



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

MONDAY, 23RD JANUARY 1995

MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 2761]

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Monday 23rd January, 1995.

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

NATIONAL ANTHEM

P R A Y E R S

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

(The Assembly was called to order)

CONSIDERATION STAGE OF THE DRAFT
CONSTITUTION OF THE REPUBLIC OF
UGANDA

THE CHAIRMAN: Hon. Delegates, the Clerk has called Article 233 under Chapter Fourteen - Defence and National Security. I am advised that you had exhaustively debated that particular Article particularly in relation to Clause (1), the office of the Commander of Armed Forces and what was more or less left was to make a decision. The recommendation from the Committee was that Article 233 in its entirety be deleted and there were views to the contrary as can be evidenced from the responses just now. So do we constitute a voting quorum? I will ask the Clerk to ascertain.

BRIG. KYALIGONZA (Buhaguzi County): Mr. Chairman, I welcome you from your brief recess. It is true there was a heated debate regarding this clause. It is true there are up to now varied opinions regarding the proposal by the Select Committee No.3. Mr. Chairman, it is true as you rightly put it that there was exhaustive debate but it is again true that by a wise ruling of the Chair, it was then decided that some Members appeared to be willing to contribute and judging from the mood that was prevailing then, it was resolved that the debate be adjourned which it was and today, Mr. Chairman, I was among those who wanted to contribute if given an opportunity now. Mr. Chairman, I never contributed no did I even given information. I have not contributed substantively I want to contribute towards this Motion. - *(Interruption)*.

THE CHAIRMAN: Order, order!

BRIG. KYALIGONZA: Mr. Chairman, I hope the Hon. Members will realise that this is a very sensitive issue - *(Interruption)*

THE CHAIRMAN: Could you come to your contribution.

BRIG. KYALIGONZA: Thank you for allowing me to contribute now. Mr. Chairman, before I give my substantive contribution towards this Article, I would like to call the Hon. Members to realise that this particular Article we are talking about has some technical components and of which, at a given moment, those who may be privileged to have some information to give could do so for the benefit of this House.

Mr. Chairman, during our discussion and contribution, some Members were slightly confusing the two issues - the office and the functions of Army Commander. It is true that Committee 3 recommended the deletion. It was deleting the recommendation of the Odoki Commission as given which was: "*There shall be the office of the Army Commander of the Armed Forces*". And I am contributing to the contrary. I am saying there shall be a Commander of the Armed Forces.

Mr. Chairman, the office of the Army Commander is very sensitive in as far as our local politics of Uganda is concerned. Many of you Hon. Members who might be following the historical background of this country, the mess and evils that have happened in this country have been as a result of the mismanagement by the people occupying those offices and sometimes through bad advice which the occupants of those offices have taken and, therefore, we the subjects, the Uganda citizens fell prey to the mismanagement of those offices. So, Mr. Chairman, I am saying that this office has its own political importance in as far as preserving peace, security and tranquility of this country is concerned. It is true there are already sentiments of some Hon. Members who believe that if this office is constitutionalised it will cause the occupants of this office to become untouchable, to become stubborn or sometimes cause the office of the Executive of the country difficulty to manage it because the Army Commander, if he is entrenched within our Constitution - *(Interruption)*.

THE CHAIRMAN: There is a point of order please give way. Information, will you take it?

BRIG. KYALIGONZA: I was trying to develop my point, may be he will inform me after I have

finished but if you are giving information, I am not accepting to take it.

THE CHAIRMAN: Well, you proceed. He is not taking information even clarification.

BRIG. KYALIGONZA: Mr. Chairman, the office of the Army Commander is important in our situation if it is properly understood and properly interpreted. This office, given the situation that our country now has an office of the Army Commander but when the Army develops, we shall also change the titles accordingly. For instance, if we develop our Army and had a Marine, an effective Air Force and so on, then we shall have Commander of a different magnitude but today we have a Commander of the Army and that is why Mr. Chairman I am proposing that instead of us saying there shall be the office of the Army Commander, I beg to move that we delete the word "*office of the*" and have "*a Commander of the Armed Forces*". That is, "*There shall be a Commander of the Armed Forces*".

THE CHAIRMAN: You see, Hon. Kyaligonza, what you have done is, you have made a long statement and then at the end of it moved a motion, the practice is that you should have moved your Motion, get seconded and then made a statement on it. I thought you are making a general contribution on the original Motion of deletion but never-the-less, I find that you have made a proposition, it has not been seconded so we proceed to debate the original one. He is seconded by Hon. Langoya, is it?

MR. LANGOYA: Yes.

THE CHAIRMAN: Okay, you have the arguments in favour of the Motion and the Motion is that instead of deleting, there should be an amendment.

MR. AMAMA MBABAZI (Kinkizi County West): Thank you, Mr. Chairman. I am raising a point of procedure because the Motion on the Floor is for deletion. Now, he is bringing a Motion for amending the Draft. My understanding of the rules is that we start with the one which departs furthest of course. So if he has a Motion to delete and it is the one being debated, is it possible to raise that kind of Motion?

THE CHAIRMAN: No, that one can only be sustained if we dispose of the first one and find the answer. If we put the question on the first one and it

is carried then there is nothing to amend. If it is defeated then we go back to the text and see if it stands part of the Constitution and in doing so, he can then move an amendment to clarify what has been left because as you have correctly said, deletion departs furthest from the one which is seeking to amend the text.

DR. MAGEZI (Jinja Municipality East): Thank you very much. Mr. Chairman, I would like to be extremely clear over what you have just ruled because I did ask, when we were dealing with the previous Article 231, whether having thrown out the recommendation of the Select Committee, we could pronounce ourselves on the text of Odoki and you said, no it was not necessary because once you throw out what has been reported by the Committee, automatically the text holds which I found a little bit difficult to understand. I would like therefore to know if, in fact, when we throw out the proposed recommendation we can move amendments on the Floor on that particular clause in question, Mr. Chairman.

THE CHAIRMAN: We received a report from the Committee which recommends that Article 233 be deleted in its entirety. We debate that as a recommendation to us from the Committee and we decide - and we vote or decline to take the recommendation. Then we finish with that Motion. If for instance it was to be defeated, for arguments sake, then there would still be the text appearing in the Odoki statement that "*there shall be the office of the Commander*". So now, a question would be that this now do stand part of the Draft Constitution as it appears here and then Members can make an amendment on the Floor if there are no substantive amendments more or less to make useless the work of the Committee which we gave the job. And so, here what I am going to do is that we first of all decide the fate of the recommendation from the Committee and then see what follows from there.

MR. MULINDWA BIRIMUMAASO (Bukoto West): Thank you, Mr. Chairman. I lost the time last time to contribute. Mr. Chairman, I am completely in for the deletion for the reasons that the prominence Members are trying to give this office will create a situation where the hopefuls to be Army Commanders - may be they will be in Parliament at that time as representatives of an interested group - will be lobbying. So you end up with a situation of having someone scheming to become an Army

Commander through Parliament and the result will be to have a populist Army Commander and the situation as I see it may be possible, someone to be in Parliament and really try to woo Members and end up with someone on a populist front not to be effective, not to be fully knowledgeable on the matter of command but because he has managed to lobby, you end up with a populist officer becoming an Army Commander. And secondly, Mr. Chairman, when we talk about command, I think the emphasis should be put - *(Interruption)*

THE CHAIRMAN: Hon. Mulindwa, I think there is clarification being sought.

MR. BEN WACHA (Oyam North): Mr. Chairman, Sir, I want to seek a small clarification. The Hon. Member says if the provision is left in this manner, then some people who might be in Parliament might start lobbying to become Army Commander. My point of clarification is, who does he envisage to do the initial appointment, will it be Parliament or some other body?

MR. MULINDWA BIRIMUMAASO: Mr. Chairman - *(Interruption)*.

THE CHAIRMAN: Well, that is anticipating because we have not yet come to 234 but for the benefit of the Members and guidance of debate, it is in 234(1). It is the President with the approval of the National Council of State which, as you know, has been condemned. So in absence of an insertion, it will be the President, assuming that is carried, that is why I am saying it is some kind of anticipation. Please could you wind up your remarks.

MR. MULINDWA BIRIMUMAASO: Thank you, Mr. Chairman, because I think you have done the clarification on my behalf. Mr. Chairman, I was saying that the emphasis should be put on how the Commander in Chief comes into place and when we ensure that he has come into place democratically, then when we talk about command, then we should not constitutionalise the one who would be sort of the administrative officer of the Army. The commander should be derived straight from the Commander in Chief. The importance Members should attach is how this Commander in Chief comes into place because Members try to give a lot of prominence to this office. This office to be what it is depends on how the Commander in Chief comes into place and how the whole structure of the Army from down upwards

is otherwise changing. Even if you were to bring someone else, say Opon Achak to be Army Commander, now I would not think things would change much. The whole structure is very important so I would urge Members not really to attach very much importance, to constitutionalise this office because as we said the other time, if any conflicts develop between the Army Commander and the Commander in Chief, both of them are constitutionalised, I do not know what is likely to happen. Thank you, Mr. Chairman.

THE CHAIRMAN: I will hear one against the Motion and one for and then we pronounce ourselves.

MR. ELYAU (Kalaki County): Thank you, Mr. Chairman. Mr. Chairman, until I am convinced beyond doubt, the other day when we passed Article 231, Clause (2) which says the Army should not be non-partisan, should be patriotic and so on, now this one gives me to think that the Army really should be an entity which is professional. Supposing, Mr. Chairman, we have a President who is a politician and at the same time is, may be, an Army man, which role should he play to satisfy this nation? This is where things confuse some of us who are not military men. We want to make sure that is why we are fearing to put this office there since it is being appointed by the President and it must have loyalty to the President, now what fears are there? So for me, I want to specify that the Army should remain non-partisan, it should remain professional and that office is there for the sake of having it because the Police has got one, the Prisons has got one, why are we fearing? Why are we belittling the Army at this stage? What is wrong? Because now it may be well but what about tomorrow? For example, I want somebody to clarify to me, why is it that we have the Army Commander now when the NRA is doing very well and we want to remove it away because we are soon doing what? These things defeat some of us who want to find the truth about all the arguments. So I propose that what has been in the Draft is more appropriate because it merely gives a chance to the President to appoint the Commander and the Commander will function like an efficient and a professional man in the Armed Forces not necessarily somebody who would want to be a President. Those were past days but today, we are talking of a civilian country, a civilian Army which understands the people. So I am opposed until I am convinced beyond doubt. Thank you, Mr. Chairman.

MR. PATRICK KASAJJA (Bulamogi County): I am against the recommendation.

THE CHAIRMAN: Then I am picking someone who is for because - *(Interruption)* No, this side someone has already spoken. Hon. Tumukunde. I assume you are speaking for the Motion.

MAJ. TUMUKUNDE (Rubabo County): I am for the Motion. Mr. Chairman, we members of the Armed Forces - *(Interruption)* - I should be given a chance to finish my statement, Mr. Chairman. I am an Army Officer on leave, I hope everybody knows that. Mr. Chairman, I am also a Member of the National Resistance Army - *(Interruption)*.

THE CHAIRMAN: I think the better way to put it, you should have stated it that in your other capacity elsewhere.

MAJ. TUMUKUNDE: In my other capacity elsewhere, Sir, the Army Officers should be - the Army representatives here should be battling to be represented and constitutionalised in this Draft we are trying to pass here. When you see the Army not doing it, I think it should then call the attention of the rest of the Members of this House to wonder why we are not doing it. The best reason that is being advanced, Mr. Chairman, is that there is something suspicious, a conspiracy, something funny. The truth is this, Mr. Chairman. One, we have the problem, we people in the Army are used to very clear channels of orders and instructions. Even if you are two Army Officers who are of the same rank, seniority shall be determined may be by the number. If you are number 71 and one is 72 you will easily tell who is senior.

So, in our situation in the army, the chain of command and the flow of orders cannot be interrupted but here, there is an absolute need which, I think, Mr. Chairman, nobody challenges in this House that the politicians must control the Army. If politicians are going to control the Army therefore, Mr. Chairman, there is an absolute need that we introduce a chain of command that will combine the political and military interest without any serious obstruction. In this case, Mr. Chairman, we have already a Commander in Chief whom we have constitutionalised and he is supposed to take the operational command role of the Army. If we constitutionalise another office, this time in the office of the Commander of the Armed Forces, we stand an absolute danger of creating

unnecessary security to another office that is likely to challenge the top office of command. Mr. Chairman, once this happens, we stand a danger of having very, very unacceptable conflicts in this country.

Mr. Chairman, another option another reason, Mr. Chairman, is that we have - *(Interruption)* I am not taking information, Mr. Chairman, until I finish advancing one or two major points. I will accept information later. Mr. Chairman, when it comes to an Army Commander who is secured by constitutional rights, who might even have the brilliancy to campaign in Parliament and challenge the office of the Chief in Command, we stand a danger of clash of conflicts. If they clash, I think the most likely alternative is that that government will go. I feared the argument the other day, Mr. Chairman, that if the President goes, then Parliament goes. All we are doing, Mr. Chairman, is to safeguard any kind of those situations. Mr. Chairman, I will want to quote the example of Burundi and Liberia where you find that there was a clash between the top authority and the military structure. For example, in Burundi because there had been a military government for very long, it had almost become a presumed part of their constitution that the Army could object political orders and because they are constitutionalised and because there are mistakes of which we are about to repeat here, when the political commander or the Commander in Chief challenged the Army, the Army took a position and they said, No! All this we are doing is to make sure that in case tomorrow there comes in - especially a civilian President, Mr. Chairman, he should not be in any way hampered by the constitutional power of the Commander of the Armed Forces.

Another thing, Mr. Chairman, we are fearing creating power centres. If you constitutionalise an Army Commander that means all orders must be channelled through him. If you channel an order through another channel, you stand a danger of the Army Commander misinterpreting or may be misunderstanding the Commander in Chief and believing that he is side-lining his constitutionalised office. If this happens, Mr. Chairman, there is an obvious chance of clash. In other countries, Mr. Chairman, they have made it so easy for the top man who is known to be a civilian to make sure that if the Army Commander, may be, has a problem like Gen. Collin Powell refused - he disagreed with the attack of Iraq but the Commander in Chief had made a point and a decision to attack Iraq. He moved and objected to

Gen. Collin Powell, he said, yes, if this is your view, let it remain yours. He moved and approached other chiefs in the other forces, the Air Force and the Navy and the Army and, in fact, particularly the European Commander at that particular time and he still managed to attack Iraq despite the views of the Chairman of the Chief of Joint Staff and, Mr. Chairman, this is very crucial for a politician who is likely to inherit an Army like NRA. Mr. Chairman, an Army like NRA, Mr. Chairman - *(Interruption)*

THE CHAIRMAN: Please Hon. Tumukunde, there is a Member who has properly addressed a point of order.

BRIG. KYALIGONZA: Point of order! Mr. Chairman, I am Brig. Kyaligonza retired, from Buhaguzi. Is it in order Mr. Chairman for the Hon. Member to confuse the two issues of command and formation of office in his deliberations?

THE CHAIRMAN: I have to rule on that. The Member is in order, he is saying, he is discussing 233 (1) which talks about both the office and also a person, someone who is called Commander of the Armed Forces. So he is talking about the two and they are both provided for in 233 (1). Please go on and wind up please.

MAJ. TUMUKUNDE: Mr. Chairman, I do not have to comment heavily on the order it is already well laid but, all I was saying, Mr. Chairman, is that the office, structure and the person, especially when it has to do with a military office could as well be the same. So, Mr. Chairman in summary, even this is technically wrong to have Mr. Chairman. It is technically wrong for us now, at this stage and period to start developing offices when we do not know how far we are likely to go into the development of this Army. Mr. Chairman, the Army is very young, it is only recently that we have put on an establishment Mr. Chairman, we have a very weak marine, we have got a very, very ill equipped Air Force. We have got a young Infantry. All these we are yet to develop. If we start launching constitutional impediments to this development, Mr. Chairman, at this particular time, we stand a danger of halting this Army from further development and, Mr. Chairman, on this point I would want to request this August House to appreciate that it is important even for those - especially many who are here aspiring to be leaders of tomorrow to appreciate that tomorrow we may have to need easier ways of allowing this Army to manoeuvre

its situation into the coming century where technology is overtaking us and many other factors.

THE CHAIRMAN: Hon. Tumukunde, I think you have taken long enough.

MAJ. TUMUKUNDE: Mr. Chairman, one word and I summarise. Mr. Chairman, technicality of it I would want that anybody challenges me on this. Once we say Commander of the Forces, it is even technically wrong, I do not know why they did not seek technical advice. Commander can only be of a Force, it cannot be of Forces and since even this is technically misplaced, that discredits the position of 233 where it is, Mr. Chairman. *(Interjection)*.

THE CHAIRMAN: But you do not inform the person who has left the Floor.

MR. BEN WACHA: But it may influence the decision of the House.

THE CHAIRMAN: No, you are seeking an opportunity to contribute not to inform.

MR. BEN WACHA: No Sir, I will be very brief and give specific information on what he was driving at, Sir.

THE CHAIRMAN: In other words you are going to counter argue his arguments rather than informing.

MR. BEN WACHA: No Sir, I will just giving information if it is relevant.

MR. BEN WACHA (Oyam North): Mr. Chairman, Sir, Hon. Tumukunde raised the issue of conflicts between the person holding the office of the Commander of the Armed Forces and the President. I wanted to inform him that the issue which should hold water under these circumstances is the removal of a person who is holding the office of the Commander of the Armed Forces. This is so because it has already been provided for that the President will be the appointing officer. The approval of Parliament will only be necessary after the President has done the appointment. What the House needs to do then is to provide that in circumstances of removal of the person who is holding the office of the Army Commander, the President should have a free hand and we have a precedent by which we can go. In the United States, there is a provision for appointment of

the Army Commander with the approval of the Senate but when it comes to removal, the President has a free hand. That is the information I want to give Major Tumukunde.

THE CHAIRMAN: Hon. Delegates, I have heard arguments on two sides and there were many arguments, I am told, last week. I find some weaknesses personally in this Chapter - the way it was drafted. For instance, Article 101 talks about the President - I presume that the recommendation has not changed on that one - he is the Commander in Chief of the Armed Forces but when we come to talk about the Armed Forces in that Chapter, there is no role ascribed to the Commander in Chief. They only talk about the Armed Forces and leave out the Commander in Chief. He only appears under the Executive but you do not see his structure being reproduced within Chapter Fourteen and, of course, even the title itself, Defence and National Security as if Defence is not a national matter, it should have been National Defence and Security. Then there is also the question of the Armed Forces. What is Armed Forces? We go on and say Police is a Force. Is it an Armed Force? Is it a reasonable argument if one were to argue later on that by confining the expression "Armed Forces" to the Military, the Constituent Assembly intended to make it clear that Police and Prisons should not bear arms in their coercive operations? These are some of the questions which we should consider even when we are talking about the Armed Forces but I guess it is rather late because that was passed. It can only come at the reconsideration stage. Now, we have reached a stage where I think we should just pronounce ourselves. The question is on the entire clause. Depending on the fate, then we shall see how we proceed from there. The recommendation is that Clause 233 be deleted. I will bear you on voices and subject to that, decide what next. I want to put the question. The Clerk informs me that we are more than the required number to make the decision. So I put the question.

(Question put and agreed to)

THE CHAIRMAN: Order, order. The rules allow only a limited clapping. I will ask the Clerk to tell me whether those standing are 51. Order. Those standing are 33. Now, the recommendation to delete is approved and now Clause 233 has been deleted and, therefore, we go on to the next. I will ask the Chairman of the Committee to proceed on 234.

DR. KABERUKA: Mr. Chairman, having deleted 233 which seeks to establish the office of the Army Commander, 234 was on appointment of the Army Commander and, therefore, my Committee recommended that we delete that since the office is already deleted. I beg to move.

THE CHAIRMAN: Yes, the Motion is that 234 be deleted for the reasons given. Hon. Kabugo, do you want to speak on that?

MR. KABUGO (Nakaseke county): Mr. Chairman, I fully support the deletion of the office, the creation of this office under the Constitution but still the appointment of that officer should not be deleted because if the President is the appointing authority of his Commander, Parliament will have to approve. This is why I am in to retain 234.

THE CHAIRMAN: Hon. Kabugo, but the office is not there for him to be appointed -

DR. MAGEZI: Thank you, Mr. Chairman. Having ably listened to the Chairman of the Select Committee and in view of the fact that now any matters pertaining to these offices is a consequential development, I propose that the question be put.

THE CHAIRMAN: Well, once a Motion that the Question be put is moved, it is put without debate. It is moved by Hon. Magezi that the question be now put.

(Question put and agreed to)

THE CHAIRMAN: I now put the question that 234 be deleted.

(Question put and agreed to)

DR. KABERUKA: Mr. Chairman, we did look at Article 235 which is seeking to establish the Armed Forces Council with its membership. First of all, we looked at the membership and thought that as time goes on, membership is likely to change and also, we looked at some other reasons and decided that since these are changing facilities, we should leave them to Parliament through an Armed Forces Act which can be changed by Parliament without first going through the rigors of having to change the Constitution. So because of that, Mr. Chairman, we recommend that that also be deleted and left to Parliament to enact the Armed Forces Act. I beg to move.

MR. OMARA ATUBO (Otuke County): Mr. Chairman, I would like to contribute to this proposal to delete Article 235. Mr. Chairman, it has now come to pass and it may come to pass further that indeed right from Article 232 to 239 as proposed in the Draft Constitution may come to be deleted and in particular Mr. Chairman, Article 235 is proposed to be deleted and Article 235 attempts to constitute a Council, an Armed Forces Council which, among other things, was intended to advise the President on matters relating to the establishment, command, control and administration of the Uganda Armed Forces and shall perform such other functions as are prescribed by this Constitution or any other law. Mr. Chairman, an institution of the Armed Forces Council as conceived and provided for in the Draft is intended to assist the Commander in Chief in the administration of a very important institution called the Army. Mr. Chairman, I have no doubt that all of us who are here are conscious and may be over conscious of the important role the Army has played, it is playing and will continue to play positively or negatively and it is in this respect, Mr. Chairman, that one of the basic functions for which we have come in this House is to provide a constitutional framework for this important institution.

Mr. Chairman, there is no doubt in my mind that future Parliaments may indeed make laws governing this institution of the Armed Forces but like we have done for other provisions. Mr. Chairman, I tend to believe that we are running away from a very important role, a very important responsibility in the constitution making process to give some guide to that Parliament on what the people of Uganda should like to see that Armed Forces to be. Mr. Chairman, the constitution is the supreme law and the law that Parliament is going to make is subordinate to the Constitution and by us merely deleting all the provisions regarding the Army including Article 235 is simply to say that this Constituent Assembly has no idea, has no contribution to make on what it thinks the Army should be on the idea of what the people of Uganda should like it to be and that some of these ideas should be constitutionalised so that future Parliaments, while making the law regarding the Armed Forces, must be guided as follows including Article 235.

We have already provided indeed many other provisions of institutions regarding the Legislature, regarding the Executive and so on but here, Mr. Chairman, we are saying that the Constituent Assembly is delegating everything about the Army to

future Parliament. To me, Mr. Chairman, I think it is not a fair method of making a Constitution. I can accept the information, Mr. Chairman.

MR. BAGEYA (Kigulu County North): Thank you very much, Mr. Chairman. I happen to have been in Committee 3 which made all these recommendations and I just wanted to inform and thank, of course, the Hon. Member holding the Floor for giving way but I would like to inform him that the Army that we have now is young, it has been mentioned. We saw it fit not to cram the Constitution with details, we tried to cut short and also to give room for future Parliaments to make decisions hence the provision that we had put on our recommendations on Article 239 which states very clearly that Parliament shall make laws regulating the Uganda Armed Forces and in particular, providing for (a) the recruitment, appointment - *(Interruption)*

THE CHAIRMAN: But you cannot use that as a support for your argument because we have not come to it.

MR. BAGEYA: Well, this report, Mr. Chairman, was given away long ago and the purpose of providing this report in time was for Members to peruse through the entire paper so that at least our intention could be well understood. I was only helping the Member holding the Floor probably to jog his mind that we had catered for this kind of thing.

THE CHAIRMAN: But I think his argument is, if I understood him correctly that you are creating an institution called the Uganda Armed Forces and then saying Parliament shall make provision for the rest and he is saying that that is rather too broad but you should also give some skeleton institution then leave some matters to Parliament if I understood Hon. Omara Atubo.

MR. OMARA ATUBO: Mr. Chairman, you have very ably understood me and I think many others have done so but for reasons that go beyond Iganga, I am sure that we should be able to look at the issue of the laws that Parliament will make and I do believe that the informant should broaden his mind to the extent of looking at those laws, Mr. Chairman. This is what I am driving at.

THE CHAIRMAN: Okay, I think you have informed him. Now, Hon. Omara Atubo I think you are winding up your remarks.

MR. OMARA ATUBO: Yes, Mr. Chairman, I am very well aware that Articles 232 to 239 are proposed to be deleted and substituted with something to the extent that Parliament shall make laws regulating the Uganda Armed Forces and in particular providing for the recruitment, appointment and so on. Mr. Chairman, all I am saying is that this is a blanket - umbrella type of legislation. Even for an institution like the Auditor General, the Bank of Uganda, for all these, we have said Parliament also may make laws but when you are appointing the Governor, this is the position, the general framework is this. When you are appointing the Board this is the position. The Board will constitute of such people but when it comes to the Armed Forces we are just saying Parliament, there will be Uganda Armed Forces, and then the rest will be done by Parliament. Mr. Chairman, really I feel - *(Interruption)*.

THE CHAIRMAN: Hon. Omara Atubo, hon. Kateregga has information if you take it.

MAJ. KATEREGGA (Nakifuma County): Mr. Chairman, I thank Hon. Omara Atubo for giving way. The information I want to give him is that when you look at this Article 235, it is talking about nothing but the structure and I do not think that it is proper to constitutionalise the structures of the Army, something which can be handled by the Parliament. If we go on constitutionalising every structure, supposing we have another branch like the Air Force created tomorrow, are we going to amend the Constitution - or the Marine? Because the Army we have at the moment is young, it is still in infancy, it is ill-equipped and even the strength is not really according to the demand of the security of this country. So, to me, I think it would be wrong to put the structures of the Army in the Constitution. Thank you.

THE CHAIRMAN: Hon. Tinyefunza, do you want to be clarified or to clarify?

MAJ. GEN. TINYEFUZA (NRA Delegate): I want to be clarified. Thank you, Mr. Chairman, I would like to be clarified by Hon. Omara Atubo as to the qualitative effects or impacts he sees in this Article 235 because I read in his mind - and correctly too, of trying to disabuse or to stop the misuse of the Armed Forces by the Commander in Chief or the President for instance or the person who is in charge. Now, if you look at 235, the Commander in Chief is the appointing authority, he is the Chairman, he

appoints the Minister of Defence, he appoints the Army Commander, he is the appointing authority of all the offices - *(Interruption)*.

THE CHAIRMAN: That has been deleted.

MAJ. GEN. TINYEFUZA: Yes, but he says he wants to leave it. He is against deleting 235. Now, I want to ask him, 235 - of what value would it be as it stands in the qualitative running of the Armed Forces? I would like him to clarify to me on that one. Of course the other argument would be to say that there shall be an Armed Forces Council whose functions and composition shall be determined by Parliament but I do not see how somebody would argue that we keep 235 as it is because really it would serve a useful purpose. So I would like to get clarification from Hon. Omara Atubo on how he sees this as useful safeguarding the Armed Forces from bad control and so on.

THE CHAIRMAN: But before he answers, can I benefit from your wide experience as to whether it would be proper to say that the President shall be the Chairman of the Armed Forces Council if it is there or is it Commander in Chief?

MAJ. GEN. TINYEFUZA: Mr. Chairman, once you say, unless here you substantially change, because for us, we wanted to avoid really in the Armed Forces all this confusion of saying that there is no way you are going to have an Armed Forces Council chaired by somebody other than the Commander in Chief, who at the same time, is the President.

THE CHAIRMAN: But should this section be strictly talking about the Commander-in-Chief being the Chairman?

AN HON. DELEGATE: No, it does not, and if it does not, then what is the purpose, because then, what is going to happen to Parliament as ultimately 39 is going to be exactly doing what 235 is doing?

THE CHAIRMAN: In fact, in your proposition, you should have said that there shall be an Armed Forces Council chaired by either the President or the Commander-in-Chief and consisting of such other members - *(Interruption)*

AN HON. DELEGATE: As Parliament may and whose function - *(Interruption)*-

THE CHAIRMAN: So that you safeguard that aspect of the top Chairmanship. But Hon. Omara Atubo, you may want to respond to the point raised.

MR. OMARA ATUBO (Otuke County): Thank you, Mr. Chairman. Let me start with the remarks of Hon. Katerega. Hon. Katerega, like some Colleagues before, said that the Army is young and it is bound to develop and possibly outgrow to the extent that if we are to restrict its structure within the Constitution, we have to amend the Constitution many, many times to contain the future situation. Mr. Chairman, I am arguing that, because the Army is young, you do need a lot of input from many other people in order to let this Army grow and be nurtured into a national defence force. Mr. Chairman, if you leave the Army to one man, if you leave the Army to be legalised in a manner in which the power to build that Army is in the President and possibly to a smaller clique, you are not likely to build an Army which is going to be in the spirit of the Amendment we have put here - national, non-partisan and so on because you are not going to have a proper participation of Parliament and of a larger group. So, I think that because we are building a new institution which possibly is not going to give problems to the civilian authority, therefore, you need broader civilian participation in order to have that institution properly nurtured.

Now, on the other point of Hon. Tinyefuza, I do agree with him and Mr. Chairman, the guide that you have given. The problem is this, that when Committee 3 decided to handle the issue of the Army the way it was done, it simply said, delete! delete! When the Report was received, most people just shied away and even left potential amendments which should have been brought up. So, in the Committee itself, the intention, I think was more to have the whole constitutional provisions regarding the Army rather than directing the minds of the Committee on how best certain framework can be given in the Constitution without necessarily going to the detail. For example, as you pointed out - *(Interruption)*

MR. MUSUMBA (Buzaya County): Point of Order! Mr. Chairman, is it in order for an Hon. Member who is holding the Floor to speculate on the state of mind of the Members of the committee when they were contemplating and deliberating on the provisions that they were charged with? Mr. Chairman, is it in order?

THE CHAIRMAN: Was the Member speculating or making a statement as to what he thought may have taken place in the Committee?

MR. OMARA ATUBO: Mr. Chairman, I have also attended some of these committees.

THE CHAIRMAN: Because I take it that you are talking from the fact that you attended some of these committees and if he is being unfair in his judgement, that is a different matter.

MR. MUSUMBA: Point of information! Mr. Chairman, the member was not there in the committee at the time we were discussing and therefore, Mr. Chairman, he is simply speculating with the view to bringing the Report of the committee into disaffection.

THE CHAIRMAN: I think the Hon. Member will desist from appearing to injure the feelings of the members of the committee.

MR. OMARA ATUBO: Mr. Chairman, I would not like to create disaffection, I would like to create affection. Mr. Chairman, to wind up on this matter - *(Interruption)*

MR. TIGWEZIRE: Point of clarification! Mr. Chairman, I wanted to clarify on this issue of deletion. Indeed, Hon. Omara Atubo may be having fears because he is seeing delete, delete and perhaps we have not been given time as members of committee Three to explain the reasons why we recommended these deletions. If we were given enough time, because we sat in our committees, and said that we would appeal to you, Mr. Chairman, that when you allow us or say when we present our recommendation, you give us more time to explain why we made such recommendations so that Members do not get these fears of seeing deletion, deletion, more especially on defence. So, I think those are the fears of Hon. Omara Atubo, but if you give us time and chance, we are going to explain why we recommended these deletions. Thank you very much, Mr. Chairman.

THE CHAIRMAN: But Hon. Tigwezire, we gave the Chairman of the committee the ground to move and also to explain. Of course, members of the committee are free to come in like the Hon. Member for Buzahya and yourself and others, to elucidate some of the points which will make the situation clear but I think let Hon. Omara Atubo wind up.

MR. OMARA ATUBO: Mr. Chairman, more specifically on the Armed Forces Council, I do not agree that the present position can be very useful, but I do agree that an institution, a sort of a board, which could be constitutionalised and be of advisory capacity to a Head of State would be a very useful thing to put in the Constitution, but the way it is done now, is simply saying delete and Mr. Chairman, if you look at the Statute governing the Army now, we have the institution like the High Command, we have the institution like the Army Council and so on. These are things, Mr. Chairman, with experience, we have had with institutions in the NRA as of now. How useful they have been, one could therefore draw an analogy and say, these institutions have been very useful as of now in the NRA. Can we have these institutions constitutionalised by whatever name you may ever wish to call it, but to say delete, delete and without clear explanations, Mr. Chairman, I think we are not doing a good service to this country and to leave future Parliament without clear guidelines on the law it is going to make on an important institution like the Army, is running away from a very important function of this House. I thank you, Mr. Chairman.

MR. ADYEBO COSMAS (Kwania County): Thank you very much, Mr. Chairman. Mr. Chairman, through you, let me take this opportunity to thank my Colleagues for having resolved the matter which over the weekend was really - it was a big concern to all of us. I thank all of them for their wisdom, but Mr. Chairman, while we agreed that we should not constitutionalise the office of the Commander of our Army, we should also remember that the Army is a very important institution in the management of this country.

Mr. Chairman, I am not a military man and I do not want to pretend to know all about militarism, but because this issue is very important, I took time to read some Constitutions of friendly countries which had armies, some of which had more developed armies than we do have. A case in point, Mr. Chairman, is Nigeria. If you read the Constitution of Nigeria, you find that they did not also make a provision for the Head of the Army to be in the Constitution - they did not constitutionalise that office. But again, if you read through the provision, their provision is very similar to what this Draft here contains. Therefore, for example, Mr. Chairman, the President as the Commander in Chief of the Armed Forces, is constitutionally given power to

determine the operational use of the Army. Just as we have tried here and again, there they have given powers to the President to appoint the Head of the Army which they call Chief of Defence Staff. The President also appoints the Head of the Army, the Head of the Air Force and the Head of such other branches of the Army in that country.

One honourable Member and if I could remember that is Hon. Maj. Gen. Tinyefuza, did question the validity of say, the Armed Forces Council. His argument is that, whereas this Council, whereas the Members are appointed by the President, what will they do there, after all, they are the appointees of the President. Similarly, we would argue that since the President makes appointments for all Cabinet Ministers, who must actually guide him, why should there be Cabinet? What I am saying is that, it is important to have some Councils in the Army to guide the President. The President may be a civilian, he may not know as much as Adyebo does not know all about the military, Parliament may help politicians season young ones, but they may also run short of ideas from militarism in the country. If we are going to refer every thing to Parliament, as if Parliament owns the monopoly of knowledge, I think we are also leaving our responsibility.

Mr. Chairman, going back to Nigeria's case whereas the Head of Army is not constitutionally provided for, they go ahead to appoint a National Defence Council, they go ahead and appoint a National Security Council. These Councils are very important to guide - especially the Commander-in-Chief, who may be an ordinary politician and it will be a mistake if we are going to refer all military matters to Parliament. I think with due respect to my Colleagues, honourable Delegates, we have accepted, we have made a consensus we agreed that let us re-examine other issues like some provisions here. I want the President in future- (*Interruption*)

MRS. FAITH MWONDHA: Point of information! Thank you Mr. Chairman, for having recognized me and I also thank the Hon. delegate for having given way to inform him. Mr. Chairman, the point I wanted to inform the Hon. delegate on is that, we are not saying that Parliament will make laws because it owns monopoly of knowledge, but this is the supreme Law making body, the supreme legislative body of the country and that is why we do not want to make the Constitution verbose and make it a long and rigid document and that is why we want

to give the Parliament its rightful job to do, not because it owns or it monopolises knowledge. Thank you.

MR. ADYEBO COSMAS: Thank you very much. Mr. Chairman, it is because of that, that I am arguing that these Laws made by Parliament must be based on the Constitution because the Constitution is the supreme law and all those laws which the learned brothers and sisters in Parliament will be making, must be based on the constitutional provision and unless we make some Constitutional provision for the Armed Forces here, it will be very difficult or naive for Parliament to make those laws out of the blue. This is why I am of the opinion that we leave 235 as the Draft proposes except that there should be a deletion of (d) now that we do not have it there.

THE CHAIRMAN: Hon. Adyebo is, I think, sort of concurring with the position taken by Hon. Omara Atubo, that that form of wording should be left in connection with the existence of - *(Interruption)*

MR. OMARA ATUBO: Mr. Chairman, I do not know whether my proposal is being treated as a formal Amendment.

THE CHAIRMAN: You see, it cannot come yet because we have to decide whether we delete or not. Should it survive deletion, then you can polish it up, before it stands part of the - so, it will be premature at this stage to move an Amendment.

MR. OMARA ATUBO: But Mr. Chairman, I thought my proposed Amendment on that one goes furthest

MR. CHAIRMAN: If it is carried, there is nothing to amend. So, we first of all handle that one.

LT. COL. SSERWANGA LWANGA (NRA Delegate): Thank you, Mr. Chairman. Mr. Chairman, I would like to support the Hon. Mover of Committee three for deletion. Mr. Chairman, the reasons being advanced by Hon. Adyebo and Atubo, I can understand their concern, but it is not that it is because we did not have these Army Councils that we have had all this turmoil. The Army Council was there during - in fact, you remember that in 1964, we had what they called the Defence Council which was composed of five people. During Idi Amin, there was also a Defence Council. I think it was composed of Idi Amin himself and - I do not know the compo-

sition, it was not properly set out. Now, we have got an Army Council composed of about 140 members, Chaired by the President. Mr. Chairman, me, I would not go in for a Constitutionalising of the structures governing the Army because in the first place, the structures will change with new developments in the Army. When you get new equipment, when you get new people - when the strength changes, the structures must change. If we create today a motorized infantry division, definitely, infantry will no longer be important. If we are to get high performance brains, aircraft, interceptors, infantry's role will become very, very, small.

MR. ADYEBO: Point of information.

Mr. Chairman, I would like my brother Hon. Lt. Col. Sserwanga Lwanga to clarify me on two issues. Now that we are calling back Ugandans who are in exile, including the former President Amin to come back, suppose Amin comes and he gets back to his former job, and with the provision we are making here, how safe will Uganda be? The second clarification, Mr. Chairman - *(Interruption)*

LT. COL. SSERWANGA LWANGA: I do not get you on that. What are you saying? That Amin comes back and he gets a troop or what?

THE CHAIRMAN: I think what the Hon. Member is saying is that, if you call Idi Amin back like any other Ugandan, he should be entitled to fight for the highest political office and in the unlikely event of him becoming President, I think that is what he was trying to say.

MR. ADYEBO: How safe will Uganda be under this provision we are trying to make? Then two, there have been Presidents who have overthrown Constitutions and also done away with Parliament, in absence of Parliament, how do you guarantee the future of this country under this provision we are making?

LT. COL. SSERWANGA LWANGA: Mr. Chairman, I thought we were legislating for a democratic society. The more you do not have a democratic society, all what we have said will be useless. The more the Constitution will be broken, even if the Army Council is there or it is not there, things will be useless, that document will be useless, but we are saying, all of us are going to be law abiding citizens and we respect the rule of the law. So, Mr. Chairman,

I think Hon. Agyebo should get it from that angle when we are approaching this Constitution making. Mr. Chairman, what we should avoid is that when new equipment or new weapons are got for the Army, do not come to change the Constitution because now we are legislating for an Armed Forces Council. Professionally, we may even run into danger, you may find the mechanized division may need to have a Council of its own where it will sit and deliberate its issues. You may find that Air Force may need to have a Council of its own and the Infantry will also need to have a Council of its own where it will discuss its administrative problems and the control of its troops. There are laws which specifically apply to Air Force which do not necessarily need to apply to the Infantry.

MR. RWOMUSHANA (Bujumbura County): Point of clarification! Mr. Chairman, I would like to seek clarification from Hon. Sserwanga Lwanga In the Article 235 part (2), some of the proposed functions of the Armed Forces Council are to advise the President on matters relating to the establishment, command, control and administration. And in the advent of having a civilian President, elected by legislation, who has no knowledge about the functioning of the Army, its establishment, its administration, who will advise him or who will perform the said functions as are stipulated in this article? Thank you, Mr. Chairman.

THE CHAIRMAN: No, let us get one clarified first or you want to ask clarification of the member on the Floor? Hon. Sserwanga Lwanga.

LT. COL. SSERWANGA LWANGA: Thank you very Mr. Chairman.

THE CHAIRMAN: Are you following on as an additional request for clarification?

LT. COL. SSERWANGA LWANGA: Okay Sir, I want to clarify on two Councils.

THE CHAIRMAN: You want to clarify or you want to be clarified?

LT. COL. SSERWANGALWANGA: To clarify. Mr. Chairman, we should not confuse - (*Interruption*)

MR. TOTEREBUKA BAMWENDA (Buyaga County): We should not confuse the two Councils.

We have the National Security Council which can be composed of the Minister of Defence, Internal Affairs, the Commander of the Army, the Inspector General of Police, the Commissioner of Prisons, etc, etc. But here, we are talking of the Armed Forces Council which should have professional people in the field - the Division Commanders, the Brigade Commanders, the Battalion Commanders, etc, etc. So, in this case, when you are talking of people advising the President, the Ministers are there, the Inspector General of Police is there, otherwise, for the establishment of command control, these should be professional soldiers in the field. Thank you very much, Mr. Chairman.

THE CHAIRMAN: Hon. Sserwanga, could be winding up because I think we should come to an end on this one.

LT. COL. SSERWANGALWANGA: Mr. Chairman, to clarify Hon. Rwomushana, if the matter is in the Air Force, and there is a problem of establishment of control, I would advise that President to call the officers of the Air Force to advise him on that issue, he should not call officers of Infantry. If the matter is with the Marine, I would advise that President to call the officers of the Marine. But to say that you are going to call the officer from Marine, another one from Air Force, another one from Infantry, and then you discuss issues of the Air Force, is professionally wrong. So, I would request the House to resist from making mistakes through this legal document we are trying to pass. I thank you Mr. Chairman.

THE CHAIRMAN: So, Hon. Sserwanga Lwanga supports the Motion of deletion. We have had - I will now listen for and against. Hon. Kasajja are you for or against the Motion?

MR. KASAJJA PATRICK: Mr. Chairman, thank you very much. I think the issue we are discussing of the Armed Forces is one of the important organs of Government and it is one of the pillars which make the nation to be stable or unstable. So, Mr. Chairman, I wish to appeal to the Members of this House that as we discuss this Chapter or this Article, let us not look at the present, we should also look at the future. Let us ask ourselves that if the situation now is stable, supposing in future, the situation changes, what happens? I think this is what we are trying to do in order to come out with at least an Army which is going to perform the functions in order to achieve the objective of making the nation stable.

Mr. Chairman, for me, I am standing to oppose the deletion of this Article. I am opposing the deletion of this Article on the following reasons, Mr. Chairman. We have already left the Commander-in-Chief, who is also the President, he is the one who is going to be - the last man responsible for anything to do with the Army or any decision of importance in the nation. Now, we have left this post of the Commander, that one - I am not going to say anything Mr. Chairman, since I did not have time to contribute.

THE CHAIRMAN: You would be whipping a dead horse - you would be flogging a dead horse.

MR. KASAJJA PATRICK: But Mr. Chairman. I think it is important, as Rwomushana has said, that for any post of this nature, Commander-in Chief, which touches on the security of the nation, we should have people below that person to be advisers, in fact, to give him advise as to even strategy to take and in any case, even if there are issues related to purchase of arms, Mr. Chairman and the President or the Commander-in-Chief needs to get advise from his army men or from whatever rank we shall be adopting in this nation, because I am not an Army man, Mr. Chairman, but there are a number of weapons which have to be bought in the nation, but if the President is going to be or the Commander-in-Chief is to be the last man without anybody below him to advise him on issues of that nature, we are going to have a nation which is going, I think, to be in a problem like we had with Amin.

Mr. Chairman, I wish also to inform the members that if we get this Council - because as you can look at it, it is multi-disciplinary. We have for example, the Secretary for Defence, this Secretary for Defence is both an administrator - but mostly an administrator, Mr. Chairman, though he can be an army man. Now, in administration, this man if he is on this Council, he can also assist in advising how, the may be, the funds in the Army are going to be handled by the administration and if we get these other officers, because everybody here who is here, Mr. Chairman, has a field and I do not want to accept the explanation given by Hon. Sserwanga Lwanga, where he is saying that, if you have different disciplines, you have to call those people of different disciplines to come and advise you. But if these people are together, they can always come up with something which is more useful and which is, I think, more respectable than getting one person. And one thing which we should also not forget is that these people are appointed by the President and if one

person is called to advise, of course some of them go there fearfully, but when you are in a group, sometimes you can have that courage and bring in instead of going there alone, fearing that something which can be of use maybe if I give proper advise, I can easily be may be - victimized.

So, for me, Mr. Chairman, I think this Council which is left here, is a very useful Council to the Commander-in-Chief in order not to make him be overburdened, in order not also to make this person to take a wrong decision. Let us use people with different disciplines to advise the Commander-in-Chief so that we can come up with something useful for the nation. Mr. Chairman, with that, I completely disagree with the deletion.

MR. AGGREY AWORI (Samia Bugwe North): Point of Procedure! Mr. Chairman, I am seeking your guidance on the procedure regarding this Motion. Mr. Chairman, my understanding of this Motion, the purpose of deleting a number of Amendments is more less consequential to the first one that was thrown out. Secondly, Mr. Chairman, in my understanding of this purpose to delete this Amendment, was contingent to item No. 8, Article 239 thereby vesting the powers of the duties of the Armed Forces to Parliament. Is there any point in continuing to discuss Article by Article when we know very well the people who sought deletion wanted to vest these powers in Parliament?

THE CHAIRMAN: Well, the point is this, that when we deleted 233, it was by natural consequence that we delete 234, because you cannot make appointments to the existing offices, but 235 created a different picture. Hon. Omara Atubo was of the view that, may be some wording could be left in form of a Council, in other words, there shall be the Armed Forces, the President is Commander-in-Chief, that is not said here, but I think it should have been said, then their functions, then, there is a Council, that is what he is suggesting, there shall be a Council which shall be chaired by the Chairman and whose membership will be determined by Parliament and then may be we come to 23 to propose 239. So, that is why I allowed debate on it, because it can stand - it is not necessarily mere consequence, it is not a consequential provision. Really it comes to its deletion in the real word of consequential, it can stand on its own and that is why I allowed some debate but now, we have had four deletions, some three or four arguments against deletion, there are three or so. I would like to allow one either side. I will start with Hon. Mayombo. Are you for against?

LT. MAYOMBO (NRA Delegate): Thank you very much, Mr. Chairman. Mr. Chairman, as a serving officer of the National Resistance Army, I am definitely a victim or beneficiary of this Chapter we are going to write because I would not like to see a President who comes into office or who is elected and he sacks me without consulting anybody or he retains me at this rank or demotes me at his own will. We feel that there should be structures to advise the President and to regulate and conventionalise this Army that is being transformed from the guerrilla stage to a conventional force, but the question, Mr. Chairman, is where should these structures be? That is the mother of all questions, not that whether they should be there, the question is that, where should they be? Should they be in the Constitution or should they be in the Subsidiary or other legislation?

Mr. Chairman, the answer to this question is really - if you look at our history, at our military history, you find that we are in a very volatile region. Even before Independence, the first Barracks was put at the present Gadaffi in Jinja where the Gadaffi Garrison is. It was not by accident, it was simply because of extra Uganda instability, extra Uganda conflict. The Army was put at Gadaffi to be able to rapidly be deployed into Kenya using the railway to cater for the instability which was taking place in Kenya. The British wanted to bring the Ugandan Army to suppress the revolt in Kenya. Mr. Chairman, you are aware that the Army later on expanded very fast, we had the Army to expand to Karamoja, to cater for the problems in Turkana, the Army had to be taken to West Nile, to cater for instability coming from Zaire. The Army had to go to Gulu to cater for the problems of Southern Sudan. So, you find that we are in an area which happens to be volatile, the Army is growing, we have ever been invaded by a foreign country, Mr. Chairman. They came and took hostages from Uganda, five metres away from State House as if Ugandan forces were helpless. We have ever had a foreign country walk over the territory, the length and breadth of Uganda from Tanzania border to Sudan border. The mission may have been good, but it happened.

So, I am trying to say that, our Army can grow very fast, our Army is going to grow very fast, because of the problems which are both internal and external. You are aware, Mr. Chairman, that we captured Kampala with only battalions and Brigades, today, we talk of divisions, we have only recently demobilized from very, very many divisions to fewer

divisions without Constitutional Amendments. So, I am trying to say, once we constitutionalise structures, we are simply tying the development of this Army to suit the defence demands of the country.

Mr. Chairman, I bothered to look at other Constitutions of other countries. I studied Chapter 5 of the Mozambique Constitution on national defence, I studied the German Constitution, Article 87 of the Italian Constitution, Articles 28, 33 of the Republic of Tanzania Constitution, all these provisions do not entrench structures, they only constitutionalise - they only provide enabling provisions for Parliament to legislate as the situation changes. And when I look at even the provisions of this Chapter, Mr. Chairman, if you read Article 235 (2), it says that the Armed Forces Council shall advise the President on matters relating to establishment including administration. At the same time, 239, if you pass it, it says, Parliament shall make laws regulating, among other things recruitment and appointment. So, you find that there will be a conflict. Here you have a constitutional body already established, with a task of advising the President on command, on administration, on establishment and you give Parliament power to pass laws. You are watering down the power of Parliament to pass laws and empower any other body to do these functions and I feel, Mr. Chairman, that the inherent powers of Parliament to legislate be left to it. I thank you very much.

THE CHAIRMAN: I will take a member who will speak - that was in support of deletion, I will have one against deletion.

MR. MASALU MUSENE (Manjia County): Thank you very much, Mr. Chairman. Mr. Chairman, I will not take a lot of time having heard what many Hon. Members have stated on either side. Mr. Chairman, I come in for purposes and on the principle of consistency as far as constitution making is concerned. While I entirely agree with Hon. Mayombo that we should not constitutionalise the structures of the Army, but for purposes of consistency Mr. Chairman, I am saying that, having set up the Uganda Armed Forces in the Constitution, under 231, and agreed on who are its eligible members, we have further gone ahead to set out the functions of the Armed Forces under 232. Now, what I am stating is that, we should not stop there, but for purposes of consistency, just briefly mention the leadership of the Army by stating that the leadership shall be vested in the Armed Forces Council, may be reiterating the

fact that it should be composed of the President, who is the Commander-in Chief and Chairman, and then we stop there, we leave the composition and other functions to Parliament. But we will have at least been consistent in setting up the forces, stating its functions and then its leadership. I think there, we will have done a commendable job, because it is no use setting up something and its functions and then you do not spell out the leadership. And taking into account that the Army is a very important structure, especially as far as peace and stability of the country is concerned, it is important to mention in the Constitution its leadership, but leaving other details to Parliament. So, it is for that reason only - of consistency and the importance of stating the leadership of the Army in the Constitution, that, Mr. Chairman, I appeal to Hon. Delegates to retain Article 235, but then it will be subject to refinement especially when it comes to composition of the members of the Armed Forces Council and its functions. Those two could be left out, but at least we retain part of it. I thank you Mr. Chairman.

THE CHAIRMAN: I think let us summarise the position.

MAJ. GEN. TINYEFUZA: Point of information! Mr. Chairman, I wanted actually to clarify a general issue may be for all the delegates if you could permit me, Mr. Chairman. Mr. Chairman, I would like to give this information to honourable delegates, that as an Army, we do not fear or have anything hidden which keeping this Council, would do, it would harm the Army in no way, but we do not think that it will advance its interest also in any way. This is what I want, and I am going to give you about three reasons. This is important, so that Members really feel free to grasp what are the issues here.

Mr. Chairman, here the Armed Forces Council can play a role as a coordinating arm of all sub-councils of the different branches of the Armed Forces. For instance, if there is Navy, there is Marine, there is Air Force, then its Chairman would be a sort of Chairman of the synchronizing Committee. So, this Council actually can work as a synchronizing committee for the different arms of the Armed Forces. Therefore, we in the Armed Forces do appreciate this role. The second one, this Armed Forces Council could be very useful politically if we had a President for instance, who is not a soldier and may be surrounded by political intriguers and all this. He may make very dangerous decisions, if he does not have internal information concerning the Armed

Forces. For instance, when Binaisa sacked Oyite Ojok, he was advised, I think more by a group like the National Security Council than the internal group like say, the Army Commission, the Military Commission, if the soldiers views were different. Therefore, if this man had been advised or sought advice from an Armed Forces Council, they would have said, do not touch Oyite Ojok which sparked off the Coup. So, there is that role also.

Then, the other is the role as the Army. We find that, if you look at - I will give both sides so that members have the opportunity to get the inner thinking of the Army really on this issue. Then, if you look at 253, the National Security Council, Article 253, actually in the Amendment, we did refuse to endorse, and I think the Chairman of the committee, we, as the people who were concerned, we thought that, but the committee I think also did see the sense in that, that constitutionalising of the composition was not fore-sighted, because as the situation changes, we may need other members who are not mentioned. So, we prefer to say that there shall be a National Security Council, whose composition and function shall be prescribed by Parliament. Now, you may find that if in absence of an effective Armed Forces Council, this National Security Council could also disorganise the inner running of the Army that is also a fear which we did address. However, to the contrary, all those notwithstanding, we thought that in the circumstances, when the situation is still fluid, the army still growing, we are still in a consolidation stage of this Armed Forces, it is better to entrust and empower Parliament, we thought that it is better, because we have seen Armed Forces Councils themselves being made up by one man, despite their being mentioned here. The other time we went to Gulu at the Army Council and we just made a declaration, that we think that assets of traditional leaders could be returned there was dust in the NRC, they said, Army Council makes that decision? Of course, there was internal grumbling. So, you can also see the dangers of constitutionalising this type of bodies because at one time, they may usurp the powers of Parliament and people did complain genuinely and they said, the Army Council went, brought back traditional leaders, now they are telling NRC to just endorse, rubber stamp. Now, you are saying we should again constitutionalise the Army Council here.

Now, these are the dangers you must know. Therefore, in a sense, we said, to avoid any future controversy and since we envisage a democratically elected

Parliament, let us entrust the running, the promotions, the appointments, the making of organs of the army to Parliament of the elected representatives of the people. (*Applause*) - and that is why really we wanted deletion not that we do not know the danger of the absence of it. However, in our deliberations, we thought that, in 239 when we get there, because we are talking about appointment or what, I would rather appeal to Hon. Omara Atubo, may be, to specifically oblige Parliament to make laws regarding the smooth running the structures for running of the armed forces so that Parliament cannot just sit and sabotage that. But after due deliberation and so on, Parliament does it. But we think constitutionalising these organs of the army does conflict with civilian authority, and may bring problems. So, we really, in good spirit, thought deletion is better and entrench it in Parliament, and you can force Parliament through this provision to redress what you are fearing. Thank you, Mr. Chairman.

THE CHAIRMAN: Now, given that free, unsolicited technical advice, we now come to making a decision. I think the matter really which splits the House is quite small. Should we have this institutionalised in the Constitution or should we say Parliament shall provide for those institutions? Since, I hear the statement Parliament, I think at this juncture, let us go on to make a decision. The Motion on 235 is really one of deletion, essentially, that is the Motion, that we delete 235 and that is all. I put the question.

(Question put and agreed to)

DR. KABERUKA (Ndorwa County West): Thank you Mr. Chairman. My committee considered the Article 236 which seeks to establish the Armed Forces Service Board and its composition. We thought that this matter first of all, in the spirit of having a concise Constitution, the Constitution which is flexible for the future policy makers, we recommended that it should be deleted and the matter taken care of under the Act of Parliament, which can be so detailed in accordance with the prevailing circumstances and taking into account the fact that changing the Articles of the Constitution is a cumbersome procedure, so, Mr. Chairman, we decided that this should go to Act of Parliament which can be changed as circumstances change and also not to fetter the future legislators when situations in the country do change, So, I beg to move, Mr. Chairman.

THE CHAIRMAN: The Motion is that, 236 be deleted. I will listen to two speakers then we decide.

MR. AWORI (Samia Bugwe North): Mr. Chairman in the light of similar conclusion on all these Amendments put forward, which apparently seem to emanate from experts from the Armed Forces, I move that you put a question and we clear immediately any consequential Amendment.

THE CHAIRMAN: It is very clear that the question be put, I now put the question - on the substantive question itself rather than going through the procedures, because I have seen no objection, that 236 be deleted.

(Question Put and agreed to)

DR. KABERUKA: Thank you Mr. Chairman. In the same spirit, we recommend that first of all, the Article 237 is a repetition of what is supposed to be under the National Security Council on Article 253. We thought that it was actually a repetition of what is supposed to be in the Act and therefore, since we shall have to put that properly under National Security, we thought that it should be deleted from here and goes to the National Security.

THE CHAIRMAN: The question is that 237 be deleted.

(Question put and agreed to)

DR. KABERUKA: Thank you, Mr. Chairman. Article 238, in fact, if you look from 235 to 238, all of them were summarised under the new Article 239, especially the (C) part, which says, the deployment of troops outside Uganda should be regulated by Parliament. So, although we are saying that it is deleted - we deleted it and made it a sub-clause under Article 239. I beg to move.

THE CHAIRMAN: I put the question that 238 be deleted.

(Question put and agreed to)

DR. KABERUKA: Thank you, Mr Chairman. In Article 239, my committee recommends that the Parliament is enabled to make laws regulating Uganda Armed Forces and in particular, providing for the recruitment, appointment, promotion and discipline and removal, the terms and conditions of service, the

deployment of troops outside Uganda of members of Uganda Armed Forces. I beg to move.

MR. KAGIMU KIWANUKA (Bukomansimbi County): Thank you, Mr. Chairman. I was a member of the committee and a member of the consortium which moved this Amendment and I would like to, at least, contribute a bit so that our fellow members who are behind, take in good spirit. Mr. Chairman, our purpose in moving that Article 239 takes care of all this, was really to give the peoples representatives a chance to monitor the State, and most especially the President, in the manipulation of this Institution.

Mr. Chairman, our country has suffered a lot as a result of the institution being manoeuvred, especially by one man. If you examine all the Amendments, you discover very evidently that the common denominator is to give Parliament a chance to be involved in the setting up and control of this institution. I remember talking to one Army Delegate, informing him of our Amendments, and of course, as expected, he vowed to fight me on the Floor. I was surprised when I found his name in our consortium, he made a very sarcastic statement. You find people saying that Parliament should be involved in promotions of Army Officers. What does Parliament know about the Army, he asked. Mr. Chairman, I would like to call upon the honourable delegates to join me in congratulating Maj. Gen. Mugisha Muntu for doing what I least expected of a soldier. In fact, I remember when I approached him cautioning him of my overhauling of this whole section, I was overwhelmed by his great Amendment which catered very well for my Amendments. I call upon honourable delegates to support our Amendment which caters for all our fears. This move by NRA Delegates has really shown their maturity, together with that of NRA, that we are not making a constitution for now only, that is for NRM Government, but for posterity. I had thought NRA Delegates would fight tooth and nail to keep Parliament as much as possible out of the Army affairs. Congratulations!

Mr. Chairman, the Army has been over-abused by past leaders, we are allowing peoples representatives to up-root such evils that have bedeviled this country for so long. Mr. Chairman, we all agree that with President Museveni, the situation is okay. He has managed to control his Army without need of Parliament. In fact, the National Resistance Army is one of the most disciplined forces in Africa, but not all Presidents have been and will be able to do this. Mr.

Chairman, Army Commanders plus big officers in the Army have always been from the tribe of the President. Personally, I have no objection to this, because this is, may be, the only way to have the man comfortable in his chair.

THE CHAIRMAN: Order, order!

MR. KAGIMU KIWANUKA: The only problem is when the positions are used to oppress the people as was the case in the past. However, Mr. Chairman, in the past, we have had experience, whereby the Commanders have become even more powerful than their master. I would like to agree with Cheye that no President in Africa has ever enjoyed power like Mr. Museveni. He is the only man who can transfer, promote, retire Generals and other Army Officers without much problem. For other Presidents, they have had to succumb to the pressures of the Commanders and Army officers, an element that has brought problems to their countries.

THE CHAIRMAN: Hon. Kagimu, there is a - I have seen a forest of hands on various points and one of them is point of order.

MR. KAGIMU KIWANUKA: Mr. Chairman, I call upon members to support and move this without - and Mr. Chairman, I call upon you to put the question. - *(Laughter)*.

THE CHAIRMAN: Thank you for that generosity to others, but I can see it has been taken in good spirit. Hon. Leander Komakec, you are supporting that proposal to put the question, no doubt.

MR. LEANDER KOMAKEC (Aruu County): Thank you Mr. Chairman. No, I am not supporting my Friend Kagimu, but really judging from what has been said before, I think this one, I would support it, only if he allows me to add one word by way of amendment. I would like to move a slight Amendment that will improve on that Amendment and the word I want to introduce there, that I think would make a qualitative improvement on this is, that Parliament shall make laws regulating the Uganda Armed Forces and in particular, provide for the system of the structure of the Army, that is (a) and then the rest, would become (b), (c), (d). So, the structure should be - I was very impressed by what Mr. Omara Atubo had argued and I think he will add the word "Structure", because, first of all, if it is seconded, then I can give reason why I am proposing that one.

THE CHAIRMAN: I can see what Hon. Leander Komakec is driving at, he is suggesting that, may be if I can try to - if I do not put words in your mouth, you are agreeing with me, if I do, please, stop me - that Parliament shall make laws regulating the Uganda Armed Forces and in particular providing for: (a) the organisation and administration - is that what you are looking at?

MR. LEANDER KOMAKEC: Yeah! It is organisation structure.

THE CHAIRMAN: You do not have to go to organisation structure - for the organisation of the Uganda Armed Forces, recruitment, - *(Interruption)*

MR. LEANDER KOMAKEC: Thank you, Mr. Chairman, the organs and structures for the management of the Armed Forces.

THE CHAIRMAN: Could you say it again?

MR. KOMAKEC: Well, what I really meant to say, I think, somebody helped me when he said: (a) the organs and structures for the management of the Armed Forces.

THE CHAIRMAN: Can I have a copy of that first and then see how it reads? Yes, it is proposed to read as follows, that: "*Parliament shall make laws regulating the Uganda Armed Forces and in particular, providing for (a) the Organs and structures for the management of the Armed Forces...*" and what is (a) becomes (b) and the rest remains as it is. It was seconded and so is available for discussion.

MR. AMAMA MBABAZI: Thank you, Mr. Chairman. On the face of it, it sounds reasonable, but really, considering the reasons that have been advanced all along, the reasons that we should not make a Constitution mainly basing ourselves on what we have in place today, envisaging that the Army itself and the other armed services are bound to grow, it is not wise to restrict, in any way the hand of Parliament. So, I think to say that Parliament, for instance, should legislate for the structures and organs of the Armed Forces - you see, you can imagine, if you are talking about an Army or an Air Force, or something like that, for Parliament to legislate - these are things that change according to circumstances of the day and surely you do not have to go to Parliament each time you want to organise your Army, for example, into divisions from bri-

gades and things of the kind. So, I think, it is better that we do not tie the hands of Parliament or anyone and we leave it as wide as possible so that the raising and the organisation of the Armed Forces is done smoothly without encumbrances. So, I oppose the Amendment, Mr. Chairman.

MAJ. ARONDA: Thank you, Mr. Chairman. I also oppose this addition from Hon. Komakec, for some simple reasons. One, as Hon. Mbabazi has said, really the structures of the Armed Forces are determined by the strength of the Armed Forces. For instance, the structure of the Air Force will be determined by the size of that Force, and so is the Infantry units. Two, the structures of the Armed Forces also are determined by the weapons or equipment which those Forces have. Now, at present, like it has been said, the Army is still in infancy, we are still rating up a doctrine, and in that doctrine that is where some of these things will be answered. How we train, how we organise and how we equip, and to provide for this here it will be very, very unworkable in future and it will cause unnecessary, constitutional amendments. Two, if Hon. Komakec is worried of secret structures or what, most armies - their structures are seen or tabled to Parliament during appropriation time, when the Parliament is budgeting or is appropriating funds to the Army, that is when the army structures are seen, Mr. Chairman. I beg to oppose the additions, Mr. Chairman.

MR. TIGWEZIRE: Thank you very much, Mr. Chairman. Mr. Chairman, we seem to be having a lot of fears about future Parliaments, as if for us now we are the last and the best Parliament ever. Mr. Chairman, we are allowing Parliament to regulate the Army. Mr. Chairman, we are allowing Parliament also to look into the Budget of the Army, to look into how many tanks they have so that you can provide for them. Now, at the same time, you are saying, no, Parliament should not know. What are you trying to hide from Parliament? Why should Parliament not know structures of the Army of Uganda? Why should you leave it only to the Army so that at one time an Army officer comes up and says I have a mechanized brigade of only one tank! So, we are trying to say that you should not hide anything from the Army even if it is the structures or the organs and by the way, this also caters for the fears of people who were asking for the Army Council. If Parliament of the day sees it fit to give the President a Council to advise him on military matters, then they can do it. We are simply saying that

still Parliament will have to decide as to whether the President should be given a Council to be advised or not, and such will be organs which can be created by Parliament. I thank you, Mr. Chairman.

MR. BAGENA: Thank you, Mr. Chairman. I am seeking some clarification from the experts. I thought to promote you would need to think of some hierarchical structure to which some person will be promoted. Now, I do not see how you can expect Parliament to promote when, in fact, they have no idea of what hierarchy there is in that Armed forces. Maybe, Mr. Chairman, the experts could explain. Thank you.

THE CHAIRMAN: Could you repeat your question?

MR. BAGENA: Mr. Chairman, I thought in order to be fair to Parliament which is going to think of promoting, it would need to have in mind the hierarchical structure so that it does a good job of promoting. I am seeking clarification whether the experts can tell me how Parliament will do a good job of promoting people without a hierarchical structure in mind. Thank you, Mr. Chairman.

MR. AMAMA MBABAZI: Mr. Chairman, I think the Hon. Member misread that provision. All it is saying is that Parliament will make laws to regulate promotions. That is not to say that they will promote themselves but it makes rules regulating that process of promotion by whoever they give the authority to promote, and this really has nothing to do with structures. Of course the Act can deal with the structures normally.

MRS. NTABGOBA: Thank you, Mr. Chairman. I would like to give a clarification to the Hon. Bagena from Kisoro East, by adding on what Hon. Amama Mbabazi has said. The way Parliament works, although it contains Members who might not be experts on any particular area, Parliament makes laws through appointment of committees. The Parliament can appoint a committee of experts who will regulate and make laws to be tabled to Parliament, and through that way we come up with a refined job. I hope that has clarified to my Hon. Colleague from Kisoro District.

THE CHAIRMAN: I think the point we are debating - so we know how to proceed - is that we have got here a recommendation that 239 be recast in the

terms shown in the amending sheets. Hon. Leander Komakec has moved a Motion that seeks to add a paragraph to read: "*Parliament shall make laws regulating the Uganda Armed Forces and in particular providing for; (a) the organs and structures for the management of the Armed Forces; (b) the recruitment, appointment and promotion, discipline and removal...*" Now, we have to decide whether we accept the Amendment as moved by Hon. Komakec, then if we accept it then we shall have amended 39 as proposed and then we go one from there. I will listen to one or two speakers and then I will put the question.

DR. KABAYO: Thank you, Mr. Chairman. Mine was a simple request to the Mover of the Motion Hon. Komakec, if he could go with the formulation you as Chairman has proposed which I thought was better and more embracing. You had said that "*the organisation and administration*". I thought that would cover what Hon. Komakec is proposing in a better way and much more universal way. I wondered whether Hon. Komakec could agree to change the formulation to read to what you had proposed, Mr. Chairman.

THE CHAIRMAN: Hon. Komakec, how do you react to that?

MR. KOMAKEC: Mr. Chairman, I accept that one, because the wording is "*organisation and administration*" - well, I put the word management - (Interjections)

THE CHAIRMAN: I can see the Hon. Member is not given a chance to develop his own mind.

MR. KOMAKEC: Well, I am trying to get the benefit of advice from both sides.

THE CHAIRMAN: Okay, let us see. Why do we not do it this way? Hon. Tinyefunza seems to have some ideas, and Hon. Kaboyo was proposing that the wording be changed in some way. Now, Hon. Komakec has been put in a difficult position, he is being solicited from both sides. Okay, let me hear what Hon. Tinyefunza has in mind and then we can see how we arrive at some acceptable wording and if it is acceptable to Hon. Komakec then we pronounce ourselves on that.

MAJ. GEN. TINYEFUZA: Thank you, Mr. Chairman. Mr. Chairman, I tend to disagree with the

wording proposed by Hon. Kabayo, because I think it does encroach on the inner running of the Army especially, when you talk about administration. We do not expect Parliament really to legislate on how we are going to organise the women in Lubiri barracks and then the youth and separate the *Wanainchi* because these are internal matters. Administration, I think, is more limited, it is more of an internal matter. So, is organisation because organisation also is wider. Organisation includes operation, it includes administration, it includes standing structures regulation and all that. Therefore, I thought that the first wording of Hon. Komakec was more fitting in that it calls upon Parliament to make provision for the structures for the management of the Armed Forces. Now, these structures it is already, making, for instance, Parliament is the one which made the Court Martials, it is the one which is making the Tribunals in the Army; it is the one which does, for instance, when you say that nobody shall raise an Army except by an Act of Parliament, it means in effect, Parliament is in charge of regulating even the structures of the Army. So, I do not see any fear which people have. In any case, I really like what Hon. Bageya was trying to put across, if you are going to provide rules you know, make laws to regulate on matters concerning deployment of troops outside Uganda, how are you going to do that without having the structures to refer to? Because there are things you cannot hide, therefore, there are normally Standing Committees of Parliament on which experts are called and these help to organise all these, and all Parliament does really is to legislate on the structure, and we thought that in order to allay the fears of the people who say, "but in future suppose we need an Army Council which is there by law how do we do it?", this is one way of making sure that Parliament does that. So, unlike what the Hon. Member for Kinkizi West, Mr. Chairman, was saying that we are limiting powers of Parliament, we are actually extending the powers of Parliament and obliging it, not to leave our Army in suspense. Because already we are already making structures for the Army, there is no problem as long as it is not done like - normally the procedures will be laid down by Parliament. I do not see any danger really, in that. So, I prefer, Mr. Chairman, we go with the latter, on the structures and organs than on administration and organisation. Thank you, Mr. Chairman.

MR. BASALIZA: Thank you, Mr. Chairman. Whatever we say, Mr. Chairman, we cannot run away from organisation and administration, because we have already catered for recruitment, or

appointment and promotion. When you talk about appointment, what kind of appointments? They must be related also to organisation! When you talk about promotion, promoting to which stages? All these are related to organisation and administration. So, Mr. Chairman, I am of the view that this formulation of amending by saying that Parliament shall cater for organisation and administration might fit in better than talking about structure.

THE CHAIRMAN: But Hon. Tinyefunza was saying this was wider, that what we are proposing is wider but that this one is - it focuses Parliament in the correct areas, and essentially what we wanted to know is to hear the reaction of Hon. Komakec on these two positions and then we decide. Please, Hon. Komakec.

MR. KOMAKEC: Mr. Chairman, I will remain with the original, which I had suggested. The reason is this, you see, I had not given the reason why I moved this Amendment. You see, we have already decided that the Army shall be subject to civilian authority and the civilian authority here is the President and Parliament. So, it is in order that these authorities which may not be experts in the actual running of the Army, but they can provide the framework. It is just a framework I am after, I am not going to the detail as Parliament cannot go in the actually detail, although, maybe through committees they can do it, but it is the law that the structures are there, as Members have said, you have to have the structure to which you can then appoint or promote people to it and against which you would then put the kind of condition. When one is doing this, the conditions of the Army is going to be this. Because without that initial structure of the organization of the Army, or the set up of the Army or whatever, you cannot do the other work - Parliament cannot do the other work you are charging Parliament to do. So, that is the reason why I am giving - this is, actually, a follow up of the earlier decision we have already made.

MR. AWORI: Point of clarification! Mr. Chairman, I am seeking clarification from Hon. Komakec, whether what he is recommending could be achieving what we have missed out on deletion of 233, whether such sentiments could be accommodated under his Amendment?

THE CHAIRMAN: I think some of those can be, because if Parliament can establish the organs and the structures, and then that could include offices of Army Commander, Chief of Staff and so on.

MR. AWORI: Thank you, Mr. Chairman, of course, that could dispel our suspicions that it has been a hidden Agenda.

THE CHAIRMAN: No, no, this is broad enough to allow Parliament to go beyond. Okay, I think let us decide now whether we accept Hon. Leander Komakec's Amendment or not.

(Question put and agreed to)

THE CHAIRMAN: So, 239 is amended by inserting (a) in terms proposed and then the others are renumbered accordingly.

MR. AWORI: I was seeking indulgence and agreements of the Movers of the Amendments, particularly the committee, if they could accommodate further Amendment on item (c).

THE CHAIRMAN: Yes, could you move your Amendment if you have it.

MR. AWORI: The deployment within and outside Uganda.

THE CHAIRMAN: It has not attracted any secondment so it falls by the wayside.

MR. WACHA: Thank you, Mr. Chairman. Mr. Chairman, I want us to recast our minds to the former Article 237 which we have deleted. This one talks of the exercise of operation command of the Uganda Armed Forces. Mr. Chairman, I notice that the new 239(c) talks of deployment of troops outside Uganda. I want clarification from the Chairman of the Committee whether this (c) takes care of all the other matters which are contained in what is normally known as operational command of the Armed Forces? Let me stop there and then I will make some further comments after hearing from the Chairman.

THE CHAIRMAN: Anyway, I will not speak for the Chairman, but are you saying that whether (c) "deployment of troops outside Uganda" includes what is contained in 237?

MR. WACHA: Mr. Chairman, my understanding is that what we have passed so far in respect to the other paragraphs of 239 does not take care of operational command in general.

THE CHAIRMAN: But he explained that they transferred that to the sections dealing with National

Security Council, they thought it was a repetition, if I am correct, so that it is taken care of elsewhere.

MR. WACHA: Okay, I will wait for it.

THE CHAIRMAN: Okay, now let me put the question on 239. The recommendation is that 239 stands part of the Constitution. It was amended, so, I put the question that 239 as amended do stand part of the Draft Constitution.

(Question put and agreed to)

DR. KABERUKA: Mr. Chairman, thank you. I think we are on Article 240, my committee recommends that clause (1) of Article 240 as it appears in the Draft Constitution be retained. I beg to move.

THE CHAIRMAN: Hon. Delegates, we have moved to a new area. We have left the defence and we are now in Police and it is recommended that Article 240 as it appears in the Draft do stand part of the Constitution. I put the question.

(Question put and agreed to)

THE CHAIRMAN: That was clause (1) but the whole thing is just that, so there is no need to go through one by one. Will you go on to the next one?

DR. KABERUKA: Thank you, Mr. Chairman. On 241 we are introducing a new sub-clause which is going to be (c) and reads: "to protect life and property" and then we are also amending the present (c) to read: "To cooperate with civilian authority and other security organs established under the Constitution and with the population generally." So, we are introducing a sub-clause which we are calling (c) which reads; "to protect lives and property" and then also amending the present (c) which will be (d) to include the words "and other security organs" after "the civilian authority".

THE CHAIRMAN: So, it is (a) to preserve law and order, then -

DR. KABERUKA: Then (b) "to prevent and detect crime", (c) "protect lives and property" (d) "to cooperate with civilian authority and other security organs established under the Constitution and with the population generally" and (e) "to perform such other functions as shall be determined by Parliament."

THE CHAIRMAN: So, the proposed Amendment inserts a new paragraph and also recasts the last one. Let us first of all see whether you agree to insert a new paragraph.

MR. BYARUHANGA: Point of clarification! Mr. Chairman, I am seeking clarification from the Hon. Chairman, whether this (c) given as a recast is a function to cooperate with civilian authority and other security organs established under the Constitution and with the population generally. Is it a function?

THE CHAIRMAN: It is like a duty. The Chairman, the Hon. Member is saying in your reading, do you see (c) as a function really?

DR. KABERUKA: I do not know whether one would differentiate between a duty and a function. I think it is a function, because it is one of the duties.

THE CHAIRMAN: The function is what, to cooperate?

DR. KABERUKA: Well, if you take, for example, the earthquake in Japan, the Army, I imagine or the Police is there cooperating with the civilian authority in trying to help the earthquake victims.

THE CHAIRMAN: I think what Hon. Byaruhanga is finding difficult with is that it remains hanging. To cooperate, in order to do what? Because, you see, the other one is specific, their job is to preserve law and order, protect lives and property, to prevent and detect crime. Is it for the purposes of furthering its functions and objectives to cooperate with - otherwise, is cooperation in itself - maybe, Prof. Kabwegyere can help us out of this, or Prof. Ssentenza Kajubi who is more knowledgeable with the language. Hon. Byaruhanga is having a problem with paragraph 241(c) on page 104, and more particularly as it is proposed to be recast. He is wondering whether cooperating with civilian authority and security organs established under the Constitution is a function as such or is it a directive that they should in their work cooperate with.

PROF. KABWEGYERE: Thank you, Mr. Chairman. If you look at the word "function", I happen to have a dictionary here and it says: "purpose, something exists for, way something works". Now, I think those two meanings can help us to see "cooperating with civilian authority" as a func-

tion. Because, I think there is a purpose that we are trying to put behind this cooperation. We are talking of harmony. Mr. Chairman, since I have the Floor, I should have wished that to protect life and property should come as number (a) and then the others follow. Because I think we are really after life and property before all these other things come in. Thank you, Sir.

THE CHAIRMAN: I think that clears his question, and now the question is to Members of the committee, do you not think the professor is right, that what is (c) should be (a), to protect life and property?

DR. KABERUKA: Thank you, Mr. Chairman. I think that is a matter of drafting, we have no problem with that arrangement.

THE CHAIRMAN: Okay, fine. So, it is agreed. I take it that the recommendation is that 241 be amended by inserting at the top of it (a) to protect life and property, as a new paragraph and there to recast (c) in terms it is set out. Hon. Kirenga.

MR. KIRENGA: Mr. Chairman, again this is a question of English. I do not know whether the word "life" would not be a better word than "lives" if you say to protect life, of course, does it not mean the life of everybody?

THE CHAIRMAN: In fact, the Chairman had already, without seeking the attention of the House, in fact, changed it. I was already talking of protection of life and property. I think that is what is normally used in normal parlance and I do not see why it should be different here. Do we have to vote on that or we agree by acclamation?

HON. DELEGATES: By acclamation!

THE CHAIRMAN: Agreed and also the recasting. Now, let me put the question on 241 as amended that 241 as amended do stand part of the Constitution.

(Question put and agreed to)

DR. KABERUKA: Thank you, Mr. Chairman. On article 242, we are recommending that clause (1) remain as it is and that clause (2) we are recommending a redrafting to read as follows: "The Inspector General and the Deputy Inspector General of Police shall be appointed by the President with the approval of Parliament" and then we are recom-

mending that clause (3) be amended as we show on page 18 to read that: "*The Uganda Police Force shall be under the command of the Inspector General of Police and shall be assisted by the Deputy Inspector General in the performance of his functions*". And we are also recasting clause (4) to read that: "*In the performance of his functions under clause (3), the Inspector General of Police shall be subject to and act in accordance with the laws of Uganda, except that on matters of policy, the President may give direction to the Inspector General*". And then clause (5) is also being - we are also recommending an Amendment on clause (5) to read that: "*The Inspector General of Police or Deputy Inspector General may be removed from office by the President with the approval of Parliament*". That ends the clauses under that Article. I beg to move.

THE CHAIRMAN: Let us first handle (1) and (2). The first one is talking about the office of the Inspector General of Police and it is recommended that that one be retained as it appears in the text. Agreed. Then two is appointment and it is stated that he shall be appointed by the President with the approval of the Parliament.

MR. KOMAKEC: Mr. Chairman, I would like the Chairman of Committee 5 to tell me what has he done with the Council. Can he give a reason for dropping that one?

THE CHAIRMAN: No, we have not come to that, we are dealing with 242.

MR. KOMAKEC: Yes, but it is being amended, and after consultation with the Police Council has been cancelled. What is the reason for that?

DR. KABERUKA: Mr. Chairman, in conformity with what we have been doing with these other constitutionalised offices, we have been subjecting them to the approval of Parliament only, and in this case we thought that this office is like these other ones which we have dealt with, and we thought that the approval should be from Parliament and not from any other. So, we thought that this should be made direct by President but approved by Parliament only.

MRS. KALEMA: Thank you, Mr. Chairman. I also agree with Hon. Komakec because even before Parliament agrees, the Draft had recommended the President was to consult the Police Council, but it is

not satisfactory the way the Chairman has explained. Did they believe that even the President consulting the council was not necessary?

DR. KABERUKA: Thank you, Mr. Chairman. I think I should also point out that first of all, for us to have put in to consult the Police Council, we must provide for the Police Council also in the Constitution. So, at that stage we stayed that decision until we reach the Police Council. When the Police Council was deleted, we subsequently deleted this. But as I pointed out, these offices which we have constitutionalised here, they are like all other offices, and the President is supposed to appoint with approval of Parliament so, that is one. Two, we could not have put, as I pointed out - unless we provide for the Police Council, that is the only way we can refer to it here, but we subsequently also had reasons for deleting the Police Council.

THE CHAIRMAN: Okay, now the position is that we cannot now at this juncture pronounce ourselves on the basis of consultation with the Police Council because of the recommendation to delete it. Now, if we come to that and it is retained, then we can also revisit its function in relation to the appointments.

MR. HASHAKA: Mr. Chairman, on a point of procedure, as we are discussing this important issue of Police, especially, where they have become a mess in the current situation in Uganda, is it in order to proceed when we do not make a quorum?

THE CHAIRMAN: The Chairman is satisfied that there is a quorum.

MR. AMAMA MBABAZI: Thank you, Mr. Chairman. I was feeling a bit uneasy, Mr. Chairman. I did not realise that you had decided on Article 242 clause (1) but I was feeling uneasy in light of the decisions we have taken regarding the creation of offices, especially, in this type of institution of government. Would it not have been wiser to, like we did under defence, the Army or the Armed Forces, could we not have really rather left the question of the Head of the Police Force to Parliament, and therefore, provided something like, "*Parliament shall make laws for the organisation and administration of Uganda Police Force*" so that we leave it to Parliament to determine whether it is Inspector General or whatever?

THE CHAIRMAN: My understanding was that there was this peculiar situation in relation to the Armed Forces or the military in that you had the office of Commander in Chief institutionalised. Here we do not have a Commander in Chief of the Police Force, we have the civilian authority to which it is supposed to be subject and also it is - and, of course, there is one other aspect with regard to the Police. Once you say it should be an instrument of prevention and detection of crime, then you are looking at a different line of this altogether in relation to the rights of the citizens and I think this is how I understood it, but I think the Committee can say it better for themselves.

MR. AWORI: Mr. Chairman, I also like to endorse the same view and concern as the Hon. Delegate from Kinkizi that for the sake of uniformity in the Constitution, why do we not put all security organs and their functions and structures under Parliament. In addition to that, Mr. Chairman, I also express concern about the new rider which has been put on the independence of the Inspector General of Police by saying -

THE CHAIRMAN: No, no, we have not come to that yet.

MR. KAGGWA: Thank you, Mr. Chairman. On top of what you have said, Mr. Chairman, I just want to add on that the office of the Inspector General of Police or the Police Force as such, is generally looked at as being civilian, and its performance or its functions are related with civilians and when we look at our past Constitutions and many other Constitutions, this office has been provided for. So, I would find no problem in having it here and unlike the Army which, in a way, is special.

THE CHAIRMAN: Let us agree on the recommendation under - do we accept 242(2) as recommended to us?

(Question put and agreed to)

THE CHAIRMAN: So, this will be replaced with (2) which talks of the appointment by the President with the approval of the Parliament. I would like to suggest that we break at this and Members then can internalize fully the other recommendations, and to give the professor a chance to be able to internalize them with us. So, tomorrow we shall be continuing with 242(3) onwards until we eventually come to the rest of the Article. We stand adjourned until tomorrow at 2.30 p.m. Thank you very much.

(The Assembly rose and adjourned until Tuesday, 24th January, 1995 at 2.30 p.m)