specialised committee under the Commission. Now, our thinking was that, since there are so many specialised services, and they all need commissions, now this country will not be able to maintain 10 Commissions. Why do we not get all these specialised services under one body and under one public service Commission? That is why we reduced the Teaching Service Commission and reduced it to a committee under the Public Service Commission and we think that since they have not performed well alone, they may perform better under this supervision of the Public Service Commission. Members have been detracted by the other Amendments that I would like Hon. Members to debate this Amend-

ment in its own merit, because any other Amendment that follows is subject to Amendment. This morning, I took my own Amendment to the Clerk of this Assembly, because I do not agree, although my name appears on many of these Amendments. I do not agree with most of them. For example, I do not agree on the composition of the committees, because when these gentlemen of the Committee 1, created the Authority, they found it mandatory to create Commissions. And yet, in my own suggestions, I had suggested Committees and with a different Membership, but which was comparable with what was being moved by other members. So, we were lumped together, but we can, for example, my own Amendment to the Membership of the Commission was that, the Public Service Commission shall consist of one Chairman, four Vice Chairmen and 12 members appointed by the President with the approval of Parliament. I wish that all the Members of the committees will be members of the Public Service Commission. So, we shall have 17 members handling all the affairs of the Public Servants of the Republic of Uganda. When we decentralise, because many people also were confused - (*Interruption*)

**THE CHAIRMAN:** I think you should really wind up.

**DR. BYARUHANGA:** Let me wind up. When we decentralise, you will find that at the district level, we shall have a district Service Commission because this what has been suggested by Committee 4 in Chapter 13. And, many of the teachers, for example under the District, all the medical staff under the district, will actually be handled by the District Service Commission. So, this, as I said, this top body will only be handling the Headquarter staff and will from time to time give guidance to the district Service Commission.

**THE CHAIRMAN:** Hon. delegates, you have heard the argument for and against the Motion. Now, we have reached a stage of declaring ourselves on the Amendments proposed by Hon. Byaruhanga and Hon. Adoko Nekyon, that: "*There shall be a Public Service Commission for Uganda, which shall be composed of Civil Service Committee, the Teaching Service Committee, the Audit Service Committee and Medical Service Committee.*" This is the Amendment by Hon. Byaruhanga and Hon. Nekyon. I will now put the question on this one.

(*Question put and negatved*)

**THE CHAIRMAN:** Now, order, order. Will Hon. Byaruhanga and Hon. Byaruhanga not continue the debate on this matter. I think it has been finalised. Now, we have the Motion, the first one seeks - there was also an Amendment sought by Hon. Tezira Jamwa and others, seeking to insert the word 'independent' before Public Service, so that it reads: "*There shall be an independent Public Service for Uganda.*" Is this still being pursued by the movers?

**MRS. TEZIRA JAMWA (Women Delegate - Tororo):** Thank you, Mr. Chairman. From what transpired here yesterday and according to the mood of the Assembly and after serious consultation with my co-movers of the Amendment, I beg to withdraw the Amendment. (*Applause*)

**THE CHAIRMAN:** Thank you. Now, then I take it that Clause 1, which reads: "*There shall be a Public Service commission for Uganda.*" There are no Amendments to it. Now, we go to the second one. Clause 2, the composition of the Public Service Commission. The Constitution suggests, the Chairman and not less than eight members appointed by the President with the approval of the National Council of State, as you know the National Council of State fell by the way side. So, now, there are two proposed Amendments, there is one which seeks to keep the same wording and adds, "*the Chairman and not less than eight members,*" but here they insert, "*Deputy Chairperson and not less than eight members appointed by the President with the approval of Parliament.*" That is the proposed Amendment No. 2. There is one also which says, "*The Commission shall consist of a Chairperson, elected by Parliament from a list of five names.*" This Amendment seems to have been combined with another one to follow on the Hon. Byaruhanga's Motion. Now that the House has not taken that Amendment, then I do not think Hon. Byaruhanga would like to insist on No. 4 and No. 5. He does not. So, now what we have is one of the one seeking to say, "*The Public Service Commission shall consist of a Chairperson, a Deputy Chairperson and not less than eight members appointed by the President with the approval of Parliament.*" This one, if it is carried, it would have the effect of negating Clause 3, which says, "*The President may appoint not more than two members of Commission as Deputy Chairman of the Commission.*" Here, the proposition is have one Deputy and eight members, which is different from the formulation here. So, let me give the Floor to one of the movers, Hon. Sabiiti, Hon. Pulkol, Rwomushana and Sakwa.

**MR. SABIITI JACK (Rukiga County):** Thank you, Mr. Chairman. The Amendment which was formulated by me and my Colleagues, Pulkol, Rwomushana and Sakwa, is self-explanatory. I do not think there is - there is not much that we should talk about, it combines one and two in the Draft Constitution, straight forward, we give the powers to the President and the Parliament approves. I therefore beg to move, Mr. Chairman.

**THE CHAIRMAN:** Hon. delegates, Hon. Sabiti has moved a Motion, that seeks to combine Clause 2 and 3 and creating one position of Deputy. I think we do not have to debate this at great length. Hon. Odur, you want to make a statement on this? Because I was going to put the question.

**DR. ODUR:** Thank you Mr. Chairman. I think the wisdom of having two Deputies usually in the organisation like that, is that, one Deputy is specialised for administration, while the other one takes care of technical matters. Now, if we have only one Deputy, I think there will be a lot of work and a lot of difficulties for the Commission. So, I would urge the mover of this Motion to accept having two Deputies instead of one. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Hon. Sakwa, since you are one of the movers, can -do you accept that proposition?

**MR. SAKWA DARLINGTON (Bungokho South County):** Thank you, Mr. Chairman. I think that Hon. Dick Odur should realise that we are decentralising most of these offices and also, there is a tendency for the people who become bosses of organisations to try and leave all the work to their deputies. If you are having a Deputy Chairperson or Chairman, and you have a Chairman, surely, let the Chairman do one task of administration and the other one does the technical. So, I do not see why we should over-burden the State by paying several deputies, then the question arises. What does the Chairman, himself do? Is he there just as a political figure head or he is supposed to be working for the Commission? So, Mr. Chairman, I will urge members to accept this Amendment as it is. Thank you.

**THE CHAIRMAN:** Okay, let me put the question. Hon. Mayanja was doubtful whether you were following, but - I will give you the chance.

**MR. ABUBAKER MAYANJA (Busujju County):** Mr. Chairman, as most members would

be aware, I am absolutely gender sensitive. Nevertheless, Mr. Chairman, in view of the language which we have used with regard to various Commissions, judicial, whatever, and so on, I wish to move that we remove the word 'Chairperson' and retain the word 'Chairman.' Because as we know, man always in law, and in Constitutions, man embraces woman and moreover Mr. Chairman, as I had occasion to explain to this august Assembly, those people who really feel that a Chairman should be a Chairperson, should take the leaf from an erudite member not of this House, but of another House, who has stated she is a woman. Mr. Chairman, you cannot say, wo-person, if you have to be consistent, one should not say woman, you should say wo-person. Because she has said, I am a woman, I have got man in me. I have always had man in me, and there is no way I shall have man out of me. Therefore, Mr. Chairman. - *(interruption)*

**THE CHAIRMAN:** Hon. Mayanja, I think you have made your point.

**MR. ABUBAKER MAYANJA:** I beg to move that we retain the word *Chairman* instead of *Chairperson*. Thank you.

**THE CHAIRMAN:** I think the House is aware that from the point of view of drafting, let us get this clear. From the point of view of drafting, I am not worried about the formulation as it is, because the consistency of language will be determined when we come to the consideration stage. Otherwise, we will be wasting time discussing things which, when we come to language, we shall make up our minds whether we want to use *Chairperson* or we shall just use words, *person*. But what we are taking now, is settling the concepts, that we agree there will be a Chairperson and there will be a Deputy Chairperson and then the rest we shall do when we do the consistency of the text. Let me put the question on this one.

*(Question put and agreed to)*

**THE CHAIRMAN:** That disposes of 2 and 3. Now, we look at 4. There is amendment proposed, 4 and 5 have been abandoned, we are now at 7.

**MR. RWABIITA DEO (Ibanda South):** Point of Procedure. Mr. Chairman, I think it would not be fair, the report of committee 1, if now we do not refer to it, because there are some areas with amendments and rationale that can help us to go faster. For example, on this Clause 4, we made an amendment,

if you could allow our Chairman to read it. I think it would help the House to discuss much faster, because it has nothing to do with the authorities, it is dealing with the structure of the Public Service Commission.

**THE CHAIRMAN:** You see, I have here before me amendments which were synchronised and the ones we are following. The amendment before me on 4, is talking of adding the word, 'and has substantial experience.' This is talking about the qualifications of the people to be appointed and you are talking about structure of the Public Service Commission. I think we should take the Amendment before us, and then proceed from there. Hon. Sabiiti, Hon. Pulkol, Hon. Sakwa, Hon. Rwomushana, one of you. At 7

**MR. SAKWA DARLINGTON:** Thank you, Mr. Chairman. Mr. Chairman, ours is a very small amendment which just seeks to make the members of this Commission, people with substantial experience in the Public Service and related field. So, we are not really changing the Article as it is, but only trying to emphasise the need to have people with high qualification and experience. Mr. Chairman, I therefore beg members to support this Amendment as it is a simple and innocent Amendment. Thank you.

**MR. KAGGWA MEDI (Kawempe Division South):** Thank you very much, Mr. Chairman. I would like to be clarified as to what is the meaning of substantial and how do you measure that experience. Is it in relation to having knowledge to what you are going to do or any other kind what ages and what times? Could I have clarification Mr. Chairman?

**MR. TIGWEZIRE JOHN (Bunyangabu County):** Thank you very much, Mr. Chairman. Mr. Chairman, I also want to be clarified along the same lines with Hon. Medi Kaggwa. The clarification I am seeking is this. When we talk of proven integrity, is it not through experience that one gets proven integrity? So, I want to be clarified whether proven integrity does not even cater for experience. Thank you, Mr. Chairman.

**MR. SAKWA DARLINGTON:** Thank you, Mr. Chairman. First of all, I would like to thank the members for seeking this clarification. I would like to state straight away say that, experience itself means working within an environment for sometime.

You cannot be experienced by coming from college with a Degree or 10 Degrees and you say, I have 10 Degrees in Engineering, I am an experienced Engineer. You must work in the field of engineering for a certain number of years. Therefore, also on the other hand, Mr. Chairman, integrity has nothing to do even with knowledge, you can have a peasant, uneducated, but who has integrity and he will be elected a Chief or Clan head. So, when we talk if substantial experience, Mr. Chairman, we would probably have to add in 'Public Service.' That means, the person must have worked in Public Service, him or herself, for let us say, a minimum of 15 years, Mr. Chairman.

**THE CHAIRMAN:** Let us not really go to great lengths debating this. Either we accept it or not. I will put the question of the amendment.

*(Question put and negatived).*

**THE CHAIRMAN:** From the sound that came from the Floor, so we leave it as it is. Now, No.5 has an amendment by Hon. Mulassanyi and Hon. Mulenga.

**MR. MULASSANYI:** Thank you Mr. Chairman. On this amendment, I support Hon. Mulenga in moving this amendment but I do not have it with me. Mr. Chairman, would you please be kind enough to read it to me?

**THE CHAIRMAN:** You want to borrow my eyes. Okay, I will assist the Member. He is borrowing the Chairman's eyes. The person relinquish his or her position on appointment as a member of the Commission, if he or she is a member of Parliament, be a member of this Council or of the Council of any other local Government units, be a member of the executive of a political part or a public officer.

**MR. MULASSANYI:** Thank you, Mr. Chairman. What we are trying to do here, is to provide that anybody can be appointed to this. But that when appointed, he relinquish the office he is holding. But originally, this statement was providing that these people should never be considered for this position. This statement was providing that these people should never be considered for this position. But we are saying that they can be considered, but once appointed, they relinquish the other offices they were holding. I wish to move, Mr. Chairman.

**MR. KAIJUKA RICHARD** (Sheema North County): Mr. Chairman, I wish to oppose the Amendments presented for very good reasons. One, if you look at the Draft proposal, it is saying, a person is not qualified for appointment. In other words, before an appointment is made, they are saying, I am not by the way, Mr. Chairman, happy with this draft. I would be moving an Amendment to the effect that a person is not eligible for appointment because, really, one would be otherwise qualified in his own rights, academically or with any other experience. But that you are not eligible, because you are actively involved in areas that are mentioned below. For example, they are saying, if I may pick one, if you are a member of the executive of a political party, I am assuming an appointment of Cecilia Ogwal, or Hon. Ssemogerere. - I am just suggesting Mr. Chairman. - *(Interruption)*

**THE CHAIRMAN:** Hon. Cecilia Ogwal, please. Why are you saying Hon.....

**MR. KAIJUKA:** I am just suggesting Mr. Chairman, that ...

**THE CHAIRMAN:** But you are being discriminatory, you are saying Cecilia Ogwal, the Hon. Ssemogerere, as if Cecilia Ogwal is not honourable.

**MR. KAIJUKA:** I certainly want to withdraw this statement and emphasise or rather repeat that I meant to refer to Hon. Cecilia Ogwal and Hon. Ssemogerere as being active participants for example, in political party activities. All I am saying, because you are actively engaged, you therefore not eligible, you are not likely to be impartial. That is the implication and therefore, I am in agreement with people who drafted this proposal. By saying because you are that active, you therefore, not eligible, you better look for those who are otherwise active and they do qualify, but are not eligible and therefore, I wanted to suggest, Mr. Chairman, that *-(Interruption)*

**MR. KAGIMU:** Point of information. I would like to inform the Hon. Speaker that Justice Tsekoko was active UPC a member and he was promoted to the Supreme Court. He was appointed Judge and so being an active member in party politics, does not mean that you have got to be impartial.

**THE CHAIRMAN:** I think you should finalise your points.

**MR. KAIJUKA:** Thank you, Mr. Chairman. I thank Hon. Kiwanuka for his information, but I want to suggest that certainly those are two different things. The information he has given is that, some one was appointed to the Bench, obviously, one has to look at the professional background, experience, and because someone was involved in politics, it does not necessarily mean that one could not perform that. But we are talking about, obviously, his late father is also a good case in point. Who was a Chief Justice and so there is no contradiction with the information he is giving me. In other words that is quite in order, at least in practice we have seen it. But we are saying, to have an impartial Public Service with a degree of impartiality that is required, it becomes extremely important that you appoint people who are otherwise not likely to be biased, that is the reasoning behind this. So, I wish to oppose this proposal and I beg that the question be put. Thank you, Mr. Chairman.

**THE CHAIRMAN:** That is unfair, when you finish, then you close the subject for the others.

**MRS. EGUNYU FIONA** (Women Delegate - Kumi): Thank you, Mr. Chairman. Mr. Chairman, I have here something very interesting which I would like the delegates to consider and I would thereafter request the mover to clarify to me some few issues. There is a case of Valelina Arthur Ovongi versus Attorney General, it is a Constitutional case No. 26 of 1981. What the plaintiff who had been serving as a deputy Chairman Public Service Commission was dismissed by the Chairman of the Military Commission on the ground that he had accepted an elective office in a political party. The plaintiff Valelina Arthur Ovongi argued, inter alia that the dismissal was contravention of Article 101, of the Constitution and contrary to his fundamental rights and freedom under Article 8, (ii) (b), that is on equality. He successfully applied to the constitutional court. Now, in light of this, is this amendment not in contravention of the right to equality? There is already a constitutional court decision on it, do we not think that it would be wrong to install something which is unjust and has been decided as that, by a Constitutional court? I would like us to review this in light of that. Thank you.

**THE CHAIRMAN:** But Hon. Eguny, can you be clearer, because I think members may be lost. The case you are quoting - what principle does it establish?

**MRS. EGUNYU:** What this Amendment we are having before us seeks to do is that, once you are elected to the Public Service Commission, then if you are an executive member of a political party, you should resign. I am saying that this can be contested on the ground that it is discriminatory and does not comply the Article 82, then of 1967, which is the article dealing with equal protection of the law and other such related matters. There is also the court decision on it, saying that, the mere fact that you are a member of a political party or an executive does not mean that you should relinquish your position as for example, here, the Chairman of the Public Service Commission. So, those are the two problems I want us to consider.

**THE CHAIRMAN:** But would you say if the Constitution says so?

**MR. MASIKA GEORGE (Mbale Municipality):** Point of information. Thank you, Mr. Chairman. Can I inform the Hon. Member who has been talking about this case, that in fact, the decision of that case, supports this amendment which is being put forward. That case dealt with the appointment of Ovongi as Deputy Chairman of the Public Service Commission. What happened was, that the then Chairman of the Military commission, acting on some advice, requested Ovongi to resign from his post as the Chief Publicity Officer of the Democratic Party. He refused to do so and he was dismissed as Deputy Chairman. Now, what happened is that, he took up the case to the Constitutional Court and the Constitutional court decided that, the Chairman of the Military Commission was right in dismissing him for having refused to resign as Chief Publicity Secretary of the Democratic party. It did not say that because he was a Publicity Secretary, he could not become a Deputy Chairman. In fact, what the court decided is what this amendment here, is trying to ask the House here to do. Namely, that you can be appointed a member of the Public Service Commission, but if you hold a sensitive post elsewhere, you should resign from that post.

**MR. WAGIRA MOSES (Kibuku County):** I thank you, Mr. Chairman. Mr. Chairman, me, I feel that, in debating this amendment, we have to look for the spirit behind the Motion, because there are two versions. The amendment coming on the Floor, seems to have in it the implication that this post should not be held concurrently with another one and it goes out to spell those other posts which cannot be

held concurrently with this post of the Chairman. But in my view, I think the spirit behind this proposal, even in the draft Constitution, was to create Public Service Commission that is to a certain degree apolitical. And I do not think by merely saying, if somebody has been appointed on this post, it is then that he should resign, we will answer these needs. It was actually argued in the committee when we were considering this, it was an argument that one of the moves which is intended to create this kind of situation as it is in the draft, is not to make a Public Service an area for rewarding political supporters. That was also a ground and in light of that, we also considered, there was also argument which was advanced that after all, with the deletion of the National Council of State, it is Parliament which is going to approve. We are likely to create a situation where somebody will lobby his Colleagues in Parliament, for Public Service, well sure- that after all, I will resign after being appointed. So, in my view, this amendment would defeat the purpose which - was intended. That actually if somebody is actively involved in politics and therefore, seem to be impartial, should not be right from the onset, illegible for this post. That is the spirit behind the formulation which is in the Draft, that by virtue of those offices categorised in the Draft, one should not be eligible at all from the onset. So, I concur with the Hon. Kajjuka in my view and that I would prefer the formulation within the Draft other than the present amendment. I therefore, oppose the amendment.

**THE CHAIRMAN:** Hon. Wagira, if we take logically the categorisation there, who do you think will be available for appointment? You cannot appoint a civil servant for instance, if we leave the text as it is, or all Public officers are not eligible, because it says, the person not qualified. So, you cannot appoint a Permanent Secretary to be a member of the Public Service Commission under this.

**MR. WAGIRA:** Mr. Chairman, when I was submitting on the same, I even did say, that at best, I am only uncomfortable with the word 'Public officer' and I think that if the amendment is carried, then maybe the word 'Public officer' will be removed out of there.

**MR. MUKASA MURULI (Nakasongola County):** Thank you, Mr. Chairman. Mr. Chairman, I find it very difficult to accept this amendment. I think it is not going to guarantee the impartiality that we need among these people. Sec-

only. I think there is a large body of eligible Ugandans who could be appointed outside these people. Thirdly, Mr. Chairman, it might make a decision very difficult for some of these people. Supposing somebody is a member of Parliament and then he finds himself appointed a member of the commission, then the decision to choose whether he is to be a member of the Commission or not might be very difficult. If he turns down the appointment or if he opts to go for the appointment, it might again mean that elections have to be carried out, it might be expensive.

So, Mr. Chairman, I find that a provision in the Draft Constitution is much better, it is superior to this one here, the amendment of the committee. I therefore, Mr. Chairman, oppose this amendment and support the provision of the Draft. Thank you very much, Mr. Chairman.

**MR. MALIRO GASTON (Mwenge North County):** Thank you, Mr. Chairman. Mr. Chairman, I support the amendment for the following reasons. If you look at the list of the categories of the people who are going to be excluded from being eligible for appointment, you find that all the top layer, is gone. It is saying, Mr. Chairman, that a person who is suitable to be elected to parliament, that one must not be considered for this body. Now, when you go to (b), which talks of a member of a district council or of a Council of any other Local Government it means that the people who remain behind, who opt to go to Parliament, and have been elected by their people to any of these bodies, then now, they cease to be eligible to this commission. These ones, are very many. It becomes worse, Mr. Chairman, when you add in (d), which talks of Public officer. So, it means all the people with a brain, all the people who are active, must not be included. Then you must go and look for farmers, perhaps, traders, in order to choose the person to take the Public Service Commission. Mr. Chairman - *(Inter-ruption)* - Mr. Chairman, I wanted to add another point. It is not true that a person say, who resigned a week ago, from any of these, and is now legible for appointment, would now be more partial than a person who resigns now after being appointed. To me, there is no logic in that, because Mr. Chairman, a person who resigned from any of these categories, sometime ago, still holds or still has some feeling of the profession or of the job which this person was doing. So, impartiality cannot be judged on what one is doing presently. So, Mr. Chairman, failing to

choose the right people from these categories, is very detrimental and I think we should support the amendment on the Floor and reject what was provided in the Draft Constitution. I thank you, Mr. Chairman.

**MR. MALINGA IGNATIUS (Usuk County):** Thank you, Mr. Chairman. I also support this amendment, for the simple reason that if you say that there are two people. One, they contest an election, they have basically the same qualifications, one wins and the other loses an election, then you say that the one who lost the election is more qualified to sit on the Public Service Commission than the one who went through the election. It is ironical. Besides, the reason why it is necessary to provide - *(interjections)*

**THE CHAIRMAN:** Hon. Magezi, let Hon. Malinga proceed with his ...

**MR. MALINGA:** The reason is this, that the term of office of the Public Service Commission may not necessarily coincide with the term of Parliament. So, the appointing authority may be shopping around for a person to feel either the office of the Chairman or Deputy Chairman or member of the Public Service Commission. So, it should be given the leeway to take on any person who is serving in any of these capacities. But that person should have to explain to him or her if he or she accepts with appointment, then they will have to relinquish their office as member of Parliament or member of District Council. This is all that it said, you cannot hold concurrently that person will be judged also against other criteria - which have been put. The question of integrity, question of experience and all other factors. I really support this amendment and I would ask members to take it that it gives the appointing authority wider area to recruit from. I support it.

**MRS. RHODA KALEMA: (Kiboga East County):** Mr. Chairman, I also oppose this amendment and I oppose it and support the amendment and the reasoning of Hon. Kaijuka. Mr. Chairman, politics tends to be very strong among people and the issue of this section is to create impartiality in the Public body which is supposed to appoint public officers who are going to serve the people all over the country with an equal and balanced attitude. Points (a) and (b) and (c) are very, very, important here to consider. Because for instance, consider someone, who has been campaigning to become a member of Parliament, memories are very fresh among all of us

here. We have just gone through a strong campaign and one who is not political, cannot go all that way in order to win a seat to come here. Now, I can imagine people who work for a seat in Parliament, tend to be very, very strong in politics, the same with the district councils. Now, with new proposals, and democracy that we are trying to put in the Constitution, that no one will be a member of the Councils without campaigning and with out being directly elected. Now, Mr. Chairman, we come to (c), where a member of the executive of a political party, can relinquish his job, in order to be appointed. I can easily imagine many people and I will not mention names among the Hon. delegates here, who can resist to want to support and encourage the appointment of certain members of their groups in politics. This is very difficult, Mr. Chairman.

**THE CHAIRMAN:** Could you finalise your ...

**MR. OBUA OTOA:** Point of clarification. Mr. Chairman, the clarification I am seeking relates to the question of political parties. Mr. Chairman, and I think it might be in the interest of everybody here, to be clarified whether political parties, include Movement. If it does not, I think it would be a serious discrimination. I want to be clarified by somebody whether political parties under (c), include Movement.

**MRS. RHODA KALEMA:** A political party is not Movement and Movement is not a Political party. Now, to clarify to Hon. Obua Otoa, as far as I understand the Movement which is supposed to embrace the country, it will be very difficult for Rhoda Kalema, when she is Chairman of Public Service Commission to wish to appoint someone, specifically, because all the people in the country, would be members of the Movement. So, that is the difference between a Movement and a political party.

**MR. ELLY KARUHANGA (Nyabushozi County):** Point of clarification. Thank you very much, Mr. Chairman, and I also thank Hon. Rhoda Kalema for persistently allowing to clarify the situation. Since we are really writing the Constitution, and in the Constitution, we need fair play. You cannot, in my view, and I seek your clarification on this, write that members of the executive of a political party, and fail to note that members of the executive of the Movement. Namely, the directors in the NRM Secretariat and others, should equally be affected. It

is I think Obua Otoa's point is valid, it is important to take into account fair play and when you are writing a law. The Directors of the Movement in my view, should also equally be affected and not be directly appointed. To say that members of the political party or members of the Movement, those qualify, being a member of a political party or member of the Movement, qualifies you to be a member. But it is the executive, both in the Draft and also in the Amendment, if I am not mistaken - really the point is, both the bosses of these organisations, are the ones you are trying to stop from being involved in running the public Service. I would like to ask Hon. Rhoda Kalema to take this position into account in our contribution.

**THE CHAIRMAN:** But I think you are taking us to debating what is in the text. We are debating a Motion that, on appointment, the following should relinquish. Here, you are now debating whether or not they are qualified. We have not come to that yet. We are still discussing the Motion on the Floor.

**MR. KARUHANGA:** My clarification was based on the fact that both in the Draft and in the amendment, the Draft is saying, if you are a member of that, you automatically do not qualify. The amendment is saying, if you are a member of that, and you are appointed, you resign. The Draft leaves only people who are in pension - pensionable people. The amendment allows people who are in active service but is stopping those who are in active service if they are of a certain category at that level from continuing to serving that category. And I thought that the amendment is superior.

**MRS. RHODA KALEMA:** For me, Mr. Chairman, the point I am trying to stress here, is to relinquish ones post, to relinquish ones seat in Parliament, to relinquish ones post on the executive, does not kill the sentiment. It does not kill the attitude, does not kill the values, one has towards the political leanings, towards membership of their own kind. And because this is a public body, where we would like people who are appointed, are given every opportunity without any prejudice. Impartiality is the issue here, Mr. Chairman. Now, regarding these, there I am not sure. I feel that a public officer, an Under Secretary can easily relinquish his post and be appointed, because she has been already a public officer in any case. And because - although he may have a party or belong to a party, or may have strong values about UPC, he may be very close to Hon.

Obua Otoa. But that would not mean that he is a public servant who is supposed to prejudice the appointment, and the last point I would like to make again to support Hon. Kaijuka, is the word eligible. Perhaps eligible is clearer than qualification, because qualification can mean academic qualification and other types of means. But eligibility is I think better and is which we should be concerned about and I would like to suggest here or to propose that it be amended to read *eligible* instead of *qualified*. To read: "A person is not eligible for appointment as a member of the commission if his ...." and the rest of it.

**THE CHAIRMAN:** Now, let us hear two speakers, one for and one against. I will take someone for first. Hon. Musumba.

**MR. MUSUMBA ISAAC (Buzaaya County)** Thank you, Mr. Chairman. Mr. Chairman, I have looked at this amendment and I have found it to be a very good amendment. Mr. Chairman, the current text as it appears today, means that me, Musumba, if I am interested in being a Chairman of the Public Service Commission one day, I must not aspire to be a member of Parliament. I must not be a member of the District Council. I must not be even stand for RC III or even RC I, because that means that I shall be a member of the Council. I must not be in a political party where probably I will be given responsibility on the executive, I must not also be a holder of a Public office. Mr. Chairman, what then shall I be? It means I will sit in the village and keep quiet and hope to catch the eye of the appointing authority one day to this office. Mr. Chairman, this is a very ridiculous situation and we may end up having or putting the appointing authority to task to look for people. Spent forces as it were, people who are inactive. People who have withdrawn from active life - people who are outdated or who are bordering senility. Mr. Chairman, I think this is a very dangerous situation. However, Mr. Chairman, the amendment is saying that wherever I will be if I am of high moral character, I have proven integrity, I am good material to be Chairman of Public Service. I can be appointed as Chairman of Public Service, and then I will be called upon on appointment to resign immediately my other activities which, in my view, is good! Because then I can continue to vie for the office of the M.P. of Buzaaya. And when I get the appointment I will weigh and say okay, I prefer being Chairman against being an M.P. For that reason, Mr. Chairman, I strongly support the amendment, it is superior. Thank you very much.

**PROF. KABWEGYERE TARSIS (Igara West County):** Thank you, Mr. Chairman. I am wondering, Mr. Chairman, whether the two, the original clause 5 and the present amendment are not equally unacceptable. Because, Mr. Chairman, on the one hand the amendment is saying you relinquish, but I thought that the job of the Public Service Commission was a full time job! How was it expected that you do two jobs anyway? That is one. Secondly, on the other hand the proposal in the Constitution was talking of being a Member of Parliament and so on, all these are legitimate, legal bodies to which anybody can belong freely. So, for it to have been proposed that you are prohibited, you do not qualify, was itself a very unfortunate situation! Because it would mean that you would select yourself out of every job in order keep the possibility of being recruited. But in the case of the amendment, I would have thought that anybody who is appointed to that job, and the terms of service will define the expectations, there would be expectation that he would have another job and so on. So, I do not know whether we need to put in here that the person may relinquish. And in particular how could he be, anyway, the Chairman of the Public Service Commission or a member of Public Service Commission when he was a Member of Parliament. Or when he was running - he was a Permanent Secretary and he is at the same time a Chairman of Public Service Commission. So, I think, that there is a bit of unnecessary worry in the clause itself. I think we should expect certain jobs when attained that they are full time and it should be defined in the terms of service these would be full time jobs and you do not have to mention the origin of the fellow or where he has been working. I thank you, Sir.

**THE CHAIRMAN:** Okay, now let us make a decision on this. The amendment seeks to change the concept in Clause 5 by saying that a person is to relinquish the office of Member of Parliament, or if he is a member of the District Council, because there is a slight problem there in both. Where you say of a council, of any other Local Government unit which means takes you even much lower down, a member of the Executive of a Political Party or a public officer. This is what the amendment is seeking to do by replacing this one which operates the other way which says, from the very word go, as long as you are a Member of Parliament, you are not available to be considered for appointment to be a member of the Public Service Commission. This one says, yes, you can be appointed but you must resign, that is the

amendment which is now coming. Hon. Byanyima, what is your amendment. Does it improve the text?

**MISS. BYANYIMA WINNIE (Mbarara Municipality):** Thank you, Mr. Chairman. I am also in support of this amendment, and I wanted to make a small improvement to it. Mr. Chairman, I thought that for the same reason that we have inserted (b) that a member of the district council or any other Local Government unit should relinquish that post in order to be a member of the commission. I thought that we should also include a member of any other political organisation. Mr. Chairman, I thought that this is in the interest of fair play because other political organisations will have political officers who too should relinquish their posts if they want to be impartial and serve in this capacity.

**THE CHAIRMAN:** Have you moved that as a formal amendment?

**MISS. BYANYIMA:** Mr. Chairman, I move that (c) be amended to read: "*A member of the Executive of a political party or a political organisation.*" I beg to move.

**THE CHAIRMAN:** Is that seconded?

**HOW. DELEGATES:** Yes

**DR. MAGEZI DAUDI (Jinja Municipality East):** Thank you very much, Mr. Chairman. Mr. Chairman, much as my views were totally contrary to this amendment, I now deem it futile to continue that struggle. But I would like to ask Hon. Byanyima to consider modifying her amendment to refer to the National Executive of a political party or a political organisation. Because we cannot go down to - RC I has an executive, RC II, RC III - I think we should limit it to the national, that is how they can influence this national organisation rather than the lower cadres of executives of political parties.

**THE CHAIRMAN:** You see now, the situation is becoming confused. Which one are you trying to amend? Are you trying to amend (b) or (c)? You see, Hon. Byanyima is seeking to amend (c). Hon. Magezi were you seeking to -

**DR. MAGEZI:** I am requesting Hon. Byanyima to consider adding the qualification, it must be at the national level, in item (c) Sir.

**THE CHAIRMAN:** So that it reads, "*A member of the National Executive of a political party or political organisation.*"

**DR. MAGEZI:** Yes, and that is in (b).

**MRS. KULANY GERTRUDE (Women Delegate - Kapchorwa):** Thank you, Mr. Chairman. In view of Hon. Magezi's amendment, I think not to go very far we could delete (b) and (d) and leave things as they are.

**THE CHAIRMAN:** Anyway, the thing really is this, Hon. Delegates, we have not yet decided that this Motion stays. You see, we are trying to amend it before we even put it to the test against the present formulation. There are those who say that we should retain the formulation which is different in concept, which is in the Draft. There are those who say let us take the amendment as proposed by Hons. Mulassanyi and Mulenga. Now, you are saying that let us amend the formulation of Hon. Mulenga and Hon. Mulassanyi and then test it against whether we accept it to replace this one here or we leave it out. Now, which way should we move first?

**MR. MALINGA:** Mr. Chairman, I think let us decide on principle whether we say the person can be appointed then relinquishes or is not qualified for appointment, then we can consider the details of the categories of the people who fall under whichever formulation passes.

**THE CHAIRMAN:** Thank you for that assistance. Let us, first of all, make up our minds, whether we would like people to be appointed as they resign or people should not be qualified at all, merely because they hold the offices. So, we first of all have to pronounce ourselves on that. I will put the question on the amendment as proposed by Hon. Mulenga and Hon. Mulassanyi.

*(Question put and agreed to.)*

**THE CHAIRMAN:** Some Members are now happy with the formulations in some of these paragraphs. One, when you look at (b) I think someone was saying as it stands it can go down to RC I, is a member of RC II a members of a council of a Local Government unit? You see, you have to make up your minds on that one. Can I get guidance on that one?

**DR. NYEKO JACK (Presidential nominee):** Thank you, Mr. Chairman. I do not believe that district councillor should be included in this. Mr. Chairman, in most cases you will find senior civil servants who probably have retired, and when they

go back home they are engaged to serve their districts at district council level. Really these people should be eligible to be appointed in the commission and they will simply resign. So, I think we should not include them in this category at all. Thank you.

**THE CHAIRMAN:** I was seeking guidance on the status of - what do you mean by council of any local government unit?

**MR. KAYONDE ISRAEL (Gomba County):** Thank you, Mr. Chairman. Mr. Chairman, (b) and (c) are somehow related. In as far as - for instance, when you talk of lower councils for instance RC III is composed of the executive of RC II. And here you have talked of a member of executive of a political organisation, which means the RC II Executive would be disqualified under (c), but at the same time he is also a member of a council. So, Mr. Chairman, I think here we need to restrict the Executive to national as Hon. Magezi was saying and retain (d) as it is because (d) is no harmful because they would qualify anyway, but they would resign. But (c) would extend to lower level because they are executives of a political organisation. Thank you.

**PROF. KANYEIHAMBA GEORGE (Rubanda East County):** Point of information. Thank you, Mr. Chairman. I want to give information that the purpose for excluding a member of a political party organisation is the likely bias that he is likely to continue with when he is a member of this body. And therefore, when he is at the local level, so long as he is an official of the member that bias remains. So, what we are curing is not nationalism but the fact that a leopard whether it is at the national level or its cub is at the local level, they both bite. Therefore, we should exclude both of them. So, I want it to remain as it is rather than to distinguish between national and local officials - what about the parties, Mr. Chairman, which are local? We used to have *Kabaka Yekka*, and a *Kabaka Yekka* member of the executive can be as biased as one at the national level who is serving UPC. So, I think that we should leave the amendment as Hon. Byanyima moved it rather try and divide it between national and local. I thank you, Mr. Chairman.

**THE CHAIRMAN:** Okay, now let us structure our discussion, the thing really we are trying to draft on the Floor - but (a) is alright, (b) is okay. Hon. Rukutana, just a moment, we are coming to see which is your concern. Let us hear Hon. Rukutana.

**MR. RUKUTANA MWESIGWA (Rushenyi County):** Thank you, Mr. Chairman. As far as I am concerned there is no problem with any other provision than (b). Provision (a) is okay, (c) is okay, as amended if you wish, and (d) is okay. Because we have already passed the principle that a person holding any of those responsibilities will relinquish them if he is appointed, but is already passed. But the problem I see is only in (b) where it says that a member of a district council, and even at that stage there is no problem, or of the council of any other local government unit. To me, that is the only problem I see, because during the period of the Movement system of governance, right from RC I we are all members of the council, in other words, every Ugandan is a member of council by virtue of being a member of RC I somewhere. So, are we saying that if I am a resident at Nakulabye and I am a member of RC I council, as I must be during the Movement period, if I am appointed to the Commission, I will resign from being an RC I councillor or something? To me, that is the only problem I see, otherwise, there is no problem. With that regard, Mr. Chairman, my suggestion would be that since everybody would be a Member of the Council of that lowest organ, the RC I, my suggestion would be that we say a member of the executive council of any other local government unit. We limit it to the Executive, because if we do not do that, there is that problem of ambiguity. Do I cease to be a member of Nakulabye RC I council, because I have been appointed?

**THE CHAIRMAN:** But I think we are just wasting time on this one, because if it had been the formulation in old text, that is when we would have had the problem, which says you are not qualified. In other words, we would have disqualified everybody right up to RC I, but since now we are not disqualifying them, we are saying you are qualified to be appointed. But having been so appointed, even if you are RC I, or RC II, please resign, do you cease to be a Ugandan?

**MR. RUKUTANA:** Mr. Chairman, the problem with RC I council is that every Ugandan is a member of an RC I council. So, how do you resign, do you cease to be a Ugandan?

**MISS MASIKO WINFRED (Women Delegate - Rukungiri):** Mr. Chairman, I would like to clarify to the person holding the Floor that the Local Government units, the lowest we can go to is the sub-

county. The RC systems are not part and parcel of the Local Government. So, when you talk of the council of local government, you mean that council at the RC - sort of equivalent, but the RC system is not part of the local government. Thank you.

**THE CHAIRMAN:** I think *(Interjection)* -no, do you or do you disagree with the information here? She is saying that when you look at the structure of Local Government you stop at RC III, that is what is in the local councils arrangements. But if you are talking about RC system that is different. So, here they are deliberately using the words 'council of any other local government unit.' it is a local government unit. Is Hon. Amandrua still wanting to make a point?

**MR. AMANDRUA PAUL (NOTU):** In fact, what I was trying to say, Mr. Chairman, is that the district councils are run by Res and they are elected by local officials from lower levels, and sometimes when somebody is in RC II you might find that such people might be very powerful politically in that particular area. The idea of trying to make these people relinquish their offices is to get somebody who should be in these organs without taking positions. Thank you very much.

**THE CHAIRMAN:** Now, let us now finalise this really. On (b) for me I do not see any problem when you are making reference to local government unit. It is only if you are just talking about the RC system, but here that is okay. The question is where there is an amendment on (c) and this is what you should consider. Hon. Byanyima have you abandoned your amendment on (c)?

**MISS. BYANYIMA:** Mr. Chairman, far from it. I have not abandoned it but I have been persuaded by the argument of Hon. Magezi that we also include the word 'national' so that it reads *(Interjection)*- Mr. Chairman, I have been reminded of also national in the smaller sense that it could be regional and in that case national is confusing. So, Mr. Chairman, I still that we say that: "A member of executive of a political party or a political organisation," so that in that case it is only the executives at every level, who are political officers at whatever level, who have to resign in order to be members of the Public Service Commission. I thank you, Mr. Chairman.

**THE CHAIRMAN:** Now let me put the question on that.

*(Question put and agreed to.)*

**THE CHAIRMAN:** (d) is okay, then that completes 5. of 192 and I think we shall be moving faster. This has been a long one, we shall continue from here. I think it is- we cannot accept Hon. Ben Wacha's amendment, it is too late, you should have raised it earlier. We have taken that long and we cannot then turn round and say we delete it.

**MR. WACHA BEN (Oyam North County):** Mr. Chairman, you never asked to say I was misrepresented in the amendment list. What I, actually, had in mind is what has been passed and suggested by Hon. Byanyima.

**THE CHAIRMAN:** Okay, so, you are not seeking to delete the whole thing, but what has been passed by -

**MR. WACHA:** I wanted to enlarge it

**THE CHAIRMAN:** Okay, Hon. Kasole is not here to - brief you. Yes, Hon. Karuhanga.

**MR. KARUHANGA:** Mr. Chairman, I have been left with a brief by Hon. Kasole that he would like to abandon his amendment because he is convinced that the members of the security organ are public officers, and therefore, he would like to withdraw his amendment.

**THE CHAIRMAN:** Okay, thank you. Now 6, I see there is a proposed amendment by Hon. Sabiiti and others. Then there is another one by Hon. Ongaria and Hon. Atwoma, that is if we take one of Hon. Sabiiti then we cannot have the other one. Hon. Sabuti will you move yours?

**MR. SABIITI JACK (Rukiga):** Mr. Chairman, after discussing with Hon. Pulkol and Hon. Rwomushana and having discussed this matter in committee one, we found the rationale behind this is very important. And we propose, therefore, that clause 6 remains as it is in the Draft Constitution.

**THE CHAIRMAN:** So, you have withdrawn your - okay. Hon. Atwoma, now I come to yours.

**MR. OKENY TIBERIO (Chua County):** Mr. Chairman, with this amendment we were intending that after having served for four years, they would be eligible for re-election. At least, for only once so as

to safeguard against one getting used to a place and probably jeopardising the appointment or the regular discipline of the commission. So, we suggested eligibility of another four years but only once.

**THE CHAIRMAN:** The Motion as moved by Hon. Atwoma and Hon. Ongaria is to restrict the re-appointment to an extra four years, and that is all. Let us - Hon. Ongaria did you want to say something?

**MR. ONGARIA STEVEN (Tororo Municipality):** Mr. Chairman, I think for the sake of consistency we have done elsewhere. We have gone to the extent of even saying that a President should be restricted to only two terms of office. We feel that we should be consistent in the Constitution and limit some of appointment to members of the Public Service Commission because this office is of a very high calibre and, therefore, they should also be limited to a two term period only, Mr. Chairman.

**MR. KABUGO MESUSERA (Nakaseke County):** Thank you very much, Mr. Chairman. Mr. Chairman, holding the office of Public Service Commission you need some continuity. In fact, Mr. Chairman, this used to be the case with the Bank of Uganda directors, and this was because of the importance of this institution. Members once they are appointed, to begin with they will be new to the system and shall need, at least, quarter of them to retire. And then those who are re-appointed should serve a term of three years while at the same time looking for another set of new members to serve on this commission. In this case, I suggest that we retain the formulation as it appears in the original draft and go with that recommendation. Thank you very much, Mr. Chairman.

**DR. CHEBROT STEVEN (Tingey):** Thank you, Mr. Chairman. I want to oppose the proposed amendment. In my view I think it is superfluous. I think what we should know the key word is 're-appointment' which means that the same terms which you appointed him should re-apply. So, there is no point to add again another period of four years. That is the only correction I wanted to make.

**THE CHAIRMAN:** Why do we not vote on this one now? Yes, the Motion is by Hon. Tiberio Atwoma and Hon. Ongaria to insert a provision that would limit the re-appointment to an extra four years, and that is all. Let me put the question.

*(Question put and negatived.)*

**THE CHAIRMAN:** Order, order. Now, I have no amendment on clause 7, there is a proposed amendment on clause 8. You see, Hon. Delegates, number 8 was proceeding on the basis that we had two deputies, now we have approved only one deputy by the amendment of Hon. Sabiti and others. So, the question of designating one of the deputies does not arise, and there was an amendment by Hon. Byaruhanga and Hon. Nekyon saying that Public Service shall elect one of the deputies, and so that one is not being pursued. So, really - hon. Ochyengh.

**MR. OCHYENGH:** Mr. Chairman, in fact, in view of what we had passed earlier providing for Chairman and Deputy, really this clause 8 would really be out of place. But still in case both Chairman and Deputy Chairman may not be there, would we not provide that the President may designate one of the members to be acting.

**THE CHAIRMAN:** It would now read this way: *'The President may, in the absence of the Chairman and the Deputy Chairman, designate a member to act as Chairman.'* Let us agree on that formulation, and I put the question.

*(Question put and agreed to.)*

**THE CHAIRMAN:** Hon. Byaruhanga and Hon. Egonyu had sought to amend 9, but I think it does not arise in the circumstances. So that is abandoned.

**MR. WANENDEYA WILLIAM (Budadiri East County):** Thank you, Mr. Chairman. In most normal organisations when somebody is a deputy and a boss is away, automatically he does not have designated by the President because it is automatic! Is it, therefore, in order, Mr. Chairman -

**THE CHAIRMAN:** No, no, Hon. Wanendeya, you are taking us backwards. The position was this, we have said in absence of the Chairman and his Deputy, then the President can designate one of the members to act. We are not saying that every time he is away then the President must designate for the deputy, that is taken for granted.

**MR. WANENDEYA:** But, Mr. Chairman, must it be put in the Constitution?

**THE CHAIRMAN:** No, no, it is okay, I think since we have consistently said who should chair, I think,

we should be consistent. I do not see anything wrong with it. Clause 9, there is the question of National Council of State *(Interjection)*- we insert Parliament, okay. Now, let us pronounce ourselves to Article 192 as amended. I put the question that Article 192 as amended to stand Part of the Draft Constitution.

*(Question put and agreed to.)*

**THE CHAIRMAN:** So, we have, at least, completed one article and then we shall proceed from there when we come to 193, there are some amendments, but some of these were envisaging a situation, so we shall see how we handle that. Hon. Obua Otua, you would like to suggest something?

**MR. OBUA OTOA (Erute North County):** Point of clarification. Thank you, Mr. Chairman. I am just seeking clarification from the Chair in relation to this letter when he wrote to all Members regarding tomorrow's seminar -

**THE CHAIRMAN:** I was coming to that.

**MR. OBUA OTOA:** Oh, sorry.

**THE CHAIRMAN:** Let me come to it first. Hon. Delegates, I think you have seen a copy of a programme concerning a seminar which is being sponsored by the Department of Constitution Affairs in conjunction with Friedrich Ebert Foundation. This was proposed to me and I discussed it extensively with the Minister and others to put it in context given at which we are in our exercise. It became clear to me, particularly now that we are moving into, or soon we shall have to go to reconsideration stage, where we will have then now to have a picture of the entire document from the first letter to the last letter. And see how it tells a story as a consistent constitutional document in which we shall have to consider whether the contents in it are really constitutional or not. We shall have to consider whether there are any gaps in that document, because we shall then have put together all the chapters that have come from various committees. We shall have to look at its internal consistence in terms of, not only language but also concepts from the beginning to the end. We shall have to look at it and if there are any mistakes both of law and in concept and also we shall have to look at it essentially to see whether, as I said, there are any gaps which need to cure. Now, in doing this one first needs to know - now, I think at this stage what

really should we leave in a Constitution, because while we are working through various chapters you do not have an overall picture, and so until you have the whole book and say now re-consider, you will read it as a consistent document and so to do this one needs to know a few things. Although we have been doing constitution making, what we have been doing is concretising ideas which again we shall look at when we come to reconsideration, and what will come out of reconsideration will be the polished up document concerning those areas that I pointed out. So, when this matter was proposed to me I thought it is good if we had time and interacted with people who are knowledgeable in these areas. For instance, yesterday the problem was that the argument in summary on the Floor was that some people were saying we are creating a new centre of the executive as against the other Executive, the Presidency, setting up the Public Service authority, an executive. Was that a right approach? Were we approaching the question of separation of powers correctly between the Executive, the Judiciary, the Legislature and other institutions? That is one issue. At one time I think you have approved the question that the President shall be responsible to Parliament, in one of the committees, now what do you mean by that? Did you mean the Westminster system? Therefore, if you do then you are handing Parliament to the President, because under the Westminster system the Prime - or you can have the President in Parliament - is free to send home Parliament and his time to call it back and even determine the programme. I mean, in the UK they bring the Queen once in a year and she reads out a list of Bills which will be passed during the session that will be coming in the following year, and any other business which is not there, does not have priority. Is that what you meant? Or you said there is Parliament as a centre of power, there is the Presidency as a centre of power, they interact as follows, if they are deadlocked they are un-deadlocked as follows, either by courts or by overriding votes. Now, these are matters which are still grey. So, I took the view, having consulted the Minister, that we take advantage of this case so that we sit down at this stage to know what really is constitutional which we think we should leave in our document, what we may consider can be left to Parliament and also that will discipline us in management of the reconsideration stage. Because at that stage then we can say, I think, let us not take time just not to take all concepts, we are not panel-beating the details of this and that. Now, these people have been able to identify Prof. Rweramira who teaches

Constitutional Law at the University of the Cape in South African and he is involved in the constitutional making process there as one of the experts. So I thought we should take time and discuss these matters so that when we come to that stage of reconsideration more or less we can have a check list on some of the issues that will come before us. If you look at Chapter 1, are we alright? Chapter 2 are we alright? In view of 1, 2, 3, 4, 5, and that is why I was urging members that we should not think that we are wasting time, actually, we are going to be improving on our work methods as well as being ready to improve on the content of the document that eventually will come from our hands. Now, Friedrich Ebert have agreed to finance the place where this is going to take place, in Sheraton, finance the transportation and upkeep of Prof. Rweramira and also to facilitate the various speakers. Also finance our lunches and teas which will be given to us at the Sheraton as we go through this exercise tomorrow and the day after, and then on Friday we resume as usual. That is, I thought, I am entitled to suggest this to you and also to urge you to be present. Hon. Obua Otoa had wanted to say something earlier on.

**MR. OBUA OTOA:** Thank you, Mr. Chairman. I am seeking clarification about what you wrote in your letter to all the Delegates regarding this seminar tomorrow. Towards the end of that letter, Mr. Chairman, you said that however, delegates who will attend the seminar will earn their normal allowances for the two days. I am asking you to clarify, supposing for some reason or other I do not attend, does it mean that the administrative arrangements will not be made in respect of those who do not attend this seminar.

**THE CHAIRMAN:** But Hon. Obua Otoa, you know that the administrative arrangements are in respect of attendance, whether here - really it is just a question of shifting venue. So, the rules should not change really. Do not see why they should change.

**MR. OBUA OTOA:** Mr. Chairman, I am asking because this seminar is not really part of the rules of procedure of this Assembly, we do not have to attend seminars.

**THE CHAIRMAN:** I think facilitation of our work is within our rules, if we want to be efficient, it is within our rules, and maybe, Hon. Otoa can I draw your attention to rule number - I am not trying to be dictatorial, but if you look at rule number, is it 45.

and if we say yes as a time, I think there is nothing really wrong.

**MR. MASIKA:** Thank you, Mr. Chairman. I am wondering what will happen to committee 2 where it was decided that tomorrow we continue with work as a committee, because we have not completed our exercise. I see the Chairman and Deputy Chairman of the committee are not here, I do not know whether they have liaised with our office.

**THE CHAIRMAN:** Can I get guidance from the members on this matter?

**MR. ERESUELYANU (Kaberamaido County):** Mr. Chairman, I am a member of committee 2, today the Chairman asked us that we continue, because we have, actually, now finished our committee work except writing a report, that we meet tomorrow and we start on writing our report. But now, I begin to see a problem. The problem is although Hon. Obua Otoa is trying to see the seminar as something which is outside the commitment of the Assembly, I begin to see that from your explanation it is very much necessary that Members do attend this seminar. So I do not know whether the Chairman of the Committee 2 still will insist that the members come here or he will leave it to the discretion of each members to see as to whether he should come here or go to Sheraton hotel for the seminar. But otherwise for him he had asked us to stay around to start writing our report.

**MAJ. GEN. TINYEFUZA (NRA Delegate):** Thank you, Mr. Chairman. Mine was a point of request. I have on a number of occasions been to that Rwenzori Ball Room and I rather find it stuffy when people are so many, and a little bit inconvenient, and I think under our rules, we are really entitled to invite people here as CA delegates, to come and address us in whatever capacity we may deem fit. Now, you having passed on this idea to us, we could we as CA Delegates through a Resolution invite this group and we, actually, officially be addressed by them and discuss some of these issues here in the CA Assembly. I think, Mr. Chairman, that will solve the problem of having an option of some people going to committee work and others saying we may attend or we may not attend. And it does make us also feel comfortable, we can take down notice and we could even use the public address system unlike in that place where you have to get up and go in front and all that. Thank you, Mr. Chairman.

**THE CHAIRMAN:** I do not know whether these people have not already paid for the hall. So I will have to consult with them. But let me hear from Hon. Ssebaana Kizito and then I will come here.

**MR. SSEBAANA KIZITO (Makindye Division East):** Mr. Chairman, thank you very much. I wish to echo the idea of Hon. Tinyefuza regarding the room that, I also recognise the fear which you have expressed to try and see if we can balance the two. However, the point I want to make is, I find that on Thursday we are going to discuss a topic called Borad Constitutional Principles and Legislative Details, the presenter is a Professor of Constitution in Cape-Town as you have told us. However, the discussions emerging is going to be led by Hons. Malinga, Rukutana, Mwesigye, Maliro and none of them, except probably Hon. Malinga, have got any legislative experience! I wonder what criterion was used to appoint, elect or select these people.

**THE CHAIRMAN:** No, I think really the point is this, that as we discuss each topic we can see issues emerging. Now, to be able to identify those issues you not have a legislative draftsman. So, we are looking at people who we think could come and say when you discussed the section relating to separation of powers the issues which arose are these, then we discuss them. It was not intended that they are preparing documents to come and lecture. They are sort of to summarise the issues that are arising.

**MISS BYANYIMA:** Thank you very much, Mr. Chairman. I wanted to say that this seminar is quite timely because some of us in our caucuses had been discussing the need to get together as delegates and look at what we have done in its entirety and removing consistences and contradictions and shape and focus on concept and know exactly what we want. Some-time back Hon. Kanyeihamba called some of us farmers and whatever, and indeed we are. We are farmers and all these things, and we accept that we need technical guidance in order for us to put our political ideas which we have come to put in the constitution into technical terms. So, this is the opportunity for us to get technical guidance on how to put our political concepts on which we were elected into concrete terms in the Constitution. So, it is most welcome. Secondly, Mr. Chairman, as for the venue, it is not too late to change, indeed I would agree with Hon. Tinyefuza that sitting here and using the PA would make interaction easier and quicker. But, of course, at the Sheraton there is an

opportunity to eat a better meal, but that is not to say that everybody has got an interest in the food. I am only talking about myself. I am saying, Mr. Chairman, that it would be better to stay here and possibly arrange for a meal at the Nile Hotel, if it is possible, just across the hall. Mr. Chairman, two, I wanted to say that although we have not had an opportunity to make some inputs into the programme, should it be that some of the issues which members of our caucuses have been needing guidance on are not covered by this seminar. I would still recommend that we take another day before reconsideration to look at them and make up our minds how we want to put them, but I congratulate you and I say that rule 45 is very clear that Chairman you have the final decision on the procedures and your decision is good and it would be final. I thank you, Chairman.

**MR. ONGARIA:** Mr. Chairman, I want to be clarified on the programme we made here a few days back in respect of committees completing their work, such that they report in the plenary on Monday next. Now that, Mr. Chairman, we have a problem in our land committee, we have been working very hard to ensure that by Friday we should have finished our discussion, but now that these two days have been taken off our programme, can you now consider giving us more two days so that we can present our work on Wednesday, Mr. Chairman?

**THE CHAIRMAN:** I was seeking guidance from Members on that matter, I think it was raised by Hon. Masika but we had not finalised it.

**MR. MASIKA:** Mr. Chairman, I was going to say that obviously arrangements have been made for the seminar tomorrow and Thursday, and our discussion now should only deal with the convenience of say, Committee 1 or committee 2 whether they can participate and if they do how do they complete their work. But to try and ask that we come here, or the seminar moves here when arrangements have been made for us in another place, I think is asking too much, it is a bit too late to discuss that. I would say, Mr. Chairman, that Members should accept to go and attend this seminar and obviously it will be beneficial to all the Members, the only problem will be for committee 1 and committee 2, if we do attend then maybe we should have some time to complete, to make up for the two days but not to interfere with the seminar.

**THE CHAIRMAN:** Hon. Delegates, thank you. There has been a request which I have been resisting of various ministries trying to get use of this chamber from time to time. But there is a request from the Third Deputy Prime Minister, Habitat 2, they are having about 20 African ministers here and they have found that the numbers they have cannot fit in these committee rooms, we had forced them to book one of the committee rooms. They are asking if we could give them Monday, for instance, the use of this chamber. I have been resisting it, because I do not think we would give way given the timetable we have. But in view of this development could we be a bit more flexible and say committees 1 and 2 can do their work on Monday and Tuesday.

**HON. DELEGATES:** Yes.

**THE CHAIRMAN:** Then I will sort out the question of - then we shall get the circular, but I think as it has been pointed out by Hon. Masika it may be difficult to change the physical arrangements and some Members have already gone knowing that tomorrow it is at Sheraton. I suggest that we go there and if we find it not convenient, maybe, we shall have to discuss it and more here, but we shift now it may be quite difficult really. I think let us report at Sheraton tomorrow morning then we see how we proceed from there. Now, with that I adjourn the Assembly to Friday at 2.30 p.m. We stand adjourned.

*(The Assembly rose and adjourned until Friday, 24th February, at 2.30 p.m.)*