



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

WEDNESDAY, 22ND MARCH 1995

MOTION:- Consideration of the Draft Constitution of the Republic of Uganda [Pg 3475]

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Wednesday, 22nd March, 1995

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

PRAYERS

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

(The Assembly was called to order)

REPRESENTATION OF REPORTS OF COMMITTEES

CONSIDERATION STAGE OF THE DRAFT CONSTITUTION OF THE REPUBLIC OF UGANDA

CHAPTER 8 - THE LEGISLATURE

ARTICLE 131 - COMPOSITION OF PARLIAMENT

THE DEPUTY CHAIRMAN: Hon. Delegates, yesterday we adjourned and we had not pronounced ourselves on Clause 2 of Article 131.

MR. MULENGA JOSEPH (Democratic Party): Thank you Madam Chairman. Madam Chairman, what Hon. Kavuma was suggesting was to look at the Chapter on the Amendment and see whether we should leave it to Parliament to amend when time comes. Namely, instead of saying review every so many years, we leave it to Parliament to amend in future. But with due respect, that would be going contrary to the recommendation of the Committee which was intended to compel Parliament as to where to review regularly at the period we have suggested. If we say we leave it to Parliament to, in future amend, it will be the same thing as the Clause in the Draft and it would not help the concept of affirmative action to where the Parliament continues to consider the representation. So, I do not see why we should even postpone expressing ourselves on this.

MRS. RWABYOMERE JOAN (Presidential Nominee): Madam Chairperson, in light of what the Chairman of the Committee has advised. I would also like to propose very strongly to the Hon. Delegates that we retain the recommendation by the Committee for the simple reasons that the recommendation by the Committee is more

specific. Because when you look at the Clause in the Draft Constitution, it is actually fluid. So, it is for that reason that I recommend very strongly that we retain the recommendation by the Committee because it supports the concepts of affirmative action and the period of ten years is reasonable. We are very optimistic that after the period of ten years, the concept of affirmative action will have taken root and there will be positive results. Thereafter every five years, Parliament can review the representation of the said groups. I thank you very much, Madam Chairman.

MR. SEBALU KENNEDY (Youth - Central): Madam Chairman, the recommendation of the Committee and the background against which it was recommended was very understood because affirmative action is a process. And for anyone meaningfully to assess the impact of such a process, the aspect of time is very, very important and it is required for this to be realised. We talked with the Mover of the Motion yesterday and thought that he could reconsider his position. So, I was begging if he could comment about it because we had a serious discussion with him.

MR. AMBROSE ATWOOKI (Youth - Northern): Madam Chairman, this Motion is no longer my property. It is a property of the House and if it is in the wisdom of the House that we go back to the Committee Report I have no objection. *(Applause)*

THE DEPUTY CHAIRMAN: That means we do not have to pronounce ourselves on his Motion to delete. So, we assume that he has withdrawn it more or less. We discussed this for a long time and I want to put the question. Those in favour of retaining the proposal on Clause 2 of Article 131 as contained in the Report.

(Question put and agreed to)

MR. MULENGA: Madam Chairperson, the Committee recommends that Clause 3 should read as follows: "Representatives referred to in Paragraph (a) of Clause 1 of this Article shall be elected on the basis of universal adult suffrage and by secret ballot."

DR. MAGEZI DAUDI (Jinja Municipality East): Madam Chairperson, I have a problem with Clause 3, in so far as Clause (b) of Article 131 (1)

is concerned. I quite understand the philosophy of affirmative action. But I would like to seek an explanation from the Chairman as to why he does not think that the Woman District Representative should not be subjected, one (1) to a secret ballot. And (2) to universal adult suffrage of the women in the district concerned. I know we are saying Parliament by Law shall prescribe procedures. But there are some cardinal principles on which we should agree that it should be by secret ballot, for instance, notwithstanding what Parliament may wish to prescribe. I think we can constitutionalise that even when Parliament does that, their voting will be by secret ballot. Two whether it should concern all the women only in the district or both men and women in the district. I would like to know whether this is the matter which is debatable, if so, I would like to move an appropriate amendment.

MR. MULENGA: Madam Chairperson, that issue was discussed at length and we came out with positions. One that to require women candidates to campus the entire district. Some of the districts are too large, might be too harsh on these Delegates and might in fact and mind or compromise what is intended. Because we might find ourselves leaving the candidature to only those who can afford, the wealthy ones to move around the district and so on and so forth.

Secondly, we recognise that affirmative action by its very nature is different or special representation. But there is nothing to stop Parliament providing that it will be by secret ballot as indeed we saw in C.A elections that there was secret ballot even where electoral colleges were used. Even in the smaller group like for example, the persons with disability. So we thought really that it would be more appropriate for the Parliament to work out the machinery that will be used for its group.

MRS EGUNYU FIONA (Women - Kumi): Madam Chairperson, I am seeking clarification from the Committee and the Chairman. They have recommended and they have argued that it will be very expensive for the women to move throughout the district. But as far as I know during the candidates meetings, R.Cs and the Electoral college were not transported to one given spot for these women to address. Rather the women went throughout the district addressing this Electoral College. So, I do not know the yards which they are using to measure and say it will be very expensive.

The other thing is that I want to know if they addressed the dangers. (*Applause*) I want them to explain to me whether they addressed the dangers of having an electoral college and how it can operate the disadvantages of women granted that it is easier to buy off an electoral college. Thank you very much.

MRS. BWAMBALE LOICE (Women - Kasese): Thank you very much, Madam Chairperson. Madam Chairperson, I am adding on some clarification on this matter to my sister Hon. Fiona and my brother Hon. Magezi. It is true that women carried on their campaign around the whole district. But Madam Chairperson and Hon. Delegates, this was only at the sub-county level and it was only addressing a certain category of electorate. If it were to go down to every parish level administratively it would not have been possible for this woman C.A. Delegate to go to every parish to that particular district. You do not have the time frame that can facilitate in that programme that you have candidates meetings in every parish or at any level where such a campaign is organised.

Secondly, drawing from our past experience we the ladies who went through it, there were very many women who were limited from competing. We had a very unfair competition because the logistic or requirements are so much for this woman to cover the whole district. So, you find it is only the women with pick-ups, the women who have big money and maybe the rural woman is not given an opportunity to come up and articulate the problems of a rural woman. So, for that matter we think the district woman should be subjected perhaps to an electoral college which is smaller and which can administratively make it possible for this woman to cover the whole district. Madam Chairperson, that was for Hon. Fiona. As for Hon. Dr. Magezi, he was wondering whether district woman representative in Parliament and the word is 'representative,' should not be elected only by the women and not any other - both men and women as it is at the moment. Madam Chairperson, I want to make it clear that this is a woman representative. It is not a women's representative. This is just a woman elected by the whole district to be able when in Parliament to articulate both problems of women and men in that particular district. Madam Chairperson, there is a misconception even at this material time to address the women representatives as

women's representative confining them there for only to articulation of women's issues. But the women representatives are there. The concept is just to increase the number of women participating in Parliament.

MR. BIDANDI SSALI (Nakawa Division): Madam Chairperson, I am wondering whether it is in order for the Assembly to start debating a Motion which is not tabled under the guise of clarification. When in fact every Speaker is debating whether a woman representative should be directly elected or not in the interest of saving our time. Is it in order?

THE DEPUTY CHAIRMAN: That is how Hon. Magezi brought it.

MRS. BWAMBALE: Thank you, Madam Chairperson, for that wise ruling. All I am doing is to just clarify. Madam Chairperson, on the secret ballot, that one is already covered in (3), that the election of such a group will be by adult suffrage and also by secret ballot. We have no objection with that. I think it is a principle which is acceptable.

MR. BEN WACHA (Oyam County North): Madam Chairperson, I wanted a clarification from the Hon. Member. She says, a woman Delegate is elected to come and articulate the views of both the men and women in the district. I want clarification as to whether this is the reason that everybody in the district should participate in the election of that woman Delegate.

MRS. BWAMBALE: Thank you, Hon. Wacha. You have articulated the concept even better than the way I had put it. In fact that is the import of it that this woman is doing exactly that. Because this woman is supposed to represent everybody in the district so as much as possible all categories in the district should be included in the electoral college. That is why last time, there were both men R.Cs and Women Councilors to do exactly that. Thank you.

DR. MAGEZI: Madam Chairperson, having listened to the Chairman of the Committee and Hon. Bwambale. I think this matter is a debatable one and I beg to move an Amendment that Clause 3 be amended to read: "*The representatives referred to in Paragraph (a) and (b) of Clause 1 of this Article shall be elected on the basis of universal adult suffrage and by secret ballot.*" I beg to move.

THE DEPUTY CHAIRMAN: Seconded?

MRS. EGUNYU: Seconded.

MRS. RWABYOMERE: Madam Chairman, it is unfortunate that when you had given me the Floor I had asked for the Floor to speak and before I took it you gave the floor to Hon. Magezi to move this Motion. The purpose of my asking for the Floor was to clarify to Hon. Magezi about the concept of affirmative action. When he asked for that clarification and when he goes ahead to move a Motion, he makes this House misunderstand wholly the concept of affirmative action. We have already spent a lot of time discussing the concept of affirmative action and also during the discussions of the Committee, a lot of time was spent discussing the concept of affirmative action. And it was as a result of those discussions that the Committee arrived at this recommendation. The reason given by the Committee for not subjecting the district woman representative to universal adult suffrage as being expensive was just another reason but it is not the main reason. The concept of affirmative action in itself implies an exception. So, that means that in the procedure of election you have to have an exception to the general procedure of those Members who are being directly elected. If you subject the district woman representative to the general procedure of those who are supposed to be directly elected, then you have really run away with the concept of affirmative action.

MR. OBUA OTOA (Erute County North): Thank you very much, Madam Chairperson. Madam Chairperson, a Motion has been moved by Hon. Magezi and seconded. He has not had a chance to speak to his Motion and somebody else who is opposed to that Motion is already speaking to that Motion. Is it in order?

THE DEPUTY CHAIRMAN: Hon. Magezi had aired his view and asked for clarification before asking to present his Amendment. So he had already done it anyway. Please go ahead.

MRS. RWABYOMERE: Madam Chairperson, I pointed out that there was a procedural problem. I am very well accustomed to the procedures of this Assembly. So, what I was saying, Hon Members, is that we have to understand and appreciate the concept of affirmative action. The minute you subject the district woman representative to the

general procedures of those who are being directly elected, you have done away with the concept of affirmative action which we ourselves have already acceded to. I therefore, call upon the Hon. Madam Chairperson to bring this House to order. I will again speak should this Motion be moved again I will again speak to oppose it. Thank you.

DR. MAGEZI: Thank you very much, Madam Chairperson. I am extremely gender sensitive and I hope nobody should read my intention to democratise the election of a woman representative as being anti-feminine. Madam Chairperson, the district woman representative has a Constituency which is a district. It is extremely important, even our history, about electoral colleges that we streamlined the election of this distinguished representative by making that representative fully accountable to every corner of the district. Because this person is a woman. That in itself one, is affirmative action in favour of the woman. *(Applause)* We have to appreciate that it made it very difficult and expensive to campaign throughout the district. That is detail which can be facilitated by the State in the campaigns that these people can move together with transport provided by Government. It is a detail which Parliament can work out.

MR. KAGIMU-KIWANUKA (Bukomansimbi County): Madam Chairperson, I am seeking clarification from Hon. Magezi on whether Clause 4 does not cater for his Motion. Such that Parliament will see to it whether the situation favours the adult suffrage or it favours another way, such that Parliament will study the situation instead of tying it in the Constitution.

MR. OBIGA KANIA (Terego County): Madam Chairperson, I would like the Speaker holding the Floor to clarify to me the protocol status of a lady who is elected on a universal adult suffrage all over the district visa-vis other Members of parliaments who will be representing only counties. Would it be correct to say that this lady should hold a higher status since she is represents the whole district?

DR. MAGEZI: Madam Chairperson, Hon. Kagimu's matter is totally irrelevant because if he is thinking that Clause 4 can cater for this matter there was even no need to put Clause 3, therefore, Members of Parliament directly elected. But this is a very cardinal matter which must be constitutionalised to ensure that everybody goes

away from here knowing hence forth a woman district representative will be elected on adult suffrage and by secret ballot. For Hon. Kania the matter really is that in our affirmative action we said we need a woman district representative and the Constituency is a district. Once you are elected there are people who are, you know, the workers will not be elected. They will be given guidelines along what Article 131 says. That is why I am suggesting and hoping that this august House will support me that we have to open up. I know it is going to be expensive, I said that matter can be looked into by the Government of the day and notwithstanding that. We want to be able to see that electoral colleges have proved to be a disaster in electing representations to national levels of our legislature. Madam Chairman, the Amendment I have brought is straight forward and I believe we can pronounce ourselves on it. I beg to move.

MRS. MUKWAYA JANAT (Mukono County South): Madam Chairperson, I want Hon. Magezi to clarify to me whether before he moved this Amendment, he considered that this very House failed or thought in its wisdom, that the State could not afford free and forced education which my Constituent actually wanted because of the logistics. Now he is advancing an argument that the State will facilitate women elections. What a contradiction! Can he clarify that? Thank you.

DR. MAGEZI: Madam Chairperson, the concept of candidates' meetings, to me I think is here to stay. Candidates' meetings are attended by Government officials, observers and the rest. And it is within this umbrella that I think once every five years this country can afford to facilitate women candidates in the district to go to candidates' meetings at the same time with facility by Government.

MR. BIDANDI SSALI: Madam Chairperson, I would like a clarification from Hon. Magezi when he states that the candidates' organised meetings have come to stay. Is he putting the same picture when multi-party politics comes up and he expects the State to organise candidates' meetings under a partisan set up under a party politics set up?

DR. MAGEZI: Madam Chairperson, under the NRM it is personal merit. The person is responsible for propelling himself or herself through the election. But for affirmative action, I am saying Parliament should be able to look into it in any way they

can assist female candidates. When multi-party politics comes back, the onus is on the party machinery to see how it will organise the election of its candidates. That is what has happened before and it will happen yet again.

HON. DELEGATE: Madam Chairperson, in that case if the Hon. Doctor concedes that when it comes to party politics, then it will be upon each party to seek out how the women will participate in the electoral process. Is not the fear that many of us have that only those women who the party will say are capable will be the ones who will participate in this election? In other words, those women who want to stand on their own as part of the democratic process will have no chance unless they are cleared by their party to do so. *(Applause)* Therefore, women will not be standing on democratic principle at all.

DR. MAGEZI: Madam Chairperson, even under multi-party politics, there can be independent candidates.

DR. NAKYANZI VERONICA (Ntenjeru South): Thank you Madam Chairperson. I want to support the Amendment. Madam Chairperson, up to now I have failed to appreciate who the woman district represents. Is it the women or everybody in the district or is it the special electoral groups? Madam Chairperson, the essence of affirmative action is that women should be facilitated to come up and usually when women compete with men, they are inherently disadvantaged. So, that is why we are arguing for affirmative action. However for the woman district representative she will be competing against fellow women. *(Applause)* Which means that the affirmative action is there. We are allowing women to compete within themselves and amongst themselves. I do not see why we have to limit them to the electoral college.

Madam Chairperson, fellow Delegates, these electoral colleges only favour the incumbent women. If fact if our intention is to encourage other women to come up, we have to allow it to be adult suffrage. So that even the women who are less able they can always come. Whereas one incumbent woman who has been working with this electoral college she is already enshrined within them. It is difficult to dislodge them even if you want to do so. *(Applause)*

There have been reasons advanced that the women cannot afford to go to the grassroots to get those votes. I totally disagree with them. In the last election to the C.A. these women much as the candidates' meetings were held at the sub-counties, they used to go house to house to the homes of the councilors whom they would bribe to influence them to vote them. So, this is as long as the ground work is the same everywhere. Whether it is a special electoral college, whether it is total adult suffrage. The only difference here, Madam Chairperson, is that in an electoral college, the incumbent is favoured and indeed this is trying to disadvantage the woman. Because a woman who has not come up it means she will never come up. Yet what we should aim at is to make sure more women come up so that the one who has come can contest against the men and leave it vacant. Therefore, Madam Chairman, I beg to support this Amendment. And I am asking the entire House particularly my fellow women to come up and support it so that our Colleagues who are still there should also come up. *(Applause)* Thank you.

MAJ. GEN. TINYEFUZA DAVID (NRA Delegate): Thank you, Madam Chairman. Initially I had wanted to give information to Hon. Nakyanzi, but since you have given me the opportunity I could as well contribute. Madam Chairperson, I had wanted to clarify that Members should not confuse affirmative action with modes of attaining affirmative action. The two are different. Affirmative action as a concept, Madam Chairperson, is contained in the concept of introducing women as a special interest group to be represented in Parliament. That is as far as it goes. But affirmative action does not cover rigging. Rigging is not part and parcel of affirmative action and the argument is, electoral colleges can be easily be manipulated. Is that also part of affirmative action that we should enable women to rig against fellow and that is affirmative action? I think that is extending the concept too far.

Secondly, we are looking forward to our ladies, actually to aspire to hold offices even to contest for presidency. Many of them have told us they intend to aspire to that office. Here they are telling us they cannot go around the district yet they want to aspire to go around the country. I think we cannot eat a cake and then have it. They either become representatives or we scrap it plus all these interest groups and actually say that we have direct elected

Members and such other groups as Parliament may determine. I think this is a concept which should be enshrined in the constitution.

If you look at the history of electoral colleges I wonder as to what magic lies behind. A candidate being successful in an adult universal suffrage election and losing under electoral college. To date two candidates, Hon. Basaliza has lost under electoral college. Hon. Tibamanya has lost under electoral college just after six months of winning universally in those Constituencies under adult universal suffrage. Even Hon. Kadama has lost. What is that magic that turns people to lose votes after six months and yet they won. *(Applause)*

Madam Chairperson, I absolutely support affirmative action for ladies but I also protect ladies against manipulative forces. That is why I think they should be directly elected. Thank you Madam Chairperson. *(Applause)*

MRS SEMPA ESTHER (Women - Luwero): Madam Chairperson, I support the Motion. It is possible for the woman to carry out campaign throughout the whole district if she is interested. Everybody in the counties should be allowed to attend when the women are speaking and this is possible that it is always unfair to use R.Cs because they get manipulated. Therefore, I am supporting that the women should be elected under universal adult suffrage. *(Applause)* The women who are campaigning for district are generally fewer than the children whom an Hon. Member was saying that they should be given free education. This comparison does not work. So, Madam Chairperson, I support the Motion whole-heartedly. Thank you.

MR. KATENTA APUULI (Conservative Party): Madam Chairperson, due to our rules of procedure if we go ahead and pronounce ourselves on this matter, then it means I will not be able to move my Motion. Reading the mood of the House, I would like to move that all the people in category (c) should also be directly elected because the logic is the same. The army should be directly elected, the Youth should be directly elected, the disabled should be directly elected. I beg to move.

THE DEPUTY CHAIRMAN: Is that seconded?

MR. KATENTA APUULI: Madam Chairperson, I really never intended to speak on this matter.

But however, since the House has decided to make the whole issue ridiculous, maybe I need to speak about this matter to highlight the nature of the issue we are talking about. If we are talking about the issue of rigging, *-(interruption)-*

MR. SENTEZA KAJUBI (Kyadondo North): Madam Chairperson, is it in order for the Hon. Member holding the Floor to say that the House has decided to make the whole issue ridiculous by debating Hon. Magezi's Motion?

THE DEPUTY CHAIRMAN: I did not hear him say so. What we are saying is the Motion on the Floor is to make women be elected by separate ballot and adult suffrage. So, we dispose off Hon. Magezi's Motion then somebody else would move to move something else. *(Applause)* So, I think now I put question that the representatives referred to in Paragraph (a) and (b) of Clause I of this Article shall be elected on the basis of universal adult suffrage and by secret ballot.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: I am just making reference for our own information on the report on local Government because I feel as much as possible we should have some standardised form dealing with our problems and if you look at 201 of Local Government Clause 3, Article 3. It reads: "By system of Local Government shall be based on democratically elected councils on the basis of universal adult suffrage whose mandate shall be renewed at regular intervals as Parliament shall by Law establish." Now what I am saying is, a district is a district. Whether somebody is going to remain at the district or whether somebody is going to go to the Parliament. They survey the whole district. So, I propose that we stand over this Article and we consult and perhaps by referring also to this Article in the Local Government Provision so that we synchronise the two. Should we come to this provision Local Government we would have actually considered both because they are more or less addressing the same issue but each one is giving a different formula.

MR. MULENGA: Thank you, Madam Chairperson. I take it therefore that the Clause also is stood over as Clause 4 and that I should move to Article 132. Madam Chairperson, the Committee recommends that Clause 1 of Article 132 should read: "Subject to the provisions of this Constitution,

Parliament shall have power to make laws on any matter for the peace, order, development and good governance of Uganda."

THE DEPUTY CHAIRMAN: I now put the question that the above do stand part of the Draft Constitution.

(Question put and agreed to)

Clause 2.

MR. MULENGA: It should read: "Except as provided in this Constitution, no person or body other than Parliament shall have power to make provisions having the force of Law in Uganda except under authority conferred by an Act of Parliament."

THE DEPUTY CHAIRMAN: I now put the question that the above do stand part of the Draft Constitution.

(Question put and agreed)

Clause 3.

MR. MULENGA: "Parliament shall protect this Constitution and promote the democratic governance of Uganda."

(Question put and agreed to)

THE DEPUTY CHAIRMAN: I now put the question that 132 do stand part of the Draft Constitution.

(Question put and agreed to)

MR. MULENGA: Madam Chairperson, the committee recommends that Clause 1 of Article 133 should be: "A person is qualified to be a Member of Parliament if that person (a) is a citizen of Uganda, has attained the age of 25 years and is just a voter; and (b) has completed a minimum formal education of advanced level standard or its equivalent."

MR. ATWOKI: Madam Chairperson I was consulting my Friend here. I have to move an Amendment on (b). Madam Chairperson, I was seeking indulgence of the House-*(Interruption)*-

THE DEPUTY CHAIRMAN: Before you

proceed, let us be systematic. "(a) is a citizen of Uganda, has attained an age of 25 years and he is a registered voter."

MR. AMBROSE ATWOKI: I was thinking that I should move an amendment to reduce the age to 21 years if I can be allowed, I would speak to the Motion.

THE DEPUTY CHAIRMAN: Is that seconded? Okay, seconded by Hon. Sebalu.

MR. AMBROSE ATWOKI (Youth Delegate - Northern Region): Madam Chairperson, my intention of moving this amendment is to ensure that we should not try to create a mystery that age can be a major realistic to define somebody's capability. Madam Chairperson, the other day when we were discussing the issue of the Presidency, it was even clearly expressed that it is important to give a wider attitude to tap the talents that might exist below the years of 25. Madam Chairperson, we have currently in the NRC one Member who is below 25 years old. But if a regulation was in place, I do not think that we could have such a personality in the House. Madam Chairperson, we should also try to encourage the participation of the younger generation in determining a future-

MR. PETER AKURE (Jie County): Point of clarification. Thank you, Madam Chairperson. I would like Hon. Atwoki to clarify to me who that Hon. Member is in NRC who is below 25 years. All that I know whoever is there is above 25 years.

MR. AMBROSE ATWOKI: Madam Chairperson, I was trying to say that Hon. Buzabo when he joined the NRC he was 24. And if you had put in place such a law, I do not think he would have qualified, Madam Chairperson. I was saying that, it is important that we evoke the participation of the young generation into determining the future both political and social of the country. Because that future entirely belongs to the young generation. We appreciate the role our elders are doing in trying to give us guidance, that is very important but I believe that we also be given a chance. We should be encouraged to take participation side by side with our elders so that we are able to manage the affairs of this country in relation to the wisdom which would have been given to us by the elders. With those few remarks, Madam Chairperson, I wish to move the Motion.

PROF. KABWEGYERE TARSIS (Igara County West): Thank you, Madam Chairperson I would like to support the amendment- (*Applause*)- on the following grounds. First of all at the age of 21 if a person has been to school very likely he or she will have finished the University or may just be about finishing. Secondly as I said sometime back people were maturing earlier these days than in the past. When you talk to children these days of primary seven. You find they have more awareness of the world around them than at our time. So I think that the age 21 is already mature enough for a person to compete. Particularly a person who wants to make politics a carrier. Because there is a tendency to think that rejects only or those who are whatever, are the ones who go into politics. But a person may make up his mind or her mind early enough to go into politics and there should be no reason why at 21 years a person should not start a carrier. Lastly, Madam Chairperson, voting age is 18. If a person can vote for himself or herself I think we are only removing away from 18 just because it is the baseline. Twenty one, therefore, in my opinion is good enough for a person to compete for Parliament. I support the amendment.

MR. KAJARA ASTON (Mwenge County South): Madam Chairperson, I rise to support the amendment moved by Hon. Ambrose Atwoki. - (*Applause*)- Madam Chairperson we have already passed a provision in the constitution among other things which precludes discrimination on account of sex, age and many other things we have precluded. I am saying that we cannot discriminate but if there is to be any discrimination should be constructive discrimination. I consider the age of 21 old enough for someone to hold a responsible office and exercise good judgement in whatever one could be doing. Considering that somebody has come of age at the age of 18 years is qualified to be a voter at the age of 18 years, is qualified to marry and get married, and he is paying tax. It would be unfair to preclude such a person from participation in representation of his people. If we excluded such a person you would be also excluding talents and would also be precluding the youth from developing their talents from preparing them to take over the administration of their country. Madam Chairperson, we have just heard that at the age of 21 somebody has already qualified at University level as a graduate. It would be unfair for you to say somebody has been to University and yet he cannot represent his people. For those reasons Madam

Chairperson, I beg to support the age of 21 for someone to become legible to be elected as Member of Parliament. Thank you.

MR. BAGEYA PATRICK (Kigulu County North): Thank you Madam Chairperson. I rise to support the Motion on only one ground. We have already catered for the group of the youth and the group of the youth we have specifically said between the age of 18 to 35- to 30. Now what will happen to a youth who is 18, who has been elected to represent the youth group to come into Parliament? Is he going to be bad because we have said he is not yet 25? Are we saying that we are now changing the age for the youth where they can come in they should be 25 and above. If that is the case, then I will have a different opinion. But as long as we agree that the youth group covers between the ages of 18 to 30 then I support the Motion strongly so that we do not reverse our decision. I thank you.

MR. SEBALU: Thank you very much, Madam Chairperson I rise to support the Motion but with an amendment. Because I feel that any registered voter should be entitled to stand, and when I say this I do not mean that, someone of 18 years will definitely be voted but will have a right to be voted for if he offered himself for candidature. So for consistency if we say that the voting age is 18, I only find it logical that even the age-the legibility should start from somewhere there. So Madam Chairperson, I rise to move an amendment on Hon Atwoki's Motion to put the age to tarry with the voting age and that the age is 18. I beg to move.

THE DEPUTY CHAIRMAN: Is that seconded?

HON. DELEGATES: Yes.

MR. TUMWINE KATAHWA (Youth Delegate - Western): Madam Chairperson, I rise to support the Motion as brought about by Hon. Sebalu for one major reason. For avoidance of ambiguity and interpretation, if we accept that the youth shall be represented under their electoral college, and the youth is defined as one who is from 18 up to 30, then we shall have a problem if we put the legibility age to either 25 as was proposed by the committee. Or to 21 as was proposed by Hon. Atwoki, then we shall have a problem of how we shall deal with a youth who will have been elected by his electoral college and who is for example 18. And for that matter then we should support Hon. Sebalu's Mo-

tion to just take one who is a citizen of Uganda and is a registered voter. Because the qualification we give for a registered voter is one who is 18. And this is a person who can decide as to who is to be a President of Uganda, who is to be a Parliamentarian of that region, who is taken as a mature person can be married, can marry can pay tax. What is wrong with giving him chance to present himself to the electorate and the electorate decides and if it sees that he is a young man or woman it will leave him or her. And if it sees that he has substance of representing that area, then it should not be our part here as a constitution to limit that one in terms of age. I thank you.

MR. WAGIRA MOSES (Kibuku County): I thank you Madam Chairperson. I rise to oppose the amendment proposed by Hon. Sebalu. 18 years maybe we would want to tarry and come up with a few things. I would like to feel, Madam Chairperson, that we should not transform the work of legislature or politics as such as an employment bureau. In my view it should be an area where we are looking for people to serve the country, and it was my view that the age 21 is good enough for one to start from that point- *(Interruption)*-

MRS. EGUNYU: I would like Hon. Wagira to consider as information the following. We have already passed Article 131 which recognizes the participation of the youth in Parliament. What you are trying to say now should have come at that point in which you will have said the youth are not qualified enough to be Parliamentarians. Well knowing that Parliamentarians do make laws and do other functions for this country. Secondly, I would like you to look at our rules. Rule 48(17) which says that no article shall be passed or amendment which is inconsistent with what we have already agreed to. And we already agreed to Article 131 that the youth should be represented well knowing that a youth is someone who is between 18 and 35 years of age. Could you consider that in developing your argument. Thank you very much.

MR. WAGIRA: Thank you, Madam Chairperson. The argument which is raised about the age of 18 vis-a-vis the recommendations that we have passed. Madam Chairperson I do not want to be confused in what I am saying. I was looking at this age of 21 as I did not in sense that I am undermining 18. But I am saying if we look at the normal channel through which somebody passes through education, we could have at least these 3 years at assess

this person how he performs in a public office. Madam Chairperson, I have also agreed and I very well know what Achebe said that if a child has washed hands he can eat with elders. But at least we should prescribe a period through which we can at least be able to assess your performance in the public. Madam Chairperson, even yesterday I had a view which I wanted to put forward that as much as we want these children to eat with elders they should at least know how to wash their hands before they -*(interruption)*

LT. COL. SSERWANGA-LWANGA (NRA Delegate): Point of information. Madam Chairperson, the information I wanted to give the Hon. Member holding the Floor is that, when if he looks at (b), it says if somebody has completed advanced level. So the issue of University- and by 18 somebody has already completed this advanced level. So the issue of the University he is talking of does not arise.

MR. MULENGA: Madam Chairperson, I wish to intervene at this juncture to react to Hon. Egunyū's point. It is not correct to say that if we make a provision of minimum age that is not 18 will be making a provision inconsistent with what we have passed. What we have passed is a group of youth are entitled to be represented but does not necessarily mean that all of them will be represented. We are saying from that group a certain age limit will be qualified to represent. So it is not in anyway inconsistent with what has been passed.

MR. WAGIRA: Madam Chairperson, I would like to wind up saying that personally I have believed in the youth participating and coming to Parliament through the normal conventional channels. I am aware that the earlier we get away from these hand-outs through so-called electoral colleges, the quicker our emancipation will be. But I find again 18 too low to the extent that at least the age of 21 would be ideal enough and I believe while we should move and proceed into the management of the affairs of this country, a moderate speed is quite good for our movements.

MR. TUMWINE KATAHWA: Point of information. I wish to inform my Colleague youth Hon. Wagira that this provision does not cater for the electoral college of the youth as a special group. If we pass it, it can also limit one who wants to go directly to constituency who is 19 years. So that argument does not suffice here.

MR. WAGIRA: Madam Chairperson, what I am saying is that let the person between 18 and 20 proceed through the youth route and we have somebody of 21 years of age proceeding with the elders. I would like to wind up by saying something that a person who has just come from grave should not complain that there isn't sufficient light I think 21 is good enough. I thank you.

MR. NJUBA SAM (Kyadondo East): Thank you Madam Chairperson, I rise to support the age of 21 and I have done - *(Interjections)*- I am seeking the guidance of the chair I thought the age of 18 has not been seconded.

THE DEPUTY CHAIRMAN: 18 was seconded but let us get one thing clear. When the Motion was being moved, there were about 3 aspects. One was saying that a person shall qualify to be a Member of Parliament if that person is a registered voter then another one said age of 18. So let us be clear, okay, it is age 18 and then being a registered voter was amplifying on that age. So they are saying that age 18 instead of - we moved from 25 then Ambrose Atwoki proposed 21. Then there was an amendment that it should not be 18- that should be systematic.

MR. NJUBA SAM: Thank you, Madam Chairperson. I am prepared and I do support the age of 18 to qualify as a candidate for Parliament. The first reason is that it will be an exploitation of the voter if he cannot- because merely because of age to stand as a candidate. Secondly, the test should be maturity and the yardstick should be the maturity. Is a person mature enough at the age of 18? The person is mature enough to do all sorts of things that he is expected an elder. We have leaders who have assumed leadership at a low age and have done wonders. Now let us leave the test to the electorate, if you are 50 or 100 and you stand against the man of 18 and the man of 18 wins that is the choice of the people we should not complain. And by the way all the men who are less wiser than the youth. *(Applause)* It is our responsibility, Madam Chairperson, to train future leaders early enough. If we start at 18 rather than 25 we will have saved this country a lot of problems. By the way also remember that becoming Member of Parliament is a sacrifice, if a person has a capacity to work and defeat a senior citizen like myself then let him serve the country. So I beg to support the age of 18. Thank you very much.

DR. NYEKO JACK (Presidential Nominee): Thank you Madam Chairperson. I would like to support a Motion of 18 years. If we have already agreed that at 18 a person is capable of making a choice of who would represent him or her and if we are saying that the minimum qualification is going to be A' level, this person at 18 years has an A' Level qualification. I would see no reason why we should stop him from representing a constituency. In any case let us leave the suggestion whether this man is going to be too young or too old to represent the electorate. The people will decide during the campaign this man will show his capability or this lady will show his capability. So I would like to support that the representation should be reduced to the age of 18 years. Thank you Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. delegates, I think really there is nothing new, it is yes or no. So I put the Question. I now put the question.

(Question put and agreed to)

MR. MULENGA: Madam Chairperson, allow me first to make an announcement. Several Hon. delegates have approached me about the batch that was distributed this morning containing a few pages. These are corrections that should be read with the bundle that was given yesterday. The pages that were distributed this morning are corrected pages. So when we move to page 7 for example, it is the one in the new batch. Secondly, Madam Chairperson before I move to (b), I wish to point out that the committee recommends to delete (b) of the draft constitution. Namely residential qualification. The reasons are on - appear on page (8) on top. Residential qualification as in (b) in the draft constitution would cause confusion in interpreting tangible interests, and would unfairly bar worthy candidates recently returned from outside. Candidates attachment to constituency can best be judged or assessed by the electorate themselves. It should be the electorate to say this person has tangible interest here or he is a stranger or is our man. Rather than constitution spelling out that the person must have - be a resident there, must have tangible interest. Tangible interest being a term that is fluid, that is a reason. Madam Chairperson we recommend to delete the paragraph (b) in the draft. I beg to move.

THE DEPUTY CHAIRMAN: I do not think I need to pronounce on that one because it is not in the directorate in the report but that was information.

MR. MULENGA: No, we have to approve the deletion.

(Question put and agreed to.)

THE DEPUTY CHAIRMAN: So (b) is deleted.

MR. MULENGA: Madam Chairperson, the committee recommends that paragraph (b) should read as: *"Completed a minimum formal education of Advanced Level standard or its equivalent."*

MR. MUSHHEMEZA ELIJAH (Sheema County South): Thank you, Madam Chairperson. I seek clarification from the chairman of the committee on the phrase 'its equivalent.' It is not clear to me who would determine its equivalent. Is it the Minister of education, is it Parliament, is it the returning officer? Because you may present your papers and the returning officer say this is not the equivalent of A'Level. So who would determine its equivalent?

THE DEPUTY CHAIRMAN: Perhaps that is a technical matter, perhaps I could respond on that one. What if you - how about if you went 8.4.4 system of education. Which means A'Level would have been removed like Kenya did and one time it had been proposed in the ministry that we go 8.4.4 perhaps. Then 4 will be equivalent because from 4 you go University.

MR. AWORIAGGREY (Samia Bugwe North): I would have suggested that particular one we do not stick to A'Level per se. We are constitutionalising something which is not fair. I would recommend, Madam Chairperson, that we call it successfully completed secondary school education. Because A'Level is the highest level of secondary school education. We want secondary school education unless A'Level is part of University.

MR. SEBIHAROUN (Koboko County): Madam Chairperson, as I was consulting quite a number of people were for the reduction of the standard to O'Level. They are saying that by the time some-

AN HON. DELEGATE: Point of order. Is it in order, Madam Chairperson for secondment to go on when someone is just talking about his consultation. He has not formally moved any Motion. He was talking of how he was consulting. Can that be

translated into a formal Motion?

THE DEPUTY CHAIRMAN: But you see you waste time when you allow someone to proceed when he is talking of a non-issue which is not justifiable by the delegates. But Hon. Sebi with due respect that you are proposing O'Level, there was another Motion on the Floor by Hon. Awori that if he used the 'secondary Education,' an apex of O'Level will be included there is no difference.

MR. SEBI: Thank you, Madam Chairman. I think there is a difference there because while I agree that Senior 6 is the apex of secondary school education this particular amendment is specific. And it is - bring it down to O'Level that is Senior (4), and Madam Chairperson, since my Motion has been seconded I would like to request you to speak to it. Because quite a good number of people are actually saying they would want to reduce the level to O'Level. Since we have agreed that somebody can mature at the age of 18, Hon. Sebalu amendment which went through does allow us to say that somebody can mature at the age of 18 and, is, therefore, competent enough to become a Member of Parliament. This person he or she is competent enough also, is politically aware is politically aware and is capable of presenting issues of his constituency in a legislature. So that is why I am proposing that we limit it to O'Level. Thank you very much.

MR. MULENGA: Thank you, Madam Chairperson. One in answer to Hon. Awori's point. We have already considered this in respect of Presidency, advanced level or the equivalent. I think it would be consistent to use the same expression here. Madam Chairperson the idea of O'Level as advanced by Hon. Sebi was considered. In fact it is what was in the draft, and rejected on the ground precisely that has been advanced by Hon. Sebi. One completes O'Level at the age of 17, those who do it at 18 are the ones who started late but the average one is at 17. Madam Chairperson, the point that really was being advanced is a person should be educated up to that level which we considered and I think can be agreed, is the level where the intellectual development has reached reasonable level for someone to take on responsibilities like a Member of Parliament. We have said 18 years you qualify but at least you should have got A'Level and we are going to - we are not expecting really that somebody straight from school goes to Parliament. So Madam Chairperson, we strongly recommend that stand at-be excepted.

THE DEPUTY CHAIRMAN: Hon. Sebi are you withdrawing your Motion so that we do not go into voting.

MR. SEBI: Thank you, Madam Chairperson. In the spirit of reconciliation, I would wish to withdraw the O'Level standard. *(Applause)*

THE DEPUTY CHAIRMAN: Thank you very much. I think we are clear on the question of its equivalent and advanced level. So those in favour of (b) say aye. I now put the question.

(Question put and agreed to)

MR. MULENGA: On the Clauses amended, Madam Chairperson, Clause (1) as amended.

THE DEPUTY CHAIRMAN: Okay, Clause (1) as amended because we amended (18) from 25,

MR. MULENGA: Madam Chairperson, may I propose that we specifically amend (a) just to read: *"If, a citizen of Uganda and is a registered voter."* We do not have to have to say age of 18 because that one now is married into being a registered voter.

THE DEPUTY CHAIRMAN: Is that acceptable?

HON. DELEGATES: Yes.

THE DEPUTY CHAIRMAN: So (1) (a) stands as part of this constitution as amended to read: *"Is citizen of Uganda and is a registered voter."*

MR. MULENGA: Madam Chairperson the committee recommends that Clause (2) of Article 133 should read *"A person is not qualified for election as a Member of Parliament if that person; (a) is not a citizen of Uganda, (b) is of unsound mind."* (c) Madam Chairperson I intend to request to remove (c) because it really has more meaning in a later article which deals with vacating the office of Member of Parliament otherwise would be a duplication of (g). Here we are dealing with disqualifications and (a) would look the same. So I am moving that (c) be deleted because (g) satisfies it.

MR. ATWOKI: Thank you, Madam Chairperson. I am seeking clarification from the chairman of committee 2. When I read Article 133 (1) (a), and

133 (2) (b)g. I basically see that there was no need to include (2) (a) because in (1) (a) they are saying, the qualification is, you must be a citizen of Uganda which implies that, when you are not a citizen of Uganda you are not eligible. You do not qualify for the Membership of Parliament. So I was thinking that maybe (2) (a) should be deleted since it is being catered for by (1) a. I am seeking clarification.

MR. MULENGA: I think he has a point, it might look like publication although for emphasis I think we put it there for emphasis that you are not qualified if you are not a citizen. But it is the same thing as saying you are qualified if you are a citizen.

THE DEPUTY CHAIRMAN: Can't we leave this one to the drafters and we note it?

MR. MULENGA: Yeah, I think drafting will take care of it. But on the one I was moving, I am moving to remove (c) from here with a view to putting it in the article on vacating office. In other words, when one is convicted if he is in Parliament then he should cease but here is enough to say is under a sentence of death or a sentence of imprisonment. So that is why I am moving this.

THE DEPUTY CHAIRMAN: I now put the question.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So (c) is deleted.

MR. MULENGA: *"(b) is holding or acting in an office the functions of which involve responsibility for in connection with the conduct of elections."*

(Question put and agreed to)

MR. MULENGA; (E) is a traditional leader.

DR. BYARUHANGA FABIUS (Kitagwenda County): Thank you, Madam Chairperson. I would wish to be clarified on the definition of a traditional leader because in my understanding even a clan leader is a traditional leader. Now if I am a leader of my clan like Hon. Dr. Okullo Epak am I disqualified from becoming a Member of Parliament?

MR. ABBEY MUKWAYA (Busiro County East): Madam Chairperson, this is a raider to Hon. Byaruhanga's clarification. The import of this

paragraph in my view is to limit many of our capable leaders who are believed to be traditional leaders but have really nothing to -If we limit them and include them here it is going to be difficult because for instance, the head of my clan, Kayira is a traditional leader. And I do not see anything harmful for Kayira to stand as a Member of Parliament. You may even find a traditional leader at a very-even very small levels. There are traditional leaders who were chiefs in the past but they were promoted to leaders in their own rights. Can I be clarified on this. How far does that encompass these kind of leaders? And elsewhere we had said that those leaders who aspire to become politicians for instance if he is a King or a King in the case of the Kabaka of Uganda or the Omukama of Bunyoro, Omukama of Toro should resign his office he aspires to come into this politics. So what is the import of this Clause being put here?

MR. SEBALU: Point of clarification. Thank you very much, Madam Chairperson. This idea of traditional leaders brings some complications with it because we do have traditional leaders, and we do have cultural leaders. Now how are the two looked at vis-a-vis this provision. Because someone may be cultural another one may be defined as traditional but to me the import is more or less the same. So I would like to get clarification on this matter.

MR. KATENTA APUULI: Point of information. Thank you Madam Chairperson. For the information of Hon. delegates, committee (4) has seriously addressed this issue. And has made exceptions to the rule with regard to which cultural and traditional leaders should not participate in politics particularly partisan politics. I would like to request the chair that if this provision is to be in this particular spot, then we could stay it over until we have discussed Chapter 18 general and miscellaneous where this matter has been adequately addressed by the committee. When we come to report then we can revisit this. Because we have definitely taken care of this matter and I hope that our recommendation will be acceptable to you. I thank you Madam Chairperson.

MR. BYARUGABA BAKUNDA (Isingiro South): Thank you, Madam Chairperson. I think to make our work a little bit easier we could transfer this one to Article 286 under interpretation to make it easy. Madam Chairperson that is where maybe we could interpret it to mean a King of say, Buganda,

Toro, Ankole and Bunyoro as a traditional leader. Madam Chairperson, I only wanted to suggest that we do not bother on this one, could bring it forward to 286 and interpret it in those words, Madam Chairperson.

PROF. NABUDERE DANI (Budadiri West): Madam Chairperson as a traditional leader is defined, in Article 279 Sub-article 4. In the draft for the purposes of this article traditional leader means a cultural leader who derives allegiance from the fact of his-I think they should have added her-birth or decent in accordance with customs, traditions, usages and the consent of the community which he leads. There is also the constitutional amendment of the 1967 constitution. Where it is said that -there is the amendment to the 1967 constitution also refers the institution to be a legal entity. So it cannot, therefore, apply to a clan leader or any other traditional leader, this specifically refers to that group of leaders who are recognized as such and who have - who are recognized as a legal entity.

MR. BIDANDI SSALI: Madam Chairperson, I just wanted to inform the Hon. previous informer that the article he was quoting was a subject of the information given earlier by the chairman of committee 4. That committee 4 amended what he quotes as a basis for his information. I would, therefore, after that information also like to request that perhaps we deal with how it was treated under committee 4 in which case we can come back to this one so that the whole thing is synchronized in one thing. What are we talking about a traditional leader?

MR. MULENGA: Thank you, Madam Chairperson. This paragraph -first of all it was in the draft constitution, and we accepted it on the understanding that Hon. Byarugaba has just mentioned. We understood traditional leader to mean these Kings we have heard not clan leaders like Kayira and others like that. So really instead of deferring we can accept the principle. If we accept the principle that Kings should not be, we could say is a traditional leader as defined in this constitution.

MR. OCHYENGH MICHAEL (Kapelebyong County): Thank you, Madam Chairperson. Personally I do not see the rationale of this section. I see it as contradictory to provisions on human rights. But beyond that I do not see how one can single out

say the - Kabaka for example, and leave out his Katikiro the Lukiiko. The Kabaka for example, may not participate but he has a set up and who actually represent him. Now, if one says the Kabaka will not participate but members of the Lukiiko, the Katikiro the clan leaders and so forth can participate. I lose the rationale of stopping the Kabaka from participating in politics. So I would even propose that there is no need of including this section in this constitution.

MR. KAVUMA STEPHEN (Kyadondo South): Point of information, Madam Chairperson. I wanted to give a short piece of information to the effect that with regard to the position of the Kabaka. The overwhelming view of the people who give allegiance to him, is that he should not participate in partisan politics and -but because he is also an individual. If he chooses to go into politics, direct politics like becoming a Member of Parliament then he should resign from the throne in which case he would not even have a Katikiro or a Lukiiko. Then he will come to Parliament but after relinquishing his position as a Kabaka.

THE DEPUTY CHAIRMAN: Hon. delegates we did not take - because of the time fact we did not seriously consider Hon. Mulenga's suggestion. That is a traditional leader as defined by this constitution. So to me it would clear everything, I do not know but we did not take it seriously. I think I should put the question.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So (e) is taken as amended.

MR. MULENGA: "*(f) has been adjourned or otherwise declared bankrupt under any law in force in Uganda and has not been discharged.*"

MR. KUTESA SAM (Mawogola County): Madam Chairperson, I want clarification from the chairman of this committee. Other than the fact that, I have seen in many laws relating to elections they contain this provision other than copying it from either the draft or any other legislation in the past. I would like to understand its meaning, what bankruptcy has to do with being elected. Bankruptcy is a state where your assets are not able to meet your liabilities at that moment in time. I have never understood the logic in putting it in electoral

laws. I would like the chairman of the committee to tell me where they got this to think that it is important for being elected.

MR. MULENGA: Madam Chairperson, the relevance of this provision is this that, there is some element of irresponsibility in a person who permits this, who permits his affairs or himself to go bankrupt. There is some - if he cannot manage his own affairs we are saying there is a question mark on whether he can manage public affairs. Secondly when we elect people to those offices we are electing them to go and carry out major functions for the state. If you send there bankrupt people chances of their using those offices to pay their debts are very high. The temptation for a bankrupt Member of Parliament to find ways of getting money to improve on his financial position are very high.

MR. KUTESA SAM: In modern times, bankruptcy can be brought about by a recession in the economy that is not failure or a responsibility on the part of an individual. You could have invested in stocks and the stock market collapses and you become bankrupt that is not irresponsible, you may have actually invested on advise of a stock blocker. You could have invested in crops and you get a drought there are other natural calamities I have never understood if for example, I invested in cattle like I have done and there is a war-

LT. COL. KIIZA BESIGYE (NRA Delegate): Point of clarification. Madam Chairperson, I think that Hon. Kutesa is confusing the bankruptcy of a company or, a body corporate from a bankruptcy of a person. If the person as an individual - because the modern times you are talking about providing for limited liabilities. If in the modern times you allow the bankruptcy to spread to your person, then quite obviously the point which was raised by Hon. Mulenga would seem to come into place.

MR. KUTESA SAM: I thank Hon. Kiiza Besigye for his information. But I am very clear in what I am talking about. There is nothing that stops you from investing as an individual and that you must become a limited liability company however modern the times may be. And I am saying that to become bankrupt it is not necessarily the irresponsibility of the investor there are other circumstances beyond his control. And I have never understood why really it came into electoral laws

because you are not irresponsible. For example if you had invested in cattle and a war breaks out like it did in Luwero and they wiped out. And the banker you had borrowed money from the banks which many people had done, and now you have neither assets to meet your obligations you are not responsible for the war. I cannot really understand how an ordinary Member of Parliament is going to use his position to repay his loans. It is not possible maybe minister may do so but ordinary Members of Parliament back benchers are that fortunate to reach the coffers. So I have not understood the moral turpitude, associated to bankruptcy.

MR. SSENDAWULA GERALD (Bukoto South): Point of order. Madam Chairperson, is it in order for the Hon. Member holding the Floor, Hon Sam Kutesa to imply in his submission that the ministers have access unauthorised access to government coffer to meet their obligation? Is he in order?

THE DEPUTY CHAIRMAN: Perhaps he has that information which he had justified.

MR. SSENDAWULA: Then let him justify, let him substantiate.

MR. SAM KUTESA: Madam Chairpersons. I do not want to draw that remark if it has had certain quarters. I definitely withdraw it, it is not the intention that-and I did not say that they use-that I know that they use them. I said maybe they would be but I withdraw it. I still want to be clarified on this matter of bankruptcy and the moral turpitude it imposes on a man who has become financially unable or woman financially unable for reasons that are not of his making. Thank you.

MR. MULENGA: What I would want Hon. Kutesa Sam to notice from this paragraph is that, this disqualification lasts the duration between being declared bankrupt and being discharged. The period when you are not discharged because the law provides for a bankrupt to be discharged. You go to court you say this is all I have got to the creditors they share that, you are cleared. From then on you can stand for election. But while you are not discharged this is a period we are talking about.

PROF. NSIBAMBI APOLO (Presidential Nominee): Thank you, Madam Chairperson. The point I wish to clarify concerns political legitimacy.

Political legitimacy essentially is concerned with the title and it is right to either rule or lead. When someone is bankrupt he loses that legitimacy because among other things is encircled by extreme misery and is, and he is vulnerable. Secondly, the capacity of that person to plan properly is also questionable because they are supposed to be functionally versatile in order to cope with so many odds which are ubiquitous especially in our setting. So if you are that kind of person who does not even have that capacity to plan in a versatile manner, to anticipate these odds, your capacity to lead is questionable. That is why such people are normally disqualified especially when you are dealing with periphery countries like Uganda where leadership is critical because the institutions are weak. Where the institutions are weak the people who take over responsibility have to shape these institutions. And later on the institutions shape the people given the state of our institutional fluidity it is very risky to allow such people to take charge of our political institutions. That is the basic rationale.

THE DEPUTY CHAIRMAN: Hon. Delegates I think we put the question on this one, we have had enough of this. What we are discussing is that (f) should remain as it is.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: Hon. Mulenga, can you go to (g)?

MR. MULENGA: Thank you, Madam Chairman. Paragraph (g) should read: *"Is under a sentence of death or a sentence of imprisonment exceeding nine months imposed by any competent court without the option of a fine."*

MR. BATEGANYA DICK (Bukooli Central): Thank you very much, Madam Chairperson. I would like to get some clarification. This clause does not tell us who would have imposed the sentence. Clause (g) just says that if one is under a sentence of death or a sentence of imprisonment exceeding nine months." In this country we have seen certain courts, kangaroo courts like the military tribunals. If a military tribunal imposed a death sentence on a citizen and this citizen managed to escape that sentence and later on resurfaces in another era, peaceful era, would this member be eligible to stand or what? So I would like to get a clarification whether it is necessary to clarify whether

it is a competent court that is imposing the sentence or any court. Thank you very much, Madam Chairman.

MR. ABBEY MUKWAYA: Thank you Madam Chairperson. I would like Hon. Mulenga to clarify to me since I am a lay man. I really do not understand how a person under sentence of death is likely to be in circulation and be able to run for electoral. Because in my view a person under the sentence of death is in custody, he has been adjudged to die. How does he or she come to be eligible or to be available for candidature as a Member of Parliament?

MR. OBUA OTOA: Thank you Madam Chairperson. I think the previous speaker may not have read the whole article which says that imposed by any competent court without the option of a fine. But anyway I would like to seek clarification about the nine months. It is a small point but I would like to know why nine months, why not any other period, why not six months - why nine?

MR. BAGEYA: Thank you very much, Madam Chairman. Madam Chairperson, I would like some clarification from the chairman of the committee on this question of sentence of imprisonment exceeding nine months imposed by any competent court without the option of a fine. I am asking for this clarification purely because I have had a personal experience. Towards the time of elections there is a tendency of opponents and possible government to try to stop the people who are likely to be voted by creating a situation whereby they can be stopped by this particular clause. We had a problem in my constituency when all efforts to stop me from standing had failed they resorted to allegations that I had stopped people from paying tax which I had not. And by the time I was elected I was actually reporting to police for no crime committed because there was this conspiracy. How are the future candidates going to be protected from such acts?

MR. MALINGA IGNATIUS (Usuk County): Clarification. Madam Chairperson, I would like to get clarification from the chairman of Committee Two on two things. One, suppose someone is convicted on three counts and on the first count he is sentenced to three months. On the other he is sentenced to four months and on the other he is sentenced to eight months and they are ordered to

run consecutively. Has he been sentenced to a sentence of imprisonment of more than nine months? And then two, what about a person who is given an alternative who is given the option of a fine but fails to pay the fine and he then serves a default sentence for the fine. Suppose the default sentence exceeds nine months, will he be taken as having served a sentence of nine months or having paid the fine? Those are the two things I want to know.

MR. RWABITA DEO (Ibanda South): Thank you very much, Madam Chairperson. Madam Chairperson I am also seeking clarification from the chairman of the committee. In a scenario that had been happening in Uganda for many years you may get somebody who is politically opposed to a government that is in power. And through, even the judicial power systems he is committed to prison for let me say five years. Now that man happens to get out of prison and he goes away as a refugee. After some time this government changes and there is a government that supports that man that was put in prison. In our books of law that man has not finished his punishment in prison but now he is coming back as a liberator. How do you handle him? Will he not stand as a politician, will he not stand? I want clarification on that Madam Chairperson.

MR. MULENGA: Thank you, Madam Chairperson. Hon. Bateganya's question I think was ably answered by Hon. Obua Otoa. The wording 'competent court' means a court that is established and a court that has jurisdiction to try the person. If we should, in future, under this Constitution create the Military Tribunals that Hon. Bateganya has in mind which were prevalent in 1970s. So be it, they will be competent courts and they will sentence people. My hope is or our hope all is that we will not come back to that as long as this Constitution is in force but the idea is that a person is sentenced to death by a competent court which has jurisdiction to try him and to impose such a sentence. That is the meaning of that sentence. Hon. Mukwaya says it is unlikely that a person who is under sentence of death will stand for election. That may well be true but cases have happened when people have been elected while in prison, like I think it was - was it Northern Ireland - a young woman that was elected while in prison because of popularity that had been worked up even in her absence. How she got herself nominated I do not know but the essence is to cover the situation and say you are disqualified because

the sentence is imposed on a very grave offence, the sentence of death. You may want to amend and say but there are some offences which carry capital punishment and yet that would be a different matter. But the statement by Hon. Mukwaya that people under sentence of death - after all you are sentenced to death and you are alive until you are killed. So the man is available. Hon. Obua Otoa's question, let me perhaps state - make a general statement that we took the view that a sentence or rather to be disqualified from standing for elections you must have committed an offence of a certain level of gravity. And ordinarily the gravity is measured by the sentence you get, of course, you give and take some kind judge and some harsh judge. But ordinarily the length of sentence reflects the gravity of the offence so we thought six months that was proposed by the Draft was too short. It is a sort of sentence that is given for petty offences. Indeed there was a proposal which was not carried through to increase it to one year and this one of nine months was more or less a compromise. Hon. Bageya's question is difficult for me to answer. I can-how can we guarantee that in future, political opponents will not give false information in order to cause a person to be imprisoned? What we must hope in, the faith we should have in our courts not to convict, and sentence a person on false information. I would like to think that the reason Hon. Bageya did not get convicted was because the police did not believe the stories and so there was no conviction. But once a person has gone through the trial and probably has been able to appeal and so forth and his conviction is confirmed and the sentence is confirmed then the chances of mistake are minimised. I cannot say they are completely ruled out but they are minimised but I cannot at this juncture guarantee that opponents will not do malicious things such as causing an opponent to go to jail. Hon. Malinga's question is technical. Where sentences are ordered to run consecutively I suppose one would say that he is imprisoned for more than nine months and he is disqualified. Because for a court to say sentences or imprisonment should run consecutively it must be because of the gravity of those accounts so also it is a reflection on the gravity of the offences committed. Now, the other one, my interpretation is that if you are sentenced to a fine and in default you go to prison and you fail to pay the fine, this one does not catch you because that is the offence that is talked about. If you are sentenced to imprisonment without option of a fine. But if you have option of a fine this one does not bar you from

election and the reason is again on the question of gravity because invariably fine is imposed because you do not deserve to go to prison. Therefore the gravity of the offence is also judged accordingly. The liberator. I think we are not dealing with that situation where people go and fight their way back and impose themselves as liberators because that is not election. So, Madam Chairperson, I think I have dealt with all the queries raised.

MR. KAGIMU KIWANUKA: Thank you, Madam Chairperson. Madam Chairperson, what Hon. Bageya said is very serious. And actually according to our experience of 1980, they can really malice you. They can concoct a criminal proceeding against you so that they make sure you are imprisoned. In fact in view of what Hon. Bageya said I would like to move that we delete the words 'or a sentence of imprisonment exceeding nine months,' such that it reads, "*He is under a sentence of death imposed by any competent court without the option of a fine.*" (*Interjection*) Under a sentence of death, well, Hon. Mulenga said that in Northern Ireland someone was elected maybe that is an extreme case - (*Interruption*) Madam Chairperson I am being confused by -

THE DEPUTY CHAIRMAN: Hon. Ambrose Atwoki face this way please, let Hon. Kagimu Kiwanuka use his judgement.

MR. KAGIMU KIWANUKA: I beg to move that - but if you say under a sentence of death - by who? I want to move that it reads: "*He is under a sentence of death imposed by any competent court.*" full stop.

THE DEPUTY CHAIRMAN: Is that seconded?

LT. COL. KIIZA BESIGYE: Clarification. Madam Chairperson as I understand Hon. Kagimu Kiwanuka and Bageya's concern is that somebody may be framed maliciously for political reasons in order to get him out of the competition for a seat in Parliament. My point of clarification is that supposing that happens successfully and somebody is actually convicted and a term of imprisonment imposed on him without the option of a fine. If we remove this from here, do they see that person is going to therefore succeed in going back to the elections?

MR. KAGIMU KIWANUKA: Madam Chairperson, that is very simple. When you are convicted you will be in court, you will not even have time to go and campaign. Being elected is not a matter of going on the last day and standing, there are many things which the electorate considers. You will have to move around, you will have to be cleared, there are many areas where you have to be cleared and it is not a question of - just to - that the electorate cannot even have a rationale judgement, you are in court once you are convicted finished - you will not even have time to contact - you are even in prison.

LT. COL. KIIZA BESIGYE: Madam Chairperson, therefore, I think there is some kind of misunderstanding. Because this person you are seeking to remove from here for that fear, is a person who is already under sentence. Not who have served a sentence and been discharged or who is under trial but somebody who is actually under sentence. Serving a sentence without the option of this. So I do not know how if you were framed and convicted the removal of what you are seeking to remove would reinstate you into the competition.

THE DEPUTY CHAIRMAN: Hon. Ndege also wants to be clarified.

MR. NDEGE JOHN (Luuka County): Thank you, Madam Chairman. Since the Article is tying nine months of imprisonment without a fine. I want Dr. Kiiza Besigye and others to clarify what if it is six months and you are in prison, would you stand for elections? This is nine months but the elections are held, would you stand, would you come out of prison? So either we say 'anybody sentenced without a fine,' or we leave it out. So I do not see why we should have nine months as a magical figure which to me does not make sense.

MR. KAGIMU KIWANUKA: Madam Chairperson, to start with Hon. Ndege's clarification, you see, when the people are malicing you, they are very clever. They calculate the period to make sure that you are convicted exactly for that period so that they make sure they calculate it - you see. What we are after, it is okay you can be convicted when it is a genuine criminal case but they may malice you. Then because they want a certain candidate to go through, they malice and they bring malicious allegations against you. And the judges you know, not all judges are impartial. We know very many cases where magistrates have judged

maliciously. And if he is prescribing to a certain regime - subscribing to a certain regime the problem is that - okay, during the current NRM administration well we may forget the past. But even within this NRM there are magistrates who are malicious who can malice you and such that they make sure and then knowing very well that after the elections - okay, you may appeal. They know very well that your appeal will go through but the elections will have been over and then the High Court may quash that conviction but what they wanted, the conspiracy has gone through. That is what we are after because the people who plan those things are very clever, they are not fools, they calculate. I remember in 1980 you would find some people who were stopped at road blocks during the registration time. The man would be stopped it was just an hour and an hour was enough and Hon. Kiiza Besigye was saying that - sorry maybe I have forgotten. So, Madam Chairperson, what we are after is that if a person was convicted genuinely it is okay let him languish in prison. But we are trying to safeguard against any loopholes which may be manipulated because someone will learn very quickly to be safe. If a person is under a sentence of imprisonment exceeding nine months - it is very easy they can malice you and I do not need to go very far there are very many examples of the past. So to guard against that, Madam Chairperson, let us leave under a sentence of death - (*Interjection*) - okay, to malice you to go under a sentence of death that would be very difficult.

MR. BAGEYA: Madam Chairperson, I stand to support the Motion moved by Hon. Kagimu Kiwanuka on the following reasons. Having had a personal experience I do not wish to see the same happen to the others because it will. The mere fact that the allegations were made and even the press was pampered to write about me negatively for a whole week. This prompted government to put up a commission of inquiry, spending the same taxpayers money only to find that I was nowhere connected. I think it is something which is abominable. Therefore, I strongly urge fellow Delegates to bear with whatever happened not only to me but remember it might happen to you. Therefore, to avoid since even the Chairman says there is no protection what-so-ever, he has stated it here very clearly, there is no way he can protect such occurrences. And since there is no way such occurrences can be protected the best way is to delete those parts. I therefore support the Motion moved by Hon.

Kagimu Kiwanuka. And for the sake of helping everybody out, those who are silent voices, who can not utter a word, we should go ahead and delete those particular items. I thank you.

THE DEPUTY CHAIRMAN: Let us hear from Hon. Ruzindana.

MR. RUZINDANA AUGUSTINE (Ruhama County): Thank you, Madam Chairperson. Madam Chairperson, the amendment proposed is really very highly hypothetical. You take a situation where you have got political enemies that collude with the police and go ahead to collude with the courts and then get sentenced very quickly during the electoral period. I think this is quite very highly hypothetical that your political enemies will be so strong to chose the police that will investigate you. To chose the magistrate or judge before whom you will appear and then a sentence is very quickly passed. That one is a bit of a problem, it is very unlikely. Secondly, Madam Chairperson, if the Movers were to be consistent they should move that this clause should be deleted. Because as we move on and as the situations and conditions get better the objective is to abolish the death sentence eventually. Therefore there is no need perhaps to leave it there. We should let all criminals stand because this death sentence I hope will be abolished in future. The other conditions they are really thinking about are not something that should make us put a special clause for. They are not likely to occur and if they were attempted they will fail like they failed in the case of the Hon. Member who is supporting this Motion. Therefore, Madam Chairperson, I wish to oppose the amendment and propose that we proceed with supporting the clause that is there.

THE DEPUTY CHAIRMAN: Hon. Delegates, let us not really base this Constitution on isolated personal accidents otherwise we will end up putting any accident that has happened on earth in the Constitution. I had an accident in a taxi therefore taxis should be banned and what have you. Let us just assume that we are writing a Constitution to solve those problems rather than writing it to base it on those problems. I think really I put the question on this. That we retain (g) as it is.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: Hon. Delegates, I know we have some fifteen minutes more but I have

talked for long enough. I beg that we adjourn until 2.30 p.m. so that we go to (3) as this is a good breaking point because I know we will not be able to finish (3).

(The Assembly adjourned for lunch and resumed at 2.30 p.m)

THE DEPUTY CHAIRMAN: Hon. Delegates, can we resume with the business please. I think by the time we left we had completed Article 133(2) (g) and we were going on to clause (3). Hon. Mulenga.

MR. MULENGA: Thank you, Madam Chairperson. I crave for your indulgence and indulgence of Hon. Delegates to permit me to insert a phrase that I should have inserted in (g) really for clarity. If Delegates agree with me to read and this becomes necessary because of the next clause, to read: "*Is or has been under a sentence of death or a sentence of imprisonment.*" This is because in clause (3) we are saying even when you have served the sentence there will be a period of five years during which you will be observed before you can be completely exonerated. So I am proposing that it reads: "*Is or has been under a sentence of death or a sentence of imprisonment.*" That is (g).

DR. BYARUHANGA: Thank you, Madam Chairperson. I would like to draw the attention of the Chairman, Committee Two to the contents of Clause (3)(b). When you read (2)(g) together with (3)(b) his new insertion now does not make sense especially with this sentence of death. Because he is telling us- he has told us that if somebody has been sentenced to death, now unless that person is pardoned he would definitely be dead. So if a person- the impression is that if a person has been sentenced to death and he is later pardoned we should have five years in which he cannot stand as a Member of Parliament. That is what he tells us in his words but then when you read this (g) together with the contents of (3) you do not get that coming out.

MR. MULENGA: Thank you, Madam Chairman. Madam Chairman, I think Hon. Byaruhanga has misunderstood me. What I am saying is that because of Clause (3), we are providing in Clause (3) that a person who has finished serving sentence will be disqualified for five years before he can stand. And I am drawing attention to (g) because there will be persons who at the time you go for

elections have served their sentences and then he becomes exempt from that disqualification after five years. Whereas (g) as it stands, as printed, is talking about those who are currently serving. I am saying it should include also those who have served but have not spent the necessary period. That is the purpose.

MR. KABUGO MESUSERA (Nakaseke County): Thank you, Madam Chairperson. I need to be clarified because of these sentences. One is supposed to serve and be pardons and all that. I do not know whether they include those who are sentenced to prison because of political and civil cases because the section refers to those people who are convicted of criminal offences.

MR. MULENGA: Hon. Kabugo - I am sorry I have not quite understood what he is saying because pardon is in respect of criminal offences. In civil cases you are never sentenced to imprisonment. You may be sent to civil jail for failing to pay a debt but that is never regarded as a sentence, it is not a sentence of imprisonment. So in civil cases there is never a sentence of imprisonment let alone of death.

THE DEPUTY CHAIRMAN: Yes, Hon. Byakika.

MR. BYAKIKA SAMSON (Bunyole County): Madam Chairperson, I would like the Chairman of the Committee to clarify to me on (g) when he says without the option of a fine. A person may be sentenced to imprisonment- (*Interruption*)

THE DEPUTY CHAIRMAN: Hon. Byakika, by the time we left we had pronounced ourselves to that one so the issue at stake is whether we include 'or has been' or not. We are not going back in the debate.

MR. LUBOWA PAUL (Budiope County): Thank you very much, Madam Chairperson. Madam Chairperson, personally I am not happy with considering part (g) of (2) together with other parts in clause (3). Because if you say, 'is or has been under a sentence of death' and so on and so on. It is tantamount to giving a half doze because it is not properly explained. When you talk of 'is or has been' and yet here it is said five years must have past since the end of the sentence. By considering (g) one could easily be misled that somebody is totally

out by having been imprisoned or sentenced to death. So let us consider the question of five years in part (3)(a) or anything in (b) and leave (g) alone. That one can be very misleading, it is giving a half doze.

MR. AWORI: Madam Chairperson, I am seeking clarification from the Chairman, Committee Two on this matter of sentence other than in courts of law. I am referring specifically to sentence in military - (*Interruption*)

THE DEPUTY CHAIRMAN: Okay, can you name the article you are referring to or the clause or sub clause.

MR. AWORI: (g).

THE DEPUTY CHAIRMAN: We are considering 'is or has been' we cleared (g) in the morning. So we are saying, do we insert 'has been' or we do not. Okay, people are still asking. We are looking at (g) after 'is' and the Hon the Chairman is saying we should add 'or has been,' that is the issue we are debating.

MR. AWORI: That is the only consideration?

THE DEPUTY CHAIRMAN: Yes, because we had finished the others.

MR. MALIRO GASTON (Mwenge County North): Thank you, Madam Chairperson.

THE DEPUTY CHAIRMAN: There is a procedural problem Hon. Sserwanga Lwanga.

LT. COL. SSERWANGA LWANGA (NRA Delegate): Madam Chairperson, I am rising on a point of procedure. You said that (g) we finished it and now some people are bringing new things in it. Since we finished it why do they not wait at the consideration stage. At the reconsideration stage because I do not see for something which we finished now somebody to turn around and bring new things in it I do not think it is correct.

THE DEPUTY CHAIRMAN: I had given clearance to the chairman of the committee and that is why he was specific on that one. If you are of the view that we leave it alone and we revisit it later that is okay. But I am not allowing any debate other than that insertion.

AN HON. DELEGATE: Madam Chairperson, if we are going to have clause (3) paragraph (a) which talks of five years, that five years have past since the end of the sentence. That means after serving your sentence of nine months or more then a period of five years must elapse before you can be considered for election as a Member of Parliament. Therefore this word 'or has been' is essential and must be there. If it is not there then this clause, this paragraph (a) will be derogating what we have already passed in (g). Therefore, Madam Chairperson, I support that this word must be inserted.

MR. DICK NYAI (Ayivu county): Thank you very much. I have a little problem in that if we disposed and we pronounced ourselves on (g) without the material words 'has been' it means the circumstances under which we are convinced are different. And if we say now let us consider 'has been' it means we are going to open a completely new debate because there will be - first if I have served my sentence who are you to stop me standing as President? Because that will have to be argued. So I would rather go along with Hon. Sserwanga Lwanga that if the Chairman of the Committee is very anxious and is desirous to introduce this, then he waits for the reconsideration stage.

MR. KWERONDA RUHEMBA (Kajara County): Thank you very much, Madam Chairperson. I think there was - regarding (e) - either a typing error or there was a mistake somewhere because in the committee and I belong to Committee Two, we had actually meant to restrict those people who have been in jail from standing for some time. I do not know how it came to be missed and it was unfortunate that we did not see it this morning. But now that the chairman has pointed it out and it is consistent with Clause (3), I wish to request Members to sympathise with the chairman of the committee and pass this insertion because it is very important. Certainly the committee members had debated it and agreed that it should be like that, I do not know how it came to be missed.

AN HON. DELEGATE: Thank you very much, Madam Chairperson. Madam Chairperson, if we could get it from the Chairman of the Committee because he has not indicated that what Hon. Kweronda Ruhemba is saying is correct. Could we get it from the Chairman of the Committee? Whether there was intention to put that and then simply forgot?

MR. MULENGA: Madam Chairman, what Hon. Kweronda Ruhemba has said is the same thing as I have said in different words. The fact that I did not say it in time or this morning can only be attributed to the fact that I am also human. I slipped up, did not bring it in time that is why I craved the indulgence of this House to allow at the time when I had discovered the omission that we put it in. We have not gone too far. It is not changing the substance of what was intended. I think really it is appropriate that we do it. If there is a rule that prevents us I would even request that rule be suspended instead of saying let us wait until reconsideration stage when it might be missed again. If we have seen that it is necessary I think we should put it now rather than wait at the reconsideration stage.

MR. KASAJJA PATRICK (Bulamogi County): Thank you very much, Madam Chairperson. I do concur with the views given by Hon. Mulenga that we do insert this phrase 'or has been.' In any case, Madam Chairman, these people who are saying that we cannot put this thing because we have already pronounced ourselves on (g) I want to inform them that we have not finished the article. It is only when we would have finished the article that we would be late but right now I think it is timely to bring this amendment in this article. Madam Chairperson I think this phrase has been-is consistent with, as Members have said, with five years that have passed since the end of the sentence. Because what we want to put in is this safeguard that when a person has been sentenced to death then he cannot automatically come and stand for Parliamentary elections - *(interruption)*

THE DEPUTY CHAIRMAN: Hon. Sebalu wants to be clarified.

MR. SEBALU: Thank you, Madam Chairperson. I have listened to the presentation of the Chairman and of the Member holding the Floor. I think that 'has been' insertion does not change the substance. So I was wondering whether that one could not be treated as a drafting matter if the principle is acceptable to all of us. Because they are saying it does not change the substance.

MR. KASAJJA: It does. Madam Chairperson, I think my conception is not the same as what the Hon. Member who is speaking is stating. I think there is some substance in introducing this phrase because we are trying to introduce consistency and

if we bring 'has been' it is going to be consistent with sub clause (a) of clause 3. So that is why we are bringing in this 'has been' because if it is not there then you find that this thing becomes almost hanging. So for that reason, Madam Chairperson, I want to appeal to Hon. Members that let us pass this phrase because it does not change so much although there is at least some consistency that is introduced in the article. With that, Madam Chairperson, I think I support highly that this be and I request that the question be put so that we dispose of it.

THE DEPUTY CHAIRMAN: Hon. Delegates, it seems we are running into a problem and the problem I see is because this report was done in a hurry. We have about three copies of the same report so you cannot rule out as the chairman said, that might have been an oversight as far as they are concerned. So I do not see anything wrong for him to correct us before it is too late. After all we have not pronounced ourselves on the article therefore I would concede and actually we clear (g) rather than throwing it away now.

MR. ELYAU MIKE (Kalaki County): Thank you, Madam Chairperson. It is a matter of past and participle tense here. Because if you say 'he is under a sentence of death.' It means that he is still serving but this correction is saying 'or has been.' It means that he has finished at least some period of sentence and then from then we count those five years. If it remains as we passed this morning it does not make sense so I think we should allow this correction it is a matter of drafting.

THE DEPUTY CHAIRMAN: So I think that is cleared. If there is any problem we can revisit it at reconsideration.

MR. KUTEESA: Clarification. Madam Chairperson, I think the problem we are having is that if you add these words the meaning is actually affected. The substance in the argument because one is still serving a sentence, another one has finished serving it so the substance changes. If you allow this insertion I think it is fair to open debate again on (g). For example, Madam Chairperson, all these leaders of Africa you hear are former convicts. Mandela has just finished a sentence of treason, Kenyatta was convicted at Kapenguria soon after that would you say they should not stand for election? *(Interjection)*

AN HON. DELEGATE: They were pardoned.

MR. KUTEESA: No, they were not pardoned, they served their sentence and eventually they came out. If they had been serving their sentences why should a person not stand soon after that. I am all for stopping a person who is still serving but if a man has served his sentence and he comes out why should you punish him twice for the same offence? I think it would amount to double jeopardy here.

THE DEPUTY CHAIRMAN: I think let us ask the Chairman of the Committee Hon. Mulenga because it is either we leave it out or putting and that is all, we do not really want to open a Pandora's box.

MR. MULENGA: Madam Chairman, Hon. Kuteesa's argument is based on examples that would move people to run away from this concept that is being proposed. Quoting President Mandela, the late Jomo Kenyatta is talking about the type of convicts that are not what are envisaged here. Madam Chairperson, why it becomes relevant it has been explained that Clause (3) is about that. It is about people who have been in prison but have served their sentence but had to be disqualified because society wants to observe. Hon. Kuteesa mentions this double jeopardy which we addressed ourselves and reduced the period in 3(a) from ten years to five years and that is noted on page 8. So the point is appreciated that we should not put such a person in double jeopardy but having been convicted of heinous crimes and immediately he comes out of prison. He is still regarded as a thief or some murderer and what have you and you put him straight away on a clean slate is what clause (3) is about to say let us give him time to be observed.

LT. COL. SSERWANGA LWANGA: Madam Chairperson, I want to inform Hon. Mulenga that treason is one of the offences which can land you to prison and treason is a political offence and it carries a death sentence. If you are lucky and you are not hanged and they give you serving imprisonment, it would be not in the interest of democracy to stop this man who has been serving treason, who had his views which were contrary to the government of the day to be stopped to stand for elections, it should not be correct. So we should not put something like that he has been serving a sentence of so many years or nine years or whatever. We should leave it open so that the electorate reject the

man. Why do we reject him, why does C.A. reject that person? Let the electorate reject that man or the woman.

MR. OMARA ATUBO: Thank you, Madam Chairman. I do not know whether we are debating Clause 3(a) now, or we are just referring to it.

THE DEPUTY CHAIRMAN: No, no. You see, the Chairman, his view is that if we do not insert in 'or has been,' number (3) could not be very relevant. So he is trying to march (g) with (3) we are going to discuss. That is according to him.

MR. OMARA ATUBO: Thank you for the guidance, Madam Chairperson. But really to make our work easy I would advise that since (g) has already been passed, we could very easily, even to make our work easy, debate 3(a) and if it is passed the amendment of Hon. Mulenga will be a consequential amendment. We do not even need to pronounce ourselves on it because we are raising issues of (g) having been passed, why are we revisiting it. I know it could have been a typing error because of the speed with which we were trying to produce this report. But in view of the fact that honourable Members have already expressed themselves on Clause 3(a), I am of the view that if we can pronounce ourselves on 3(a). Then automatically whether if we pass 3(e) then automatically the amendment of Hon. Mulenga or of the committee for that matter will have to go through without even a debate. So I propose that we pronounce ourselves on 3(a) if it is passed we do not even - you do not even have to ask the House whether we should include what Hon. Mulenga wants but if we do not pass it then we do not have to pronounce ourselves on the committee's proposal. Thank you.

THE DEPUTY CHAIRMAN: Hon. Mulenga, what is your view?

MR. MULENGA: Thank you, Madam Chairperson. In the interest of speed I would buy the idea of Hon. Omara Atubo.

THE DEPUTY CHAIRMAN: So Hon. Mulenga is suspending his insertion until we have finished with 3. So can you proceed to 3? I am suspending the decision whether to insert or not. The Chairman has consented. Proceed Hon. Mulenga.

MR. MULENGA: Madam Chairman, the committee recommends that Clause 3 should read: "A

person shall not be taken to be disqualified under Clause 2 of this Article by reason of conviction for any offence if (a) five years have passed since the end of the sentence." This is an amendment from the recommendation in the Draft which had put ten years and we thought ten years was too long.

MR. OBIGA KANIA (Terego County): Thank you, Madam Chairman. Madam Chairperson, I believe when you are under a sentence of imprisonment and you have finished it. The authority that imprisoned you will release you when they are aware that you have reformed or you have been reconditioned or retreated. Therefore, there is no reason why another five years or even one month should be arbitrarily put on you purportedly to judge your cleanliness or goodness. The authority to judge that goodness or cleanliness is the prison authority and once they have removed you from the confinement or from under the sentence you are as clean as anybody subject to the judgement of the electorate. I therefore oppose that there should be any period there.

MR. NDEGE: Thank you very much, Madam Chairman. I concur with the previous speaker that we look at prisons here in a different way. And a prison other than putting you out of circulation is supposed to reform you so that by the time you come out you live with society. When you come out of prison they do not put you under quarantine so that they can see how you are. You go back and join your fellow people in society and if you go back and join the society and you are a registered voter and you are no longer serving any sentence or having any problem. I do not see why we should bar such a person from holding any office because you have properly reformed. The fact is that it is only those, in my opinion, who are caught, who are thieves but there are many more who are not even caught who are worse off. So let us not condemn these people beyond what the judges have decided. And let them, if the public think that they are their best candidate they can field as parliamentary representatives. Let us leave it to the public to judge, and we do not make further judgement beyond what the courts would have said. That is my submission. Thank you.

MR. MWONDHA PATRICK (Bukooli County North): Thank you very much, Madam Chairperson. After somebody has served the sentence and is back in society, this clause will be discriminating against that person, not to allow that person to enjoy the full civic rights. Not to allow that person to

participate in the politics of his or her country. After all in (b) we are saying that if that fellow is pardoned, pardoned would carry almost the same meaning in terms of freedom of this fellow, as having served the full sentence. In fact, pardoned seems to give it even a bias that as long as it has been done by the people in authority then it is okay. It is definitely unfair, I think, as soon as someone has served his or her sentence, should be able to back in society and participate fully. I, therefore, oppose this provision.

DR. SEMAJEJE HIGIRO (Lwemiyaga County): Madam Chairperson thank you. I join those who feel that when a person has been punished and he has finished the punishment, then he should not be given another five years of remorse. Feeling that he is not equal to others. This man should be free to move around. He should be free to talk to other people and to represent them if they like him. I do not see why we should give him that time. I think the electorate will know him better than we can know now. So, I support the idea, in fact, of removing this five years and leave the man to be free.

MR. MASALU MUSENE (Manjia County): Thank you Madam Chairperson. I have, Madam Chairperson, listened very carefully to the previous speakers who have all supported the idea of removing this provision. Madam, I want Hon. Delegates to look at the realistic way of issues. In the first instance when someone commits a crime, despite the fact that he has finished serving the sentence, that crime is still in the memory of the people. So, there is need for time to elapse before people can forget, before people can forgive and before people can tolerate such a person back in society. I will give practical examples so that Members can appreciate this point. The first example is a person who is charged with murder but later on is convicted of manslaughter and is sentenced to five years imprisonment of manslaughter. Now, after serving a sentence of *-(Interjection)-* but let me complete this example first. So, after serving five years of manslaughter, when he gets out of prison the relatives of the person who was killed it is still fresh in their minds that this person caused the death of their relative. So, immediately he finishes five years to be allowed to go to Parliament is really, morally unacceptable, because in the minds of the people, especially, the relatives of whose death he caused it is injustice. So, there should be a period of five years so that this person

is watched to see whether he can reform. How he fits back in society after coming out of jail so that if people see that really jail has reformed him, then after five years it is proper for him to go to Parliament. Another last example is -

THE DEPUTY CHAIRMAN: But you said you finish one example so that Hon. Bageya gives you information.

MR. MASALU MUSENE: Okay, I allow the information.

MR. BAGEYA: Thank you very much, Madam Chairperson, and thank you very much Hon. Masalu for giving way. I would like to inform Hon. Masalu holding the Floor that we are debating as if we have already removed power from the people. The people who are going to elect are the final judges, they judge the character of a person they are voting.

MR. MASALU MUSENE: I appreciate the information, but then Hon. Bageya is talking as if he is out of reality, because the people whom he is talking about, he must know that there are other forces which influence these people. Things like money, things like what. So, a rich person who has just come out of jail with his money, to people it may not be - he can change the people in any way he wants and they can be bribed! But lastly, Madam Chairperson, I want to give another example of a social crime of adultery. For example, a man is charged with adultery, is imprisoned to ten months, then after ten months for such a man to be allowed to go to Parliament when he must be watched to see if he has really reformed from such habits - *(Interjection)*.

MR. OMEDA MAX (Serere County): Point of information. Madam Chairperson, I would like to inform the Hon. Member who is holding the Floor that when we fought NRM Government, some people had suggested that some of us could not stand for the C.A. elections. But when we stood we won, people had correct judges.

MR. MASALU MUSENE: So, lastly, Madam Chairperson, I feel that Hon. Delegates should be realistic. They should know that reform does not stop in prison only but even when someone has come out so that he should be seen practically to have reformed before he is allowed to go Parliament. So, I support the five years, Madam Chairperson.

MISS KALIKWANI IRENE (Women - Kamuli): Thank you, Madam Chairperson. I would like to oppose the five years. Madam Chairperson, I wish to point out to Hon. Delegates who are supporting the five years, that particularly in this country we have so many cases of innocent imprisonments. And quite often there are people who are imprisoned maliciously. Fortunately, when they come out they are the people's heroes. Now, if they come out and it is election and the people want to elect them, what are we going to do with them?

MR. KAWERE PIUS (Mukono County North): Point of information. Once a person is convicted by a competent court, you can never tell us that this was an innocent conviction.

MISS KALIKWANI: Madam, with due respect, I would like to point out to Hon. Kawere that there are some reports of corruption and all sorts of practices in the judicial system which are no secrets to us. And that is really no point. As the Hon. Member pointed out before, if somebody has been punished, has served his sentence and it is over, that is enough punishment. I mean if somebody is punished, let him be punished and let us give him a chance to reform. Because there is no need to bear - that is kind of bearing a grudge on that person, even after he has been punished. This question of over-punishing somebody does not help anybody. Thirdly, Madam Chairperson, if we say five years elapse, you know, there are so many things that could have happened within those five years. So, in all fairness let us give the people the opportunity to judge. If somebody has committed a murder and is sentenced on charge of manslaughter instead, the people themselves know what happened. Sometimes even if he is not taken before court of law, the people are the best judges, because they know the fact, they will decide for themselves whether to vote this person into power or not to vote him. So, let us not be the people's judges. Thank you very much.

MR. AWORI: Point of clarification. Madam Chairperson, unless I missed out the explanation on the five year period, I would like to know whether the period of parole shall be included. Where does the five year period start? If I am released on parole, two years prior to the end of the sentence, what happens? Parole is a period of remission, you are released prematurely, for good behaviour in jail.

THE DEPUTY CHAIRMAN: Okay, let us give Hon. Mulenga to wrap up and then we pronounce ourselves on this one.

MR. MULENGA: Madam Chairman, we do not have the system of parole as such here. But the period of five years counts from when you are out of prison. Whether you have earned a remission or whether you are on parole, if we ever introduce it, it counts from the time you leave prison. Now, what I would like to say in winding up this here we are talking about selection of leaders. Members of Parliament are leaders, we have even put in place, or we are going to put in place the Leadership Code of conduct. It is all about having clean leadership. Now, to say that because a person has served his sentence after either theft or corruption and so forth and say he has served his punishment. He can now go into leadership role, is to lose sight of this fact! But in these provisions we are trying to set standards for leaders. Really that is what it is about. It is not punishing him. It is saying, okay, you have served your sentence, now you are a free man, go about your business normally. But for leadership we want people without record of wrong doing, at least for sometime until we are satisfied that you have reformed. That was an accident or whatever. So, let us not put as an argument the fact that he has served his sentence - *(Interruption)*

AN HON. DELEGATE: Point of clarification. Thank you very much, Madam. I would like to seek clarification from Hon. Mulenga, because when we look at all the clauses provided for in 3, in all the clauses we are putting conditionalities for members to qualify. But why does he not put this condition of five years in (b) because that person has been pardoned in respect of that offence. So, is the pardoning good evidence to show that this person has reformed, because he has also committed an offence, been convicted? So, I feel these are double standards!

MR. KIRENGA EMMANUEL (Mityana North County): But, Madam Chairman, would it not be appropriate for the Hon. Delegate to raise that issue in (b)? Because indeed a number of Delegates have approached me after reading the report, and questioned (b). I am expecting some delegates to raise an issue about (b) does pardoning necessarily reform a person. Is he different from the one who was sentenced, served sentence and has to wait for five years? But I think that point the Hon. Delegate would be more appropriately raised when we are considering (b) - *(Interjections)*.

THE DEPUTY CHAIRMAN: You see now you are passing through clarification in order to get space. Hon. Mulenga round up and then we see what to do.

MR. MULENGA: Madam Chairman, I have finished, and I am submitting that paragraph (a) be accepted by the Assembly. I thank you.

THE DEPUTY CHAIRMAN: Now, the issue we are discussing is whether to leave sub-article (a) in the Constitution or not that is the question I am going to put. What we have been debating is whether to leave (a) in or whether to leave it out.

(Question put and negated)

MR. MULENGA: Madam Chairperson, I was reflecting to see whether the remainder of clause 3 makes sense.

THE DEPUTY CHAIRMAN: Actually, your argument was that after we have cleared (a) then we shall move to (b) and then we proceed. If it does not make sense then you say so.

MR. MULENGA: Maybe, I need assistance of the House. (b) reads that: "*A person has pardoned in respect of that offence.*"

MR. OBUA OTOA: Thank you, Madam Chairman. I do not now see the relevance of (b) and (c). I think that if somebody has been pardoned, obviously, he is free. I do not see why we should include such a superfluous provision. Even (c) is now irrelevant, Madam. I am, therefore, appealing that we draft both on the grounds that they are no longer really relevant, because if you have been pardoned, you have been pardoned! If the sentence has been quashed, you have never been convicted, you are innocent. So, there is no need to make such a superfluous provision in the Constitution. I thank you very much.

LT. COL. KIIZA BESIGYE: Madam Chairperson, I hope that our committee Chairman realises the provisions of Clause 3, the inclusion he was seeking to make. If that inclusion is lost, then the whole of Clause 3 is redundant. And I think, therefore, we did not serve ourselves justice to postpone the decision of whether to include or awaiting the decision of this. Because what have we done in 3(a)? If you read the whole of 3(a) it

reads as follows: "*A person shall not be taken to be disqualified under Clause 2 of this article by reason of conviction for any offence if five years have passed since the end of sentence.*" Now, what it is saying is that you will not be taken to be disqualified five years after you have served the sentence. But nothing is making you disqualified before the five years! So, even this which we have deleted, even if we did not delete it, says nothing. It simply says that from five years, even it said from ten years or whatever, it is simply saying that nobody beyond that will be taken to be disqualified. But there is nothing which says that under that there is anybody disqualified. So, I think that we should make a decision on whether we want somebody who has served a sentence not be qualified. But if we say immediately after the sense you are qualified, then the whole of clause 3 consequentially falls by the way side. I seek for your guidance on this, Madam Chairperson.

THE DEPUTY CHAIRMAN: Let us hear from Hon. Ngobi.

MR. NGOBI MATTHIAS (Presidential Nominee): Thank you very much, Madam Chairperson. I think in view of what has taken place, and in view of what - the argument that has been advanced. I beg to move that Article 3 be deleted as it is. I mean Clause 3.

THE DEPUTY CHAIRMAN: It has been moved that Clause 3 be deleted. It is seconded.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, Clause 3 is deleted and, therefore, there is no cause to include 'or has been' in (g). Can we proceed?

MR. MULENGA; Madam Chairperson, Clause 4 which will now become Clause 3, is recommended to read: "*A person elected to Parliament when he or she is a member of a local government council or holds a public office shall resign before assuming the office of Member of Parliament.*"

(Question put and agreed to)

THE DEPUTY CHAIRMAN: Now, we can pronounce ourselves on Article 133 as amended that it does stand part of this Constitution.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: I have an observation before we proceed. You will recall that on Page 2, Article 134 we deleted that article, and that article was making reference to 134. So, Hon Mulenga -

MR. MULENGA: Madam Chairperson, Article 134 is on election of Parliament, and it is recommended that Clause 1 should read: "*A general election of Members of Parliament shall be held not less than 30 days before the expiration of the term of Parliament on the first monday of December, except in the case of (a) the first general election held under this Constitution and (b) a general election held after an extension of the life of Parliament under clause 3 of article 130 of this Constitution.*"

THE DEPUTY CHAIRMAN: What I was asking if you look on page 2, Article 4 -

MR. MULENGA: Yes, Madam Clause 2 of Article 130 was dealing with the length the term of Parliament and many of the contributors for deleting said I should have put in Article 134. So, here it is in Article 134 on election of Parliament and the purpose of it is as I indicated before, to have a fixed known date or day in election year, when Parliament will be elected. And the proposed day is the first Monday of December.

MR. WACHA: Thank you, Madam Chairperson. I am a member of Committee 2. During discussion leading to fixing or non-fixing of a date for the general elections, I had moved an Amendment. And I thought that it would be reported to this committee, seeking to fix a date of first Monday of February of every elective year, as the date on which Parliamentary elections should be held. I do not know whether I should move it officially as an Amendment or the chairman of the committee is going to report to this effect.

MR. MULENGA: Madam Chairperson, I think I did mention it even yesterday or the day before that there was such an Amendment during the deliberations which would have amounted to that election of Parliament and President should be on the same day. During the deliberation of the committee it was lost. But I do not recall whether I was requested to make it also a minority - to include it here as a minority report. If I was requested and I forgot to do so, I apologise, but I think Hon. Wacha may also have forgotten to tell me. So, it can be taken as an

Amendment but indeed it was conversed very strongly during the deliberations and was defeated on voting.

MR. KARUHANGA ELLY (Nyabushozi County): Madam Chairman, thank you very much for this opportunity. I would like to delete Article 134 in its entirety. And after debating the deletion, I think Hon. Wacha would be free to bring his Amendment. But if you permit I would make my Motion then we debate it and then Hon. Wacha would bring his and it would be treated on its own merit.

THE DEPUTY CHAIRMAN: Is Hon. Karuhanga seconded? There is a point of procedure from Hon. Ben Wacha.

MR. WACHA: Madam, if Hon. Elly Karuhanga's Motion is effective, then mine will obviously be killed. Because the principle is the same that a date for election should be fixed.

AN HON. DELEGATE: Point of order. Madam Chairman, I consider that we took a deliberate decision to delete Clause 4 of Article 130 which was talking about the term. Having done so, is it in order now to debate an Amendment which is seeking to provide for a term of office that is likely to vary from the one provided in Clause 2 of Article 130? In light of the regulation 48 subrule 17, which says that no Amendment shall be made which is inconsistent with any article already agreed upon by the Assembly. I consider that Clause 1 of this article is inconsistent with the decision we have already taken, and I seek for your ruling, Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Delegates, if you can recall that is where I started and I called upon you to debate the issue that was my very beginning. That we had already deleted 4 which has similar terminology with this one. So, what was the rationale for our discussion, and the Chairman clarified. So, the decision is not mine, it is yours.

MR. OMARA ATUBO: Madam Chairperson, I only wish to reinforce the argument of Hon. Mulenga who is the Chairman of Committee 2. Madam Chairman, if you read Clause 4 carefully, and I intend to do so now, notwithstanding the provisions of clause 2. Now, Clause 4 of Article 130 is originating directly from Clause 2 and it is meant

to qualify Clause 2. But Clause 2 was passed in Article 130, and we were looking at Clause 2 in the context of Clause 4. What was deleted in Clause 4 was a rejection of how we wanted to qualify Clause 2 in Article 130. It had nothing to do with substantive Article 134! In that context, therefore, you cannot argue that because we had deleted Clause 4 in Article 130 we also consequentially deleted 134, that cannot be the case because Clause 4 was referring to Clause 2 of Article 130. So, rather than go round and round, since you have already made your ruling, really let us debate the substantive issue on Article 134! If it is passed, it is passed. If it is rejected let it be rejected, but let us not use technical arguments really to resolve substantive issues before this Constituency Assembly, otherwise we may not be really doing justice to why we are here. Thank you, Madam Chairman.

THE DEPUTY CHAIRMAN: Hon. Omara Atubo, using your wisdom, it should be to the benefit of the House to know the reference of Article 134 shall be more or less than five years and whatever, and the second part of what we deleted.

MR. OMARA ATUBO: Yes, now Clause 2 of Article 130 is talking of five years - *(Interjection)*- You know, if you want to really interpret it properly, you have got to start with Article 130 Clause 2. And Article 130 Clause 2 is talking of the term of Parliament shall be five years from the date of its first sitting after a general election. Now what Clause 4 of Article 30 is saying that we may not able to clock the period of five years, but because an election may be close to, less by, nearby. But constitutionally somebody may say look my term is five years and I want to be five years. But Clause 4 is saying notwithstanding that mandatory provision of five years, notwithstanding the provision of Clause 2, which is a mandatory provision of five years. Because you are giving an appointment to Parliament that you have a term of five years. But we are saying it is possible that in the period of the first Parliament we may not be able to have exactly five years. It may be less by a few months, it may be more by a few months. So, because of that, that is why Clause 4 was brought, and I really would urge Members to read carefully where it says: *'shall be more or less than five years, so that the next general elections shall be....'* That is where now we are saying despite that provision we can still have more or less five years. Therefore, we do not have to have an election on the Monday of December,

nearest to the date of the fifth anniversary. But now if you go to Article 134, we are saying or it is being provided that a general election shall be held on the first Monday of December, except in the case of the first general election held under this Constitution, which also refers to 134. So, Madam Chairman, the two issues have to be separated and looked at differently. So, we have to debate Article 134 substantively, rather than delete it consequentially because we have deleted 130 Clause 4.

DR. KABERUKA WILLIAM (Ngorwa County West): Thank you, Madam Chairperson. It is true that yesterday we did as Hon. Kiiza Besigye has pointed out. We did away with the concept of fixing time. But when you read Article 130, especially, 2 and 3, you will find that there is a need for us, at least, to point out when elections of Parliament should take place. And here I wish to bring up an Amendment which does not put us on a specific date, but guides us as to when we should have elections. I would want the Hon Members to listen to - Madam, I do not believe we should delete. When we really need to know when elections should take place and the formulation which I have here reads that: *"A general election of Members of Parliament shall be held within 30 days before the expiration or the extension of the term of Parliament."* That will take care of that Clause 1, and Clause 2 and it is date specific, neutral, and I think that is the only thing that we need to point out. I beg to move.

THE DEPUTY CHAIRMAN: So, you are adding in the word 'extension' only?

MR. KABERUKA: Yes, because in Clause 2 we know there must be elections when we have extended. That has been provided for in Clause 3 of 130. Clause 2 of 130 provides for a normal term of Parliament, and so here when we are providing the times for election, we must put into consideration when Parliament has been extended.

THE DEPUTY CHAIRMAN: Can you repeat.

MR. KABERUKA: It should read that: *"A general election of Members of Parliament shall be held within 30 days before the expiration or the extension of the term of Parliament."*

THE DEPUTY CHAIRMAN: So, we are removing the first Monday of December?

MR. KABERUKA: No, Madam Chairperson, I am looking at the last month of the term of office of Parliament.

THE DEPUTY CHAIRMAN: So, there is a move by Hon. Kaberuka that we amend 134 (1) as he has read out.

MR. WACHA: Madam Chairman, I brought a Motion on the Floor and I sought your direction as to whether it should be properly before the Floor. Is it in order for the House to adopt another Motion before mine is dealt with?

THE DEPUTY CHAIRMAN: I think we tried as much as possible, that issues that were defeated in the committees and were not brought as minority reports, we should not be really derailed, that is actually something I had taken. You discussed the issue and it was defeated. Now you are bringing it back to the House not in a form of minority reports report. What I am saying, I am informed by the Chairman that issue was extensively discussed in the committee and it was defeated, and was never brought as a minority report. So, when we are just transplanting decisions that were rejected from committees, then what is the purpose of the committees?

MR. WACHA: Point of information. Madam, can I inform the Chair, and on this I do not want to put the life of our Chairman in any difficulty. When the matter was finally decided to be presented in its form before the House, the substantive Chairman was not in the Chair. And this I think he will agree with me. So, when I insisted that this matter should be brought out as a minority report before this Assembly, the actual Chairman was not in the Chair. And I think he has apologised that he might have forgotten, and being human I think he has.

MR. MULENGA: Madam Chairman, I have nothing else to add. I have said I recall that it was debated. I know from the minutes that it was defeated. But I was not sure about is whether Hon. Ben Wacha told me to note it as a minority recommendation and I forgot or he forgot to tell me. I have explained that as clearly as I can. But what I would like to say is this, that while it is true that the Chair has often required of the Chairman of a committee whether a matter has been discussed or not, it has never been a bar to anyone to bring an Amendment whether it was discussed there or not. I thought I

should make that observation. I do not think it has been a bar to anyone moving an Amendment if - *(interruption)*.

MR. BYAKIKA: Point of procedure. Madam Chairperson, in accordance to Rule 48 (2) any Member is free to move an Amendment at the consideration stage. We have never had a bar as to whether a matter which has been considered at Select Committee to a report of the Chairman of the Select Committee.

THE DEPUTY CHAIRMAN: With due respect, I remember one time here the Chairman said categorically, that as much as possible in order to save time, issues that are defeated in the committee should come as minority reports, and that is the purpose of a minority report. Unless you are saying that we can give Hon. Ben Wacha a concession because of the doubt as given by Hon. Mulenga, otherwise that was the position. So, the issue at stake here now is we had a Motion by Hon. Kaberuka, but Hon. Ben Wacha also said that he had his that it should be the first Monday of February. So, let us clear that one and then if it goes through then Hon. Kaberuka's may not be feasible. If it does not, then we shall go on finding an appropriate Amendment.

MR. DIDI AGARD (Moyo West County): Madam Chairman, we have got a Motion for deletion which departs furthest. I think it is deletion - if we are to start with any other Motion, it should be Motion for deletion. Thank you.

THE DEPUTY CHAIRMAN: You see, the problem we had, somebody was saying we delete all 134 but if you look at 134 (3) on when there is a vacancy. Have we assumed that there will not be any vacancies arising? If we remove all 134 en-block. You see, we are trying to jump without reading the whole text. Number 3 is on: "*Whenever a vacancy exists in Parliament, the Clerk to Parliament shall notify the Electoral Commission in writing within 10 days.*" Are we saying we even do not want that one? The Motion was not properly moved so, that is why I ignored it.

LT. COL. KIIZA BESIGYE: Point of clarification. Madam Chairman, I am seeing clarification from Hon. Ben Wacha and from Hon. Joseph Mulenga, on this question dates, because I am not satisfied - *(Interruption)*.

THE DEPUTY CHAIRMAN: Let us clear one thing, Hon. Kiiza Besigye. We are saying that Article 134, one was arguing that there was a Motion to delete whole of it. And I was saying we may end up throwing away the baby with the birth water, because number 3 is so far from number 1. So, I propose that we consider 134 (1), 134 (2) and we go on like that, rather than having an umbrella deletion when we even have some sensible work to carry forward.

LT. COL. KIIZA BESIGYE: So, Madam Chairperson, I am asking on this 134 (1) on which the Amendment is being moved. Madam Chairperson, we have passed that the term of Parliament which is under 130, shall be five years. We have also passed *-(Interruption)*.

MR. NDEGE: Point of order. Thank you very much, Madam Chairman. If he has moved that he wants to delete the whole of 134, let us pronounce ourselves to defeat it and then we continue.

THE DEPUTY CHAIRMAN: No, we shall go one by one. Why do you consider the whole article, why not Clause by clause? We go clause by clause it does no harm. Okay, Hon. Kiiza Besigye was on the Floor. Let us deal one by one.

LT. COL. KIIZA BESIGYE: Madam Chairperson, I pray that Hon. Ben Wacha answers my point of clarification. I have said that we have already agreed to fix the term of Parliament to five years, and we have not given any exception to that term of Parliament. In any circumstance, the term of Parliament will be five years. We have also passed that where a state of war, a state of emergence exists *-(Interjections)*- Madam Chairperson, we have also passed in Clause 3 of 130 that circumstances may exist which can vary the date of election. In other words, the term of office can be extended for six months and once that happens and an election is held after six months. The term of the new Parliament will of necessity be five years. That is what we passed under the term of Parliament in Article 130, that the term of Parliament shall be five years period whenever the election takes place. Now, I do not know - I would like Hon. Wacha and Hon. Mulenga, the Chairman, to explain to me. In 134 which talks about the elections of Parliament, if we specify any date, what will happen if even at the first election after the promulgation of this Constitution, the date of the election is not that day? Or even if it was that

date you are specifying subsequently after the first term there is an increase of term, how will you ever come back to your date?

MR. MULENGA: Madam Chairman, I have reached a point of being asked to repeat and repeat, but I do not mind. What we have passed in Article 130, is that the term of Parliament is five years. In Clause 3 we have passed that period may be extended in given circumstances. Then what we seek in Article 134 is to say when Parliament shall be elected with the same principle. The reasoning was the same as has been accepted in the case of Presidential election, that people should know when there will be elections in advance, is the same reason. And Article 134 (1) is intended to do that. But we are saying leaving exceptions for two occasions. The first general election we do not know when it will be, we are leaving that to be done by Parliament or maybe during the chapter on transition. We also do not know when there will be war that will necessitate the extension of the life of Parliament. We wanted to say that day will be determined from the ending of the war. And, therefore, I do not see why Hon. Besigye is insisting that we have tied ourselves we cannot fix a day. I do not see it.

LT. COL. KIIZA BESIGYE: Madam Chairperson, if the first election is not on the date you are talking about, how will you ever get to that date again? That is the question. Because the term of Parliament is simply five years period, there is no alteration!

MR. MULENGA: There can be exceptions and I think that we may in reconsideration state really have to visit this, to reconsider whether we need not to have the provision for exception. Whether you want December, or May or November, whatever, but there ought to be a reservation. If we agree to the principle you see, there are two points involved. One point is should we have a fixed date for Parliamentary election as we shall for Presidential election or not. If we are saying no, then I have no problem with the amendment of this clause, but that principle has not been addressed directly. We have been told by Hon. Besigye now. Yesterday it was Hon. Kanyehamba that five years tell itself, and yet there are circumstances which may lead to - no, first of all there are arguments in favour of having a fixed, known date. This has not been addressed as such. I would rather and that is what I was saying

yesterday, that if our concern was about what election precedes the other, let us address it. Let us address the issue even if it is as a general debate. Madam Chairman, I am appealing to the House, let us address it openly. Do we want - like Hon Kayizzi was saying yesterday, do we want a Presidential election before a Parliamentary one? But to fix one election date for one, and then avoid the other. I do not know whether we are being straight forward to ourselves! Let us address the issues, if we have agreed that there is need to fix for a Presidential election, what are the reasons for not fixing for Parliamentary election. Two, if our concern is the sequence of election, when do we have RC 1? When do we have RC 11, Parliament, President? Do we start up or do we start down? Let us address it as a principle. Let us agree, then you can justify the decision we have reached. But the way we have approached it, to block this proposal in the way we are doing, I think is not the best way of doing things, to put it mildly.

MR. SAKWA DARLINGTON (Bungokho South): Point of clarification. Thank you, Madam Chairperson. I am seeking clarification from any Member on the Floor who is arguing against the setting of a date. In particular, I would like probably, Hon. Kiiza Besigye to explain to me. He says we have fixed the term of Parliament to be five years, and is wondering what would happen if the first Parliament is not elected on that day. Because I seem to remember that the article which we deleted was addressing that matter. Now, we also under 108 Clause 1 say: *'A person elected under this caution that is the President shall subject to Clause 4 of this article hold office for a term of five years.'* We have also fixed five years. Why then did we agree to fix a Presidential date? If we have given him a five year mandate and we are using the same thing to argue against a date for Parliament. I would like you to give me the rationale. Thank you.

THE DEPUTY CHAIRMAN: Hon. Delegates, I think we should be more orderly, because it seems now what we are discussing is somehow amorphous. I will propose that - we have two prospective Motions on the Floor. One is by Hon. Ben Wacha that a general election of Members of Parliament shall be the first Monday of February. Then we have Hon. Kaberuka's which reads: *"A general election of Members of Parliament shall be held within 30 days before the expiration of the term of Parliament."* So, we have those two, if really we

can agree, I think that will give us a compromise, rather than saying either we do away with it and so forth. So, what is your view, Hon. Kabwegyere.

PROF. KABWEGYERE: Thank you very much, Madam Chairman. I think you are right in pointing out that we are going round in circles, and that we can decide very clearly how to go about our business. I am proposing that the Amendment as moved by Hon. Kaberuka be tabled formally and be discussed, in the event it is defeated then we have any other Amendments proposing fixing a date. Because even this one by Hon. Kaberuka is deleting this idea of fixing a date. A date is fixed but not in particular the Amendment is now: *'A general election of Members of Parliament shall be held within 30 days of the expiration of Parliament.'* Now, there is already a fixed date there, and I think if we take care of a point that was being raised by Hon. Dr. Besigye, because the life of Parliament is fixed and the period within which the elections ought to be held is also fixed. Only that it has to be within the 30 days before the expiry. That is already fixing even a time of campaign and so on and so forth. So, I think this one takes care of our situation. And if it gives some room and I propose that we take that line and come to a conclusion and then we can move on.

MR. KATENTA APUULI: Madam Chairperson, I thank you for giving me great opportunity to speak. I have been listening carefully to different opposes and supporters of a date. And what I have noted in the argument is, they are trying to argue that if something goes wrong, suppose Parliament is extended? But I could also argue that, suppose a President resigns or something goes wrong? Definitely, those dates will fall by the way side. I cannot understand the logic why we have taken so much time on this matter of fixing dates. These dates will definitely fall by the way side, if something goes wrong. If Parliament is extended, those dates will not be fulfilled. Unless you are telling me that, one Parliament will be four and half years and another will be five and half years. If in the middle say 1997, whoever is president of Uganda, thinks he cannot or she cannot get on with job and retires or resigns, those dates will cease to be of any meaning. Why do we not leave these dates alone and go by a fixed period of five years and agree on five years? It is a every good ideal. But in practical terms, we may find that, it actually cannot work. It cannot work for the president and it cannot work for Parliament. I thank you, Madam Chairperson.

MR. KWERONDA RUHEMBA: Madam Chairperson, I thank you very much. As you will notice from that Motion, tabled by Hon. Kaberuka, I have seconded it. And I have seconded it because I think, it is flexible. Before the term expires of the Parliament, 30 days before it expires, within those 30 days you hold elections. Even where there is an extension, and the extension is known it is 6 months. Before the expiration of 6 months, within the last 30 days, you hold elections, and then run for five years.

Madam Chairperson, this Motion is flexible, and for those who may be worried about whether this date comes before or after the Presidential elections, it does not mention that. And if you want to fix the date either before or after, later on, that is up to the House. But otherwise, Madam Chairperson, I wish to support Hon. Kaberuka's amendment.

THE DEPUTY CHAIRMAN: No, it is not Hon. Kaberuka's Motion on the Floor.

MR. KWERONDA RUHEMBA: Madam Chairperson, that is what I thought.

THE DEPUTY CHAIRMAN: I asked a question that, we have two Motions on the Floor.

MR. KWERONDA RUHEMBA: Madam you cannot have two.

THE DEPUTY CHAIRMAN: Wait let me clear this. I said Hon. Ben Wacha had his Motion that, the general elections should be on Monday - the first Monday of February. And that is what it was. I do not have it in writing here. Then there was also Hon. Kaberuka's and I said, let us go step by step.

MR. KWERONDA RUHEMBA: Madam Chairperson, I am a Member of Committee 2, and Hon. Ben Wacha tabled that Motion in Committee 2, it was thoroughly defeated. In fact I moved that, at that time, remember I moved that after elections of the President, three days later we should carry out elections of the Parliamentarians and that one also was defeated. So, I do not see why Hon. Ben Wacha should try and smuggle in a Motion which was defeated in the Committee. Otherwise, why did he not move for a minority report? So, Madam Chairperson, I believe we have one Motion on the Floor and that is Hon. Kaberuka's Motion and we should debate it now.

THE DEPUTY CHAIRMAN: Hon. Delegates, it is very unfortunate that we are trying to eat our own what - if Hon. Ben Wacha's Motion was defeated, and it did not come as a minority report, that was my first stand. We are having another Member who is a Member of the Committee. That actually this was debated and defeated and it was never brought in. But I said, to remove the doubt because I was not there. Let us debate on February 4th. You defeat it if you do not want to accept it and then we move. No, no I think we are going round the circles. Hon. Ben Wacha, let him give us what he wants. If you do not want it, you defeat it and we move. Word of speaker and I put the question. Let us stop talking in circles. Because it seems you do not know what you are talking about. Let us complete one thing, we are saying Hon. Ben Wacha wants to fix the date for Monday February. If you say no, I will give you the Floor and you say no. And we move.

MR. AMAMA MBABAZI (Kinkizi County West): Thank you very much, Madam Chairperson. The original point I wanted to raise is a point you have ruled on now. Because at that time, we were not sure which Motion was on the Floor. But now, that we have these two Motions, one from Hon. Ben Wacha and the other one from Hon. Kaberuka. I think what determines what Motion we begin with are our rules. It should be that Motion which departs furthest from the text. We should debate that first, and if we defeat it, we go to the next one.

THE DEPUTY CHAIRMAN: Hon. Delegates, to me it is all time factor. One saying, 30 days, another one saying February. It is all Calendar timing. Let Hon. Ben Wacha bring his Motion. It is defeated or carried and we proceed.

MR. WACHA: Thank you, Madam Chairperson. Madam, I want to move an amendment to Article 134 Clause I to read as follows: "*A general election of Members of parliament shall be held on the 1st Monday of February of every electoral year; except in the case of (a) The first general elections held under this constitution; and (b) a general election held after an extension of the life of Parliament under Clause 3 of Article 130 of this constitution.*"

THE DEPUTY CHAIRMAN: Is that seconded? Seconded by who? Okay seconded by Hon. Byakika. Can you justify and then you move?

MR. WACHA: The import of this amendment, is to have Parliamentary and presidential elections to be held on the same day. Members will recall that, we fixed the first Monday of February of an electoral year as the date for the election of the President. I am seeking to tie this to the election of Parliament. I will raise three points to support this move. First Madam, elections are very expensive exercises, to have two major elections in one year is not taking into consideration the financial burden that these exercises might have on our treasury. Members will recollect that even in the elections that brought Members to his Assembly, a sizeable amount of money had to be donated or borrowed from friendly nations to the country. It will be expecting too much, Madam, to believe that every time we hold elections, we would be dependant on outside bodies. If however we were to depend on ourselves, I submit that we cannot sustain more than one electoral exercise in a year. I believe that these elections could administratively be held on the same day so that we minimize expenses. Secondly, Madam, there are always possibilities of chaos and problems arising during elections, this is caused because of anxiety that elections always cause in the minds of the people. To have the possibility of chaos all over the country more than once, in electoral year, is expecting too much of our country, and I think this is an desirable. Thirdly, Madam, we should also guard against, and I continue and finish and then I will get the clarification or give clarification later.

Thirdly, Madam we should also guard against election fatigue setting in the electorate. To have elections too many times, could lead to the electorate getting tired of elections and thus minimizing the importance of elections. We should maintain I think the important role that elections play in our society. And therefore, try to make sure that, every time we have an election, we are sure that, there will be maximum turn over and maximum participation by our electorate. With these few words Madam, I move that we retain the dates of 1st Monday of February of every electoral year as the date for election to Parliament. I beg to move.

THE DEPUTY CHAIRMAN: Hon. Eguny, I will give you the Floor but not on clarification. You can make a substantive contribution.

MRS. EGUNYU: Thank you, Madam Chairperson. Madam Chairperson, I oppose the amend-

ment introduced by Hon. Ben Wacha on the following grounds. I do find a dilemma because he is saying that the election should be on the 1st Monday of February, with the exception of the elections carried out under this constitution. Now, supposing our elections are carried out under this constitution in September. Then he is saying, the next election should fall in February. It means five years have not yet expired. And in that case, what will happen? Are we going to have some transitional government again to hold on until the next February comes because five years would not have expired. And we are saying that, elections will be every five years. That was the clarification I was seeking and it is the ground on which I oppose this amendment. We should not set up a specific date, when we are not aware and when we have not yet decided when this other election will be and cannot determine it. Supposing it is in September! By February it would have been 5 years and over, in the next electoral years. So, those are the contradictions I wanted Hon. Wacha to have clarified. And since he did not, I oppose strongly. Thank you.

THE DEPUTY CHAIRMAN: Hon. Mayombo. Hon. Delegates, do not get annoyed because I am trying to pick on people who have not spoken since morning.

LT. MAYOMBO NOBLE (NRA Delegate): Thank you very much, Madam Chairperson. Madam Chairperson, I have specific instructions from my constituency, to oppose this amendment. On only one ground that this Assembly has passed Article 131(1)(c) which says that Parliament shall consist of representatives of the Army. I listened to Hon. Ben Wacha raising a second point which was that elections caused instability in the country. Madam Chairperson, during that electoral process for the president and the parliament that he intends to elect, the Army Council entrenches to guarantee security of the country and instability. So, we shall not be in position to elect our representatives to the Parliament. On that basis, I oppose the amendment.

MR. OKWAKOL NATHAN (Pallisa County): Madam Chairperson, I thank you. Madam Chairperson, I would like to support the amendment moved by Hon. Ben Wacha. I do so on two grounds. Firstly, Madam Chairperson, we did pass that sometime earlier on, the life of Parliament shall be five years. And this is the matter where there is need for certainty. If we have decided that, Parliament's

life should be for five years, for goodness sake, let us know when that life starts and when it ends. And so, Madam Chairperson, this amendment by Hon. Ben Wacha, does stipulate the 1st of February of every electoral year to be the date when Parliamentary elections shall take place. And this is certain. Secondly, Madam Chairperson, I would personally have liked the idea of holding Parliamentary elections before Presidential elections. And the reason is this, that there is need for presidential election to take place after, so that they do not have any undue influence on the results of Parliamentary elections. Madam Chairperson, this point cannot be over emphasized if an individual passed the elections as a president became a president inevitably. That would influence the direction of causing things in the country. It would have been better that the atmosphere politically is not contaminated by the results of presidential elections. So that people are free, can decide and catered as to who of the parliamentary candidates they would support. Madam Chairperson, in addition to this, if Parliamentary elections that take place before presidential regrettably the idea of holding it on the 1st Monday of December was defeated, that is very regrettable. Because, we had argued that, if that were the case, then all those who are victorious in the elections would have a bumper Christmas party to hold. In addition, not only would they celebrate Christmas, *-(interruption)-*

THE DEPUTY CHAIRMAN: Hon. Okwakol, let us not talk about history, focus on the 1st Monday of February.

MR. OKWAKOL: That is the point, Madam Chairperson, I am making, and I would like to conclude by saying this. If the election of Parliamentarians is held on the same day as presidential elections, the people of Uganda would have an opportunity to decide as to who their parliamentarians will be and catered by the results of presidential elections. I thank you, Madam.

MR. TIBAMANYA URBAN (Kashari County): Madam Chairperson, I oppose the Motion. Hon. Ben Wacha has given three reasons for his Motion. I am unable to agree with him. On the first one of money, definitely, any election, will take a bit of money but the money is for the ballot boxes, you know things like that. So, when you combine the two elections, you are increasing on the expense, because you are printing more than one ballot box.

One for the Presidential elections and the other for Parliamentary elections. You are also thinking about registers. A register will already be made for both elections. So, the difference ought not to bother us. Secondly, I am Madam Chairperson, for holding Presidential elections before Parliamentary elections. The reason being that, we have made the president the chief executive of this country. And during the election, I suppose he will put up a policy formula on how we will run the government for the next five years. And it is only right that, we should send him. Either the people support that policy or to oppose it depending on what policy had put forward. So, if I elect my Member of Parliament with an intention either to oppose or you know agree with the policy, of the presidential candidate, I will be more satisfied than electing my candidate empty without giving him specific instructions. Thirdly, Madam Chairperson, the general elections of Members of Parliament being held within 30 days, before the expiration of the term of Parliament, is good enough for our constitution.

THE DEPUTY CHAIRMAN: We are not yet debating that one. Let us not mix up things.

MR. TIBAMANYA: In other words, I am not for fixing a date whatsoever. Let it remain 30 days, it is clear. It is good enough, there is no need to fix a specific date, which will be abandoned, after the first general elections because Parliament will be extended and you cannot go back to the date you have fixed. I thank you.

MRS. FAITH MWONDHA (Women-Jinja): Thank you, very much, Madam Chairperson. Madam Chairperson, I have various points, on which I stand to oppose this Motion. Possible, we said we had fixed a date on which the president should be elected, and it is the same date, which has been proposed here. But I envisage a very, very big deprivation in that respect. When we have the presidential election, and the Parliamentary election on the same day, we are likely to deprive those people who would be contesting with a candidate who will win as president to participate in constructive building of our nation. We have already said that the person who wins to be a president of a country has to have 51 percent of the voters. Now, his other candidates, maybe somebody who comes next to him may have a majority to him or her - may have about 49 percent. Now, if we hold both those elections on the same day, it means this other man

or woman who has 49 percent will not have a chance even to go in the Parliament to represent his people. So, on that basis alone, Madam Chairperson, I would like to oppose this fixing of the date. Secondly, Madam Chairperson of course with your person, I beg to comment on the reasons that were given by the Mover of the Motion, mainly those ones of finance - the financial burden. But Madam Chairperson, I think we are well conversant with the principles governing economy. It says, cheap labour is false economy. Why should we combine these two big factors to be conducted on the same day? And do we have to look at it in the context of Uganda. When we finish to promulgate this constitution, apparently, it will be the first time in which we have a president being elected on universal adult suffrage. So we have to make sure that, the people elect their leader with a lot of care without any confusion. Then he talks about chaos. Why does he think in terms of chaos? What does he mean by chaos? Unless he means that, there will be violence. Now, is he threatening violence, when we intend to have these elections in different time. Then, Madam Chairperson, he talked about elections depending on borrowed money. But he is assuming that this borrowed money will be in time. But what if it does not come in time? Who would have violated the constitution? Then thirdly he talks about the election fatigue. In Lusoga we have a proverb which says, 'Kyoyenda, kyikuseza.' I do not think that Ugandans are tired of electing their leaders. Okay, what you want-it means that, if you want something, you have to pay a little bit more in order to get it. But not just to give lip service or chicken feed. So, on that basis, I am quite convinced that Ugandans are not tired of choosing their leaders, they should exercise their sovereignty with a lot of care. Thank you very much, Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Delegates, we discussed this issue yesterday, we are more-or-less arguing on the same lines. So, I beg I put the question.

(Question put and agreed to)

DR. KABERUKA: Madam Chairperson as I had already pointed out, I am moving an amendment which reads as follows: 'That a general election of Members of Parliament shall be held within 30 days before the expiration of the term of Parliament.' Madam Chairperson, as most people have pointed out, it is not good for us to fix a date - a

particular date. Because once we fix a particular date, which is tagged to presidential elections. It has been pointed out, Madam Chairperson that, in case of a president wants to resign, then that arrangement falls aside. Madam, Chairperson, the amendment that I am moving simply states that as we have already pronounced ourselves to the fact that, the term of Parliament will be five years, the moment we have had elections, then we know when the five years are expiring. And what I am saying is that *-(interruption)*

MR. WANENDEYA WILLIAM (Budadiri East): Point of clarification. Thank you, madam Chairperson. I would like the speaker on the Floor to clarify to me, of conditions in a country like United States, the presidency is fixed for November of every four years. And therefore, when a president dies, there is a Vice President to take over. Would you then clarify to me, as to why we may not use the same system? Because all these arguments seem to be geared on one thing. To get the president elected and then manoeuvre other Members of Parliament, and this where I fear that we may not have democracy. I thank you if you can clarify that to me Dr. Kaberuka. Thank you.

DR. KABERUKA: Madam Chairperson, I thank you, and I want to inform Hon. Wanendeya that, in case of United States, the Constitution stipulates that, the president will have a running mate. And in the event of the President resigning, the running mate continues the term and finishes the term of office of the Presidency. But in our case, Madam Chairperson, Members should remember that the question of a running mate was defeated *-(interruption)-*

DR. HIGIRO: Point of order. Madam Chairperson, it appears as if now, we are talking about presidential elections, while actually the subject matter is parliamentary election.

THE DEPUTY CHAIRMAN: Anyway, Hon. Wanendeya is already off the Floor. It was Hon. Kaberuka, let him be satisfied.

DR. KABERUKA: So, thank you, Madam Chairperson for your wise ruling. I was pointing out that in case of the United States, the concept of a running mate is enshrined in their constitution, and in a place where a president resigns or something happens and the running mate completes the term. So

in that case, it is quite clear that you can meaningfully fix the date of presidential elections. Madam Chairperson, Hon. Wanendeya maybe he should remember that, in our case the running mate idea was dropped. And instead we have that, in case of some eventualities, and the president resigns that the Vice takes over for a given period. In which case, fixing even the term of presidency is not. Madam chairperson, my amendment simply says that once we have carried out elections, we simply take within the last month of the expiration of term of Parliament, we should have elections. I do not believe that we should leave the term open, that elections will be held. So, in this case, I am saying that we should do it in the last month. Even when the Parliament has been extended, the extension is known. If it is six months, what I am saying is that, within the last month, elections must be held. I beg to move.

MR. HASHAKA JACKSON (Kibale County): Thank you, Madam Chairperson. Madam Chairperson, I wish to amend slightly the amendment of Hon. Dr. Kaberuka. That instead of 30 days, I move that a general election of Members of Parliament shall be held within 60 days before the expiration or extension of the term of Parliament. I beg to move, Madam Chairperson.

THE DEPUTY CHAIRMAN: Is that seconded? Let us hear from Hon. Kaberuka, because he is moving a Motion on a Motion.

DR. KABERUKA: Madam Chairperson, if I noted correctly, Hon. Hashaka has not been seconded. But even if he was seconded, I wish to point out that, the question of mentioning extension should not arise. Because once you extend, that is a term of Parliament and therefore, we just look at when it expires. So the question of bringing in extension should not arise. Now, as to whether we should have 60 days, Madam Chairperson, I think that is not correct. Because these people have got five years. We have said that, they should have five years. And I am saying that, we should carry out elections in the last month of their 5th year. And I beg the Hon. Members to support that idea. I thank you.

MR. BIDANDI SSALI: Point of clarification. Madam Chairperson, I am seeking clarification from the mover. I was not clear in my head, what comment or what explanation he gave as a differ-

ence between our having fixed the date for the election of the president and his objection to fixing the date of Parliament. I just want that clarification before I make up my mind to contribute whichever way.

MR. ELYAU: Point of clarification. Thank you, Madam Chairperson. I wanted this clarification. Supposing now, in Uganda today, we had expected NRM Government to hand over its activities January of this year. But because the Constituent Assembly requested for more extension, we got the National Resistance Council extended indefinitely. Can I be clarified? Which is going to be the date that people are now waiting so that the election of Parliament takes place according to his proposal?

HON. KAGIMU: Point of clarification. Thank you very much, Madam Chairperson. The clarification I am seeking is that, as you know, Madam Chairman, when the elections have taken place, there are petitions. And people need time to lodge the petitions, and the petitions have to be heard by the courts. Now, if you hold it within 30 days, do you think there will be enough time for appeal and for the courts? I am seeking clarification. Because the mover Hon. Hashaka who brought 60 days may be that one, if the Mover Dr. Kaberuka may clarify whether that one, would not suffice to cater for those petitions. What intention does he have for petitions and such other cases? Thank you Madam Chairperson.

AN. HON. MEMBER: Thank very much, Madam Chairperson. Madam Chairperson, some of us are opposed to the idea of fixing the date right from the beginning. Even the presidential date and we are on record for that. Now, I would like Hon. Kaberuka to clarify to me. Because why Members wanted to fix a date is to reduce manipulation and all these other factors. And some of us in our arguments, we are not for fixing. We wanted at least a period but a narrowed one like a week or first two weeks of January or something. So, why is he giving a lot of room, why is he not narrowing it down say to first week of a given month or the first two week? So that, it comes nearer to the idea of fixing the date.

DR. KABERUKA: Thank you, Madam Chairperson. I will begin with the last one. First of all, as Members have always been pointing out, fixing a particular date is not tenable. Because what people are doing is that, you fix it, some are pegging it to

presidential elections. Now, the reasons we have been given. In the case of parliament, if for instance we were sure of the beginning that could make sense. But since we are not sure, all that I am saying is that, we should have directions in the last month of the life of parliament. Hon. Kagimu was wondering as to whether we can handle petition. Now first of all I do not think that, there will be petitions on all, in all constituencies. I do not think so. But in any case, where there is a petition, Hon. Kagimu himself is aware that he came one month later. So what will stop him from joining Parliament one month late? We would be worried if there was only one seat of Member Parliament, but there are so many. So, those who are being petitioned will have to wait like you did. I hope you will not have to do that this time. The extension of National Resistance Council which was consequential to the extension of Constituent Assembly, I do not envisage that one. Because this was a special case. Because where you have an extension which is begged to the extension of Constituent Assembly. But in future, what we have provided for are the extensions which have got a specific period. And therefore, that does not arise. I think the first one which was fixing the date contingent upon that of presidency, we have already answered. I thank you.

MR. BIDANDI SSALI: Madam Chairperson, what I wanted Hon. Kaberuka to say is, is he saying at the reconsideration he is going to move to quote the date already fixed for the election of the president? That is all I wanted to say.

THE DEPUTY CHAIRMAN: Hon. Kaberuka, he is saying that, you have already fixed the date for the election of the president. In light of your Motion, what are you going to anticipate?

DR. KABERUKA: Madam Chairperson, presidential elections are different from Parliamentary elections. But even in that case, given the reasons people have given, that date itself is problematic. Because if for instance a president resigns. Assuming that he resigns in March, then in our constitution we are saying that, the person who takes over, will do that, for 6 months. Now, the 6 months in that case will fall in September. Now, what will happen between September and February? Madam Chairperson, that date is obtainable and I think at later stage, I imagine it will be one of the inconsistencies that we shall find in our document and I hope we shall move to remove it. I thank you.

MR. MULENGA: I thank you, Madam Chairperson. That last sentence by Hon. Kaberuka. It seems that, what he is proposing is inconsistency with what we have passed. And he is now saying, at a future date, we will make sure what we passed before is cancelled. Madam Chairman, however, what I wanted to point out is this, in the drafting that we made which he is trying to amend. We deliberately used the expression, shall be held not less than 30 days before the expiration. He is saying within. I do not know whether this is within 30 days, I do not know whether this is deliberate. Because in our case, we had wanted to ensure that there is a time between election of Parliament and when they take over. To give the old one time to wind up and so forth. Is it deliberate that he would make a provision which might lead to an election being held even on the last day of the outgoing parliament?

DR. KABERUKA: Madam Chairperson, I did that deliberately. Because as you will note, not less than 30 days, can even accommodate 12 months before. And therefore, I am being specific that these people should be seen to have run for 5 years. So that, if you carry out elections within the last month of their tenure of office, I think that is better than having to terminate them a year before. Because when you say, 'not less than,' you leave it open. They can even serve for three years, and then you carry out elections.

MR. MULENGA: No, but it says, 'to the end of term.' So, the term will be completed.

DR. KABERUKA: In mathematics Madam Chairperson, when you say, not less than the other end is open. So, it is open to 2 years, to one year and half or to two months. But what I am saying is that, these people should serve five years. And therefore, in their last month, elections should be held and they hand over to the next parliament within that time.

THE DEPUTY CHAIRMAN: Hon. Delegates, I think we have spent enough time, let us clear this before we run out of problems of our numbers. And Hon. Kaberuka is saying, he wants to pass his proposal. We have covered 134 (1). I now put the question.

(Question put and Agreed to)

THE DEPUTY CHAIRMAN: So that takes care of 134(1) and (2) combined. Now we go to three.

MR. MULENGA: Madam Chairman, Clause 3 which becomes 2 would read: *"When a vacancy exist in parliament, the Clerk Department shall notify the electoral commission in writing within ten days, after the vacancy has occurred and bi-election shall be held within 60 days after the vacancy has occurred."*

THE DEPUTY CHAIRMAN: I now put the question.

(Question put and agreed to)

Clause 4.

MR. MULENGA: Clause 4, notwithstanding Clause 3. Now we shall say Clause 2 of this article. *"Bi-election shall not be held within 6 months before the holding of the general election of Parliament."*

THE DEPUTY CHAIRMAN: I now put the question.

(Question put and agreed to)

MR. MULENGA: *"Every person, elected to Parliament shall take and subscribe the oath of allegiance and the oath of the office set up in the third schedule of this constitution and administered by the Chief Justice or judged - at the first sitting of Parliament or by the speaker at any other seat."*

THE DEPUTY CHAIRMAN: I now put the question.

(Question put and agreed to)

Clause 5

MR. MULENGA: *"Except for the purpose of taking the oath referred to in Clause 4, of this article. No person shall sit or vote in Parliament before taking and subscribing the oath."*

THE DEPUTY CHAIRMAN: I now put the question.

(Question put and negated)

THE DEPUTY CHAIRMAN: Now we have disposed off Article 134, as amended. Now, I put the question that, Article 134 as amended do stand part of this constitution.

(Question put and agreed to)

MR. MULENGA: Article 135 deals with Speaker and deputy Speaker. Madam Chairman, the Committee recommends that Clause 1, of Article 135 should read: *"There shall be a Speaker and two Deputy Speakers of Parliament who shall be elected by Members of parliament from among Members of Parliament."* Madam Chairperson, it was proposed to the Committee and the committee was persuaded, or at least a majority of them that, a Speaker needs two deputies. Because of the nature of his work if Parliament is very active. He has to attend conferences and so forth and so he would need a deputy. And now and again, because of the nature of his work, to sitting without going out, Madam Chairman, you know he should have at any given time, there should be two of them around. That was the purpose for increasing the number of deputies. Madam Chairman, I beg to move.

MRS. RWABYOMERE: Thank you Madam Chairman. I just have a quick proposal to make, if it is agreeable to the Chairman of the committee that, from the word *Parliament*. Instead of repeating the words *from among Members of Parliament*, we instead say, *from among themselves*, or *from among Members*, finished. That makes it tidier really. Thank you, Madam Chairman.

MR. MULENGA: I would rather refer that to the Technical Committee, Madam Chairman. Because we stop at Members that will be a question of Members of what? I wish there was a technical officer I could - but really that is a drafting matter that we can leave to this addressing to the Technical Committee.

MR. KAVUMA: Thank you, very much, Madam Chairperson. Madam Chairperson, I see we are providing for a speaker, and mandatorily we are also providing for two deputies. I am not convinced that, at this stage we need to put in the constitution a mandatory provision to require two deputy speaker. I think one deputy would be sufficient to do the job. Because when the Speaker is not here, he would arrange with his one deputy. I am looking into problems of adequate facilitation and possible strains on our meagre resources. I am yet to be convinced Madam. I would rather, we had a Speaker and one Deputy. And even if we thought there would be room for a second deputy, I do not think it should be a matter of 'must.'

HON. DELEGATE: Madam Chairperson, I therefore beg to move that we amend the provision to read that: "*There shall be a Speaker and a deputy speaker.*"

THE DEPUTY CHAIRMAN: Let me hear one view against, then I shall put the question. Hon. Sebi are you against?

MR. BYAKIKA: Madam Chairperson, I support this amendment. Madam Chairperson, two deputies will not be necessary in the real sense. And they will cost a taxpayer a lot of money for nothing. As each deputy will require an office, and secretarial work.

AN HON. DELEGATE: Thank you very much, Madam Chairperson. Surely with due respect to Hon. Byakika, is he in order to be so unfaithful during open day light? Because you said you are looking for a Member who is against, and he is supporting. Is it in order, Madam Chairperson? Because he is even wasting our time.

THE DEPUTY CHAIRMAN: Hon. you are really out of order.

MR. KASANGAKI PANTALEO (Buruli County): Madam Chairperson, I do not intend to oppose the - I was just reminding our colleagues that, in view of today's paper, they have raised the minister's pay, the Speaker's pay to 3.9. Two speakers will cost the nation too much.

MR. BIDANDI: Point of information. Madam Chairperson, the information I want to give the Hon. Member, on what he is trying to quote, I know it from the corridors of the other end. That actually, that was not an increase and it is not salary. But rather, the Bills of Ministers on telephones, on water, on transport, on anything, was being mounted on the Ministry. And some of it was 8 million per month, 6 million per month. So, the government was saying no you can only spend up to this much and to make sure that, you do not go beyond we shall give you that and it is up to you. If you use your telephone bill, beyond two million, we are only giving you that, and it is up to you, to find out the balance. That was the information for the Member.

THE DEPUTY CHAIRMAN: Okay, thank you very much for that information, and I think Hon. Kasangaki is satisfied. Now, I want to put the

question. I now put the question that those in favour of Hon. Kavuma's Motion that we have only one Deputy.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, one is passed and we are having a speaker and one deputy.

MR. MULENGA: Clause 2. "*A person shall not be qualified to be elected Speaker or Deputy Speaker if he or she is a Vice president or a Minister.*"

THE DEPUTY CHAIRMAN: Those in favour.

(Question put and agreed to)

MR. MULENGA: Clause 3, subject to Clause 6 of Article 134-

THE DEPUTY CHAIRMAN: Hon. Delegates, I think we better alert the delegates that there was a correction in case they are using the old paper.

MR. MULENGA: It should be subject to Clause 5.

THE DEPUTY CHAIRMAN: But earlier on, you had said 6, is it 5

MR. MULENGA: It has become 5 because of the amendment in Article 134, Madam. "*Subject to Clause 5 of Article 134, no business shall be transacted in Parliament other than an election to the office of speaker at any time, that office if vacant.*"

Clause 4, The Chief Justice or a judge designated by the Chief Justice shall preside at an election of a speaker."

THE DEPUTY CHAIRMAN: Okay, there is no problem there. The Ayes have it.

MR. MULENGA: "*5, an election to the office of Deputy Speaker shall be held at the first sitting of Parliament after that, the office becomes vacant.*"

THE DEPUTY CHAIRMAN: The Ayes have it. There seem to be no problem.

MR. MULENGA: "*Clause 6, the Speaker or Deputy Speaker shall vacate his or her office-*

- (a) if he or she is appointed to any public office;
 (b) if he or she becomes a minister;
 (c) If she or he resigns his or her office by writing signed by him or her addressed to the Clerk of parliament;
 (d) If he or she ceases to be a Member of Parliament; or
 (e) if she or he is removed by resolution of parliament supported by not less than two thirds of all Members of parliament."

THE DEPUTY CHAIRMAN: The Ayes, have it.

MR. KAVUMA: Point of clarification. Thank you, Madam Chairperson. I am really seeking clarification from the Chairman of the Committee. We are here, talking about removing the speaker. I want to find out whether they have considered the question of who chairs the meeting in which a resolution to remove a Speaker is being debated. Is it the deputy speaker who may be an interested party or just any other parliamentarian or is it the Chief Justice? I want that clarification, Madam Chairperson.

MR. MULENGA: That matter was not considered.

MR. KAVUMA: That being the case, Madam Chairperson, and subject to what I am going to move to be found the proper place or positioning. I want to move that, in the event of debating a Motion for the removal of the Speaker, the Chief Justice or a judge designated by the Chief Justice should preside over that meeting. Madam Chairperson, really the reason is that, I think when you come to debating the removal of the speaker which is a very, very important office, we need to have somebody who is impartial to be stirring the cause of the debate. An argument could be raised that this could infringe the principle of separation of powers. But since the transaction of the business really, here is just removal of a speaker and to ensure that another one is properly appointed and since already in 4 we are saying the Chief Justice or a judge designated by the Chief Justice shall preside in an election, for a speaker. I think that argument would not hold. I therefore appeal to Members to consider this favourably so that we allow the Chief Justice or a judge designated by the Chief Justice to preside over while a motion for the removal of a speaker is being debated. The deputy speaker would have been the next choice could very well be an inter-

ested party it the removal of his boss and I think it will raise a question of credibility. There could be a likelihood of buyers and undue influence in debating this motion. I beg to move Madam Chairperson.

THE DEPUTY CHAIRMAN: Can you please bring your motion in writing? Hon. Mulenga, any contrary view?

MR. MULENGA: Madam Chairperson, I can only make this observation that election of the speaker is very different from the motion to remove the speaker. In election, there are likely to be no controversial speeches and things like that. Whereas if the Parliament or a section of Parliament is moving to remove the speaker, you can anticipate a lot of debate, with the Chief Justice ruling and being dragged into what would necessarily be political debate. I have reservations about this. In ordinary circumstances, we have a chairman and his body and there is question of moving a vote of no confidence on the chairman. I think ordinarily, a member of that body would be elected or appointed to preside. So I would be more inclined to a provision which says that a Member of Parliament elected for that purpose shall be asked to preside rather than bringing in the Chief Justice or judge of the court. I think on this one, we can work out together to design the necessary amendment.

MR. SAM RINGWEGI (Padyere County): I thank you Madam Chairperson. Madam Chairperson, I am finding it difficult to disagree with Hon. Mulenga my chairman but yet it is important that I should support the proposal by Hon. Kavuma. Madam Chairperson, contrary to what Hon. Mulenga has expressed as a reservation, I find the Chief Justice a much better person, a much more suitable person to preside at a meeting of Parliament which is going to decide the fate of the speaker. Why am I saying so? Here, the Chief Justice is not going to sit in his judicial capacity. He is only required for his impartiality. In any case, the proceedings of Parliament will have to be concluded by a vote. Therefore, the Chief Justice will not be required to make rulings which will amount to a judgement on whether or not the particular speaker should be removed. The removal of the speaker will be decided by the voting in the Parliament. Therefore his presence is merely that of a steering person. He is only there to steer the debates of these proceedings. Therefore, Madam Chairperson, it would only be fair *-(Interruption)-*

PROF. SENTEZA KAJUBI: Point of clarification. Thank you Madam Chairperson, I would like to seek clarification. We have passed Clause 133 (6) which states that except for the purpose of taking the oath referred to in Clause 4 of this article, no person shall sit or vote in Parliament before taking and subscribing to the oath. I am wondering whether the Chief Justice or a judge appointed by him will now take the oath because it is only under the administering the oath that any person who has not taken the oath can sit in Parliament. I would like to seek clarification on that.

MR. OGOLA AKISOFERI (West Budama South): Madam Chairperson, thank you. My request had been actually to make substantive statement on that amendment Madam not just clarification. May I reserve my position?

THE DEPUTY CHAIRMAN: Let Hon. Ringwegi finish.

MR. OGOLA: Thank you.

MR. RINGWEGI: Thank you Madam Chairperson. On the clarification sought by Hon. Senteza Kajubi. Although it is not directly related to the motion that I am contributing to, I would only say that if this amendment is to pass, the amendment introducing the concept that the Chief Justice should preside at a meeting of Parliament seeking to remove a speaker. Then what would be required is only to harmonize this particular amendment with that one he is talking about. Then the confusion will not arise. Madam Chairperson, I would like to wind my contribution that the Chief Justice has been instrumental in presiding at the sitting of Parliament when a speaker is being elected. It would therefore be fair that if Members are dissatisfied with their speaker, the person who presided at his election should also preside at his removal. I therefore would like to support the insertion of that new clause as proposed by Hon. Kavuma. I thank you Madam Chairperson.

PROF. KABWEGYERE: Thank you Madam Chairperson. I am actually on a different subject. I was seeking clarification from the committee whether they considered the practice in other countries particularly Britain. When a speaker is elected a speaker, he remains a speaker and no election takes place in his constituency until he retires. The post of speaker is so dignified that when you are elected a speaker, you are kept in the office until you

retire.

THE DEPUTY CHAIRMAN: Okay, let us finish with Hon. Kavuma's motion. Is it on Hon. Kavuma's motion?

MR. OGOLA: Thank you Madam Chairperson. Madam Chairperson, I have some worries with the motion by Hon. Kavuma. If the Chief Justice is coming to Parliament to be in charge of this procedure and we have a scenario where this speaker is removed and he is not satisfied with the removal and he wants to go to court to challenge his removal, this brings in the interpretation of the constitution. It brings in the question of whether the Chief Justice properly carried out the elections. I have my fears of having to drag the Chief Justice into this political thing because eventually, it is the constitution which will have to determine that. Thank you Madam Chairperson.

MR. KAVUMA: Madam Chairperson, my response would be that in the unlikely event of that happening, what would happen is that since this is a constitutional provision, the matter would be referred to the constitutional court. And if the Chief Justice is to be a member of the constitutional court and he is the person who conducted this or who presided over this matter, then for the sake of justice, he should disqualify himself. He would not sit to consider that matter when his learned brothers are sitting to consider.

MR. MULENGA: Point of information. Madam Chairperson, I wanted to inform Hon. Kavuma that although it is not yet passed, the recommendation we are making for composition of constitutional court is the full court. So he cannot step down. The Chief Justice would not step down.

MR. KAVUMA: So Madam Chairperson, thank you very much for the information of Hon. Mulenga. If this House believes that this is a fair way of dealing with the matter, when we come to consider the composition of the constitutional court, we shall take into account what we shall have passed here to provide so that if this event happens, then we have a provision to cater for it. But I think it is important to have impartiality in the removal of the speaker from the National Assembly.

THE DEPUTY CHAIRMAN: Hon. Delegates, will it not be fair as this is something new, to consult the technical committee? Because most provisions

we have brought in on the Floor where we are not clear, you will find it with the drafting and technical committee and we are sure and they will take care of the subsequent areas and the mover will be a party to that group because it is new.

MR. ADYEBO COSMAS (Kwania County): Point of clarification. Madam Chairperson, I would like thank Hon. Kavuma for bringing up this amendment which to some Members appears to be new in that we are trying to drag the Chief Justice into the legislature. But Madam Chairperson, this is not a new concept. I will recall that and I would like to remind Hon. Members - during the removal of the President in this constitution. We have actually brought the Chief Justice in whereby if the President is to be removed by resolution of Parliament. That resolution has to go through the speaker who within 24 hours will have to channel it to the Chief Justice who in turn will have to constitute a tribunal within seven days. So really there have been constitutional matters whereby we feel that the Chief Justice should be brought nearer. And Madam Chairperson, I would straight away even minimise the time of this discussion by even proposing the amendment to be incorporated within that provision (e). By saying, if or she is removed by resolution of Parliament supported by not less than two thirds of all Members of Parliament chaired by the Chief Justice. We can accommodate this amendment within that sentence and we stop there. Madam Chairperson, the Chief Justice is actually a person who is taken in this country as the centre for transparency and he is not biased. I think when we have a controversy in the Parliament, it would be important to bring him. He is in charge of the administration of justice in the country and I think it is just in order and I am trying to support very strongly, the amendment put forward by Hon. Kavuma. It is within the constitution. We have ever dealt with the Chief Justice before.

MR. MULENGA: Madam Chairperson, I wanted to explain that what Hon. Ayebo has referred to is the case of Chief Justice appointing a tribunal to inquire judicially. That is very different from chairing a meeting of Parliament during a debate of confidence or lack of it where it will be just debate and will be part of it as it will in deciding the fate of the speaker at a political level. This is my reservation about that arrangement. That he will be part of contrary to what Hon. Ringwegi said that he only chairs. He is part of the meeting, he is part of the

decision that is being made to remove the speaker or not to remove him. I can see a situation where he will be so involved in the factionalism that will be going on that is not healthy for the head of the judiciary. That is very different from where a judicial inquiry or tribunal is set up to take evidence and listen and then come to a reasoned judgement. I thank you.

MR. KAVUMA: Madam Chairperson, I think even the way we had proposed this amendment was to a certain extent flexible, because we are saying the Chief Justice or a judge designated by the Chief Justice. So in case the Chief Justice also in his wisdom thinks it may result into some constitutional problems or it may reflect badly on him, there is room to designate a judge who may not be a member of the constitutional court. I think that worry Madam chairperson is well taken care of by our amendment.

THE DEPUTY CHAIRMAN: So Hon. Delegates, why do we not make a decision? Either we take what Hon. Kavuma is giving us off-hand now or we refer the matter to the drafting and technical committee.

ANHON.DELEGATE: Thank you Madam Chairperson. Madam Chairperson, I believe that all of us agree to the principle that we need some kind of impartiality when it comes to the issue of removing the speaker. I have not seen anybody opposing that kind of impression. So I believe the impasse we have is to find out who is the utmost credible person to chair the Parliamentary session to remove the speaker from office. I think the best we can do is to seek guidance from the technical committee and find out their response and then we duly proceed to make decisions concerning the same. I would support your idea that we refer the matter to the technical committee. Thank you.

THE DEPUTY CHAIRMAN: Okay, we take the principle as brought by Hon. Kavuma and we liaise with the legal and drafting and the technical committee and then they will come out and give us the required formulation. But in principle, it is agreed. That is over. Now I go to Hon. Kabwegyere who has a different view.

PROF. KABWEGYERE: Thank you Madam Chairperson. I have set part of the ideas I had in mind. This whole question of the speaker whether

when the life of Parliament expires, whether he also leaves the position or whether you have a tradition where on the one hand, the constituency remains occupied as long as the speaker is a speaker of the House. He cuts across parties and remains a dignified person in the House. On the other hand, you have a situation where you may replace him on being appointed speaker because he is so dignified that he may not be involved in the ground politics of a constituency. And you could even have a sad situation where the person like in 1985, when a speaker of our Parliament was an active politician in his constituency and in other matters. So I am wondering whether the committee considered any of these. Because the reason why I am doing this is that you can see that the position of speaker is so important that it is clearly provided for. Now, I would want to know whether the committee considered possibilities of either an election in his constituency? Or he or she continuing to be a sitting Member of Parliament? Or whether in fact he remains a Member of Parliament but his constituency is frozen so to speak as long as he is speaker?

MR. MULENGA: Madam Chairperson, the issue was not considered in that context. That is luxury I think because what Hon. Kabwegyere has referred to as a conventional tradition in the UK would not be a constitutional matter I think. To prescribe that nobody shall stand against the speaker as long as he lives, it is more of convention or tradition. But it depends upon the politics of the country. As for saying that he should vacate his seat when appointed a speaker so that his constituency gets another representation, that is debatable. We are already considering the issue of Ministers resigning from their constituencies so that they are placed by other directly elected ones. But this one of the speaker vacating his seat has not been considered and I was saying is debatable.

THE DEPUTY CHAIRMAN: Hon Mulenga, in your opinion, do you think it is worth considering?

MR. MULENGA: I do not think so. I think this is something that can evolve later through practice. The respect that is given to the speaker will eventually perhaps lead to practice.

DR. KABAYO PATRICK (Kassanda South): Thank you Madam Chairperson. I have noted in Clause 3 which we have just passed that no business shall be transacted in Parliament other than the election of the office of the speaker at any time

when that office is vacant. I am wondering who would preside over the session of Parliament if during the time that they are moving resolution to remove the speaker. Who will be in charge when the resolution is being moved to remove the speaker? I am wondering why the deputy speaker cannot take over when the office is vacant.

MR. MULENGA: Madam Chairperson, that is precisely what has been referred to the technical committee to advise on who should preside. Views were expressed about the speaker, about others. So I think Hon. Kabayo was out perhaps.

THE DEPUTY CHAIRMAN: So as we have not fully put the question. Could we say that we look at Hon. Kavuma's provision and number three and synchronize them? Because you are referring on number three.

MR. MULENGA: No, but number three Madam Chairperson says, no business shall be transacted in Parliament other than an election to the office of speaker at any time that office is vacant. The one who presides when the speaker is being elected is the Chief Justice.

MR. OGOLA: Madam Chairperson, I know the matter has been swinging from one side to the other and I thought that at one time you had already ruled that we would refer this matter to the technical committee. I had not difficulty with that. But now that you have given me a chance -

THE DEPUTY CHAIRMAN: No, no, you said it was a different issue.

MR. OGOLA: No, I did not say it was a different issue. I had said I was going to wait until the discussion on the Chief Justice is propriety to chair the removal of the speaker.

THE DEPUTY CHAIRMAN: Okay, then if that is the case, you can join Hon. Kavuma and his group and you give your views.

MR. OGOLA: I agree Madam Chairperson. Thank you very much.

THE DEPUTY CHAIRMAN: But did we consider (e)? Because Hon. Kavuma in before we had considered (e). Do we take it also? Hon. Mulenga, you better introduce (e) and we get it out of the way.

MR. MULENGA: (e) or 7?

THE DEPUTY CHAIRMAN: (e). You see, as you were going to have it, Hon. Kavuma interjected and brought a different issue. I have not ticked it.

MR. MULENGA: Oh! Sorry but I have read it. It is already on record.

THE DEPUTY CHAIRMAN: No, you had not.

MR. MULENGA: (e) I read but I can read again.

THE DEPUTY CHAIRMAN: Please!

MR. MULENGA: *"If he or she is removed by resolution of parliament supported by not less than two thirds of all Members of Parliament."*

(Question put and agreed to)

MR. BASALIZA: Thank you very much Madam Chairperson. Madam Chairperson, I am seeking clarification from the chairman of committee two. Among these provisions, there is none which caters for the speaker or deputy speaker when he or she becomes incapacitated or when he or she dies. I do not know which provisions caters, for such eventualities. Thank you very much Madam Chairperson.

THE DEPUTY CHAIRMAN: Will (e) not take care of that? Because you have not specified the cause of the resolution.

MR. MULENGA: If he dies, definitely he ceases to be a Member of Parliament.

MR. BASALIZA: If he or she is incapacitated? Madam Chairperson, I am particularly trying to - the person who has been incapacitated, who is moving in a wheel-chair, who cannot chair these meetings. Which provision will cater for such eventualities?

MR. KAGIMU: Thank you very much. Madam, I insisted on my hand but you closed the topic. Madam chairman, I was asking the legal and drafting committee whether it was not proper to put conditions under which this man could be removed - sorry, under which the speaker could be removed so that we do not leave it open like this, to be consistent. We have been doing it everywhere that if he becomes incapacitated, if he becomes of unsound mind and so on. I think the legal and drafting committee - I thought that would cater for

the honourable who has just sought clarification, Mr. Basaliza. When these people come to the legal and drafting committee, they put terms under which the speaker will be removed not out of malice.

MR. SEBALU: Thank you very much Madam Chairperson. Hon. Basaliza has brought the issue of when the speaker is incapacitated for one reason or another. But then we have already provided for a deputy speaker. Is he not the one who is supposed to take charge in such circumstances?

MR. MULENGA: Madam Chairperson, this question of the grounds was not going to depth because it seems we took the view that a committee or Parliament, the membership as such having elected the man because of the confidence they had in him, must have the right. If they lose confidence in him to remove him, to move a vote of no confidence. That could be because he has started being unfair, he has lost impartiality. It might be more difficult to ground specific grounds like we have done elsewhere.

THE DEPUTY CHAIRMAN: Okay, I think that is clear enough. So it seems we have cleared 6. We can proceed.

MR. MULENGA: So then Clause 7, *"The speaker and deputy speaker, now that he is one, shall receive such salaries, allowances and gratuity as may be prescribed by Parliament. The salaries, allowances and gratuities of the speaker and deputy speaker shall be charged on the consolidated fund."*

(Question put and agreed to)

Clause 9:

MR. MULENGA: *"The speaker and deputy speaker shall each before assuming the duties of office take and subscribe to the oath of office prescribed in the third schedule of this constitution."*

THE CHAIRMAN: So I put the question on 135 as amended, that do stand part of the constitution.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: And I think this is a convenient place to adjourn until tomorrow at 9.00 a.m.

(The Assembly rose and adjourned until Thursday)