

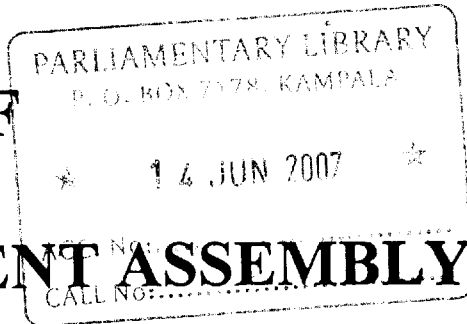


THE REPUBLIC OF UGANDA

PROCEEDINGS

OF

THE CONSTITUENT ASSEMBLY



OFFICIAL REPORT

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THURSDAY, 23RD MARCH 1995

MOTION:-

Communication from the Chair

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Consideration of the Draft Constitution of the Republic of Uganda

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Price Shs. 3,630

Thursday 23rd March, 1995

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

P R A Y E R S

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

(The Assembly was called to order)

COMMUNICATION FROM THE CHAIR

THE DEPUTY CHAIRMAN: Hon. delegates, I gave in a whole 30 minutes because I have been monitoring whether we are in good numbers. We are only 90. So, I suspend the Assembly for 15 minutes, but I will remain here. So, let the Martial go and ring the bell, once we are in a good numbers we shall start.

Hon. delegates, it seems we are lapsing again into lack of quorum. We are supposed to start at 9.00 a.m., now it is 10.45 a.m. and I have been sitting here for 20 minutes. At least today, I have done it, to sit here, to wait for a whole 45 minutes. Tomorrow I will go away and I will not come back. This is not a laughable matter. We have wasted a whole 30 minutes, I have sat here and we are not transacting any business and we are at same time complaining that time is being wasted. So, please, let us be time conscious and at least mark 9.15 a.m. and we are all here, but we are going to 10.00 O'clock.

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

CHAPTER EIGHT - THE LEGISLATURE**ARTICLE 135 TENURE OF OFFICE OF MEMBERS OF PARLIAMENT.**

MR. MULENGA JOSEPH (Democratic Party): Thank you Madam Chairman. Madam Chairman, I thought we finished Article 135 and we are to move this morning to 136. I think what the Clerk called was an error. Madam Chairman, I wish to propose that we stand over Article 136 and consider 137 first to establish whether there shall be right of recall as proposed in 137, before we tackle Article 136, where the first paragraph (A) refers to the right of recall. The reason is that, if we establish in

137 that there is such a right of recall, then Article 136 Clause 1, paragraph (A), would be clear. If we establish in 137 that or rather we reject that right of recall as is proposed by minority report, then 136 (a), would have to go. It is the way we did it in the committee and I recommend that we do the same here.

THE DEPUTY CHAIRMAN: I think silence means consent. You can proceed, Hon. Mulenga.

MR. MULENGA: Madam Chairman, since the committee recommends that Article 137 which is on the subject right of recall be amended in several ways as indicated in the report. But there is a minority recommendation that the entire Article be deleted. The leader of the minority group to my recollection is Hon. Prof. Kanyeihamba.

PROF. KANYEIHAMBA GEORGE (Rubanda County East): Thank you Madam Chairperson. I lead a group of members of Select Committee 2, who believe very strongly that the principle of recall of the member of Parliament as reflected in this Article should not be accepted in this Constitution. Therefore, I move, Madam Chairman, that Clause 1, as proposed by committee 2 be deleted.

Madam Chairman, I want to make a very important distinction between local leaders. That is, for example, presently, members of the Resistance Councils and local authorities and members of Parliament, who are national leaders of Parliament. I have no difficulty nor do members who are of this minority view, have any difficulty in accepting the principle that Councilors and Resistance Councils should be recalled. Because they perform functions which are basically related to the needs of the local area for which they are elected. There is affinity between them and the electorate. Therefore it is only reasonable that should they fail to perform duties for which they were elected during their term, the local electorate should have the right to recall them.

However, Madam Chairman, we have created three very powerful organs of Government. We have yet to address ourselves on the judiciary, presently, we are addressing ourselves on the legislature. We have already created the executive and the kind of Parliament, that we are building up is a national organ that is given responsibility primarily for the fortunes and misfortunes of Uganda as a whole. It

is true that the members who will represent the country in that august House, will of course, represent constituencies, that we admit. They will obviously have local issues to which to mind and where they have to assist the areas for which they were elected. Nevertheless, thrust upon them Madam Chairperson, is the higher responsibility of the nation. From time to time, they will be confronted with issues of a national character, which at times may even conflict, if not relegate the local issues from the constituencies where they came from. This Constitution will expect them, Madam Chairperson, the way, we have written it to promote the national interest. To ensure that Uganda survives as one nation even if occasionally one or two local areas may have to be ignored for the time being. In that too, Madam Chairman, if we were to write the right of recall as we have written it. Many people who will sign the petition for removal, will be preempted or prompted by the failure of this nationalist from fulfilling certain local obligations and needs, when in fact, he was minding national obligation. And I think in my opinion, that would be very unfair. It would be unfortunate for the nation, that a member of Parliament, who has consciously done his duty to the nation should suffer locally, simply because either he did not have the time. Or in his judgement, he had to deal with issues that called urgent attention. Therefore, Madam Chairperson, our view is that, we should create a Member of Parliament, who has the confidence of the electorate and of the nation for five years. For five years, the Member of Parliament has a contract with the nation and his constituency to act diligently. To represent the interests of his constituency to the best of his ability, while minding national issues. And should he misbehave in that period, should he not fulfil the obligations he undertook, both to the constituency and to the nation, then, we are not going to renew his contract for another five years. In other words, they are suggesting that the time of recall should be, when he comes for real election if at all or she comes up for re-election. There are many dangers, Madam Chairperson in this Article. We have set out the grounds for which a member of Parliament may be recalled. It is true that in the Odokj Report, the Constitutional Commission, gave evidence which suggested that the people at large would like their local Member of Parliament to be recalled should he not fulfill the promises he made at the time of election, that is so. Nevertheless, grounds which you can read in that report for which people wanted a Member of Parliament to be

recalled are quite different from those which the Select Committee thought in their wisdom. And I agree with them, should be the reasons for recall. In other words, the expectations of the electorate as to the grounds for recall of a member of Parliament are quite different from those we intend if this Clause was to be passed to constitute the grounds in this Article. Therefore, already, there would be a conflict between the expectations of the electorate and the expectations of the Constituent Assembly. But that is only a small matter Madam Chairman. The most important point why we are against recall, is that the system, whether you have the necessary majority which is being suggested in this committee, whether you have even less than that, provided you have started the system to operate. In other words, someone goes and starts collecting signatures, the credibility and respect for that member of Parliament, is completely gone. Even if they fail to achieve the maximum objectives for removal under this Article, his credibility and his performance will be irreparably affected by these moves. Now, take this scenario, Madam Chairperson, and we are saying, that for members of Parliament unlike the President, simple majority in an election is enough to bring a minute of Parliament. Now let us take a scenario where you have say four candidates. The others divide the votes between but the winner only wins by taking 25 per cent of the vote. Now, that means, that really 75 per cent in his or her constituency voted against that Member of Parliament. I want Hon. delegates to imagine how easy it would be to collect enough signatures against that member of Parliament for wrong reasons. Wrong reasons being, we simply did not elect him, we do not want to represent us, let us remove him. The electorate may not be as sophisticated in their argument as we may be here as members of this august House. I want really members to appreciate that point. Therefore a misguided or mischievous opponent who has lost is able to collect enough signatures not only to unseat that member, but more likely, to completely undermine his dignity and responsibility as a representative of that constituency. I want you to know that even if they were to fail in proving these objectives, they can still raise enough signatures to undermine the authority of the sitting member of Parliament. Really, is that what we want to write in the Constitution? I can visualise a situation where members of Parliament, who were elected by minorities and this is really the more scenario than anything else. Most of us here, for example, members of the Constituent Assembly, were elected

by minority reports when you compare to the other candidates who took votes from us. Now, can you imagine situation, if this is in the Constitution, when petition after petition, whether it is successful or not, comes forward? Simply because people are dissatisfied that the man who is representing them was the wrong person or woman, not for the reasons we have written here. That would bring a lot of mistrust among the Members of Parliament. Many Members of Parliament charges will be brought against them which are false, which are malicious, simply because, half or more of the electorate did not want them to remain Members of Parliament. Therefore, if we want a Member of Parliament and for me, I crave to this august House that we create one. A Member of Parliament, who has dignity, who has got the capacity to represent this country in international fora. Who is able to challenge the executive when they have abused powers that we have given them or they have violated human rights. Then, this dignity must remain intact and it must not be challenged on any ground other than what Constitution says for the five years that he is a member of Parliament. *(Applause)* So, Madam Chairperson, for these reasons, I urge this august House to accept the Motion that we delete this Clause for the recall of Member of Parliament. I beg to move.

MR. ZZIWA GEORGE (Kawempe Division North): Thank you very much, Madam Chairperson. Madam Chairperson, I stand up to oppose the Motion. Madam Chairperson, as you have all heard, that the first argument brought up by Hon. Kanyeihamba, that the duty of the MP was not primarily to his constituency, but to the national constituency.

I think that is a false argument. The primary duty of a Member of Parliament, is the duty to serve his constituency. The national issue always comes in at a later stage when national items are being discussed and handed over to the executive. But the primary duty is to the constituency. The people who gave the member of Parliament the votes and the people who give him instructions as to what he should say or what he should do on their behalf. Madam Chairperson, if that be the case, I would like to give information to the Member who was on the Floor that if at all he wants to win or to do a duty for his constituency, he should look at the people who sent him first before he looks at the national duties.

Secondly, Madam Chairperson- *(Interruption)*

PROF. KANYEIHAMBA: Point of information. Madam Chairperson, we have already passed Article 132, talking about the functions of Parliament, that is the functions of Members of Parliament. Article 132, 1, which we have already passed, says subject to the provisions of this Constitution, Parliament shall have power to make laws on any matter of the peace, order, development and good governance of Uganda. Parliament shall protect this Constitution and promote democratic governance of Uganda. Nowhere have we said that the Parliament shall mind the affairs of the constituency.

MR. ZZIWA GEORGE: Thank you very much for that information, but I would like also to point out that charity begins at home. This is where you have to start to make peace, to make all the duties, to put in effect all the duties of a Member of Parliament. This should be started at home, and then eventually work up from the grassroot to the national level. Thank you for that information.

Secondly, Madam Chairman, five years is a long time. When the argument is brought forward that we should wait for five years, to recall a member of Parliament. I think we are doing a disservice to the constituency, to leave the constituency rot, dilapidate for five years until a man who has not been doing his duty comes back to seek mandate. I think that would be wrong. We should act immediately when a member of Parliament is not giving us the services we want. We should remove him once we see that we are not getting the services, the man is not delivering. Why wait until five years when other parts of the country are moving faster and we are lagging behind?

Madam Chairperson, I also think that point brought about that we should wait until five years expire, I think it is not a very, very tenable argument.

Thirdly, Madam Chairperson, I would like to say something about the ganging up of the opponents. I think if a Member of Parliament is delivering and is really doing his job, the question of ganging would not come in. Do not think the electorate is so stupid, or is so backward that they cannot distinguish between what is good and what is bad. They really can see the man performing, delivering, especially when we are talking about development. That the man is caring to make sure that development comes to the constituency and that his re-

quests are being in Parliament and that goods are being delivered. I do not think they will just say, or we shall have to gang up and recall a man because the man was our opponent and for that reason he has to be recalled. I do not think this is true. Electorate are intelligent people, they can see. After all, what if they have to send in another man, what else is he going to do apart from what the man who is delivering is doing? And for that reason, Madam Chairman, I think the ganging up is not worthwhile, it cannot work at all, once somebody is delivering.

Fourthly, Madam Chairman, we have the Odoki Report and the report says exactly that we should make sure, at least this is the instruction I received from my people in North Kawempe, that when somebody is not performing, he should be recalled. No chance should be given to him to draw the allowances when he is actually doing his own personal chores and the rest of it. So, on those points Madam Chairperson, I oppose the Amendment. Thank you.

MAJ. TUMUKUNDE HENRY (Rubabo County): Madam Chairperson, I beg to oppose this Motion. (*Applause*) I beg to oppose this Motion Madam Chairperson, because I have been given special instructions from the people of Rubabo to keep their right to recall their leaders whenever they do not perform. (*Applause*) Madam Chairperson, I do not want this House to start developing tendencies of protecting their future interests. That is why Madam Chairperson, I have always said that it was not good planning for a Constituent Assembly to precede an election and therefore, a Parliament. Madam Chairperson one of these days, we shall start planning for our tomorrow and this is likely to blind our otherwise would have been reasonable position. Madam Chairman, why are we trying to deny people choice? If the people can choose, why do they not recall you? The essence of democracy is the essence of choice. Choice involves saying yes and choice involves saying no. So, Madam Chairperson, I want that whenever the people are dissatisfied with your person and self, there must be a way of bringing you back and putting there somebody else they imagine is doing better. Madam Chairperson, if we can allow Resistance Council Members to be recalled at such a low level, how can we people at the helm of democracy refuse to be recalled? When it comes to Resistance Council, you tell the people, you can say yes, you can say no to a Resistance Councillor and call him back. When it

comes to ourselves, we are heard to have sat here and said, no, we shall not be recalled. Madam Chairperson, I think that is dangerous. Madam Chairperson, why do we not also agree that there must continue to be some form of check to the people who represent our peasants? Say, we have heard that, we are not here to cater for the interests of the constituency. I am sure the pot from which you derive your being here must also be protected. That is why we are saying Madam Chairperson, that whenever you are here, you must always have a proper insight about where you came from. And I think although we are trying to kill this point, I think it is also crucial that if you are representing your people, you must be sensitive to their interests. Here, Madam Chairperson, that is why I say, that we must be kept on toes, keep in touch with our people, weed the votes and make sure we come back another time. Madam Chairperson, I do not want us to suffer the problem of the West African famous novel, 'A Man of the People.' This man never used to reach Parliament, he never even used to have time to sit, but he had to continue to be in Parliament, because there was no chance for people to withdraw him. I am sure basing on the rules we are about to create here. So, Madam Chairperson, without any reservations, I oppose this Motion and Members of this very Honourable House must move to protect the peasants who sent us here and to allow them chance to recall us whenever we are not doing what they expect us to do.

DR. MIYINGO-KEZIMBIRA (Bukoto Mid-West): Thank you very much, Madam Chairperson. Madam Chairperson, I stand to support the Motion. Primarily, Madam Chairperson, a Member of Parliament, is a national leader, his primary role, is to see that a nation is moulded together. In this case, that Uganda remains one and aspires to see that what he undertakes is for promotion of national unity. Madam Chairperson, this begins with the primary role of the member of Parliament to strive for this to be achieved. There are many petty problems locally, which could come in between there. And people may think that the national leader or the Parliamentarian is not performing according to their expectations. It is his duty, Madam Chairperson, to inform the people and direct them into the correct course. They may oppose this and many times, the people he has been standing against are the ones who are going to begin the crusade of wanting to remove him, because he has performed his duty nationally. Ganging up,

Madam Chairman, cannot be dismissed, because as elaborated before, we win Parliamentary seats on just simple majority. Therefore, Madam Chairperson, it is easy for other candidates who have been standing against you to gang up and oppose you and get signatures enough for you to be removed. Five years is not a very long time. Let one be given time to complete his term before people say he cannot deliver. After all, delivering what? We have to question ourselves on what you think is being delivered. A legislator is not supposed to make roads like people want them to do. If he is deliberating on national issues, he is supposed to make laws and he is making them, then why is he not delivering? If he misbehaves and the leadership Code - *(Interruption)*

THE DEPUTY CHAIRMAN: Let the Member make his point. Proceed.

DR. MIYINGO-KEZIMBIRA: If he misbehaved, maybe he embezzled funds, then there is a Leadership Code to take care of him. But I think as a Member of Parliament, he should be left to serve his term, because immediately somebody begins to collect signatures in his constituency, the person loses morale. The performance you are talking about will even further be eroded by these problems. And also he loses confidence among his people. Even those who did not think he was not delivering. So, Madam Chairperson, I want to support the deletion of that Clause. Thank you, very much.

REV. FR. BATANYENDE GAITANO (Presidential Nominee): Thank you Madam Chairman. In Chapter One, Article 1, we have said all powers belong to the people. *(Applause)* I believe this power which we have given to the people is the power to hire and the power to fire. *(Applause)* Therefore, Madam Chairman, if we are serious with ourselves, let us be consistent in our words. We should avoid making a constitution here just to protect the interests of a few individuals who are aspiring to be the Members of Parliament tomorrow and forget the people who will have pushed them to that centre of power. Madam Chairman, politicians, have during the campaigns told the electorate that they will bring heaven and earth to their constituencies. I think we give this power to recall to the people. The politicians, we shall be saving them from this vice of telling lies to the electorate. Because they know if we promise to

make a bridge where there is no water, the electorate will ask you, where is the bridge, where is this? So, he will be careful in telling lies to the electorate.

Madam Chairman, somebody said, a Parliamentarian is a national leader. Okay, he is national leader. But who made him a national leader? He is there to serve me. If I see that his services are no longer good for me, I think I should be given power to recall him. Therefore, Madam Chairman, I strongly oppose this Motion.

MR. KADAMA (Butembe County): Madam Chairperson, we must look at the reasons being given for recall. We had an election in 1980. The area where I come from, several members elected by the Democratic Party, decided to cross over to the Uganda People Congress, without consulting the electorate. And the Hon. member is here suggesting to us, that in future if political parties came back, he would allow electorate just to sit idly watching - *(Interruption)*

THE DEPUTY CHAIRMAN: Let the member make his point. *(Applause)* Hon. delegates, before you proceed, Hon. delegates, it seems this is a very sensitive issue. As much as possible let us refrain from interrupting speakers, because we have 101 hands all asking for clarification. So, let us leave the members to make their points.

MR. KADAMA: In this Motion, I am even seeing members abandoning even what their own people sent them here to say, at this Session. We have been sent here by the people, where I come from, it is quite clear that the performance of our former Members of Parliament has caused the population to demand the recall of non-performers. I do not want to challenge the Movers, but I am concerned, that if they were to go back to where they came from and professional interpretations here, the people would tell them to support the Motion of recall. Thank you very much.

DR. OKULLO-EPAK (Oyam County South) Thank you Madam Chairman. I rise to support the minority report for the deletion of this provision. Madam Chairperson, it is my view that a constituency is simply a unit or means of selecting people from various parts of the country to come and perform a national service in the form of Parliament. It is therefore, not the constituency which is important in this business, but it is in my view, the

Parliament and the national duty to which one has been sent which is to me, important. If it were to be taken Madam Chairperson, that a constituency is the most important element in this duty, then, it would be impossible to reach consensus in any Parliament. It would even be impossible for us here to reach what is called consensus. Because we have come with various, minor demands from our constituencies, but we are forced, in the national interest, to sink those differences for the greater good of the country. This is happening more often than not for those who think that their constituencies are the most important element in this business. I would challenge them to deliver to their constituencies all the water they ask for, all the schools they ask for, and all sorts of details each constituency asked for. And if it is not possible to conform to the demands of each constituency in a country, then obviously it is the national responsibility which is important.

Secondly, Madam Chairman, I think that the recall provision is a recipe for an unstable constituency as there will be many, many challenges in the course of five years. Some of which may be successful, some of it may be not be successful. But in that effect, is that the constituencies are being made unstable constantly throughout the five years and this is not good for the performance of the representative of the people.

Thirdly, Madam Chairman, going to Parliament as we have prescribed here is a five year contract. To include the power to recall would appear to render representation in Parliament a temporary arrangement as it can be threatened or determined by the electorate at any time. I do not think that is our desire.

Finally, Madam Chairman, it is my view that the responsibility for electing a good Member of Parliament lies squarely with the people. Therefore, if as a result of their choice, they end up with a non performing Member of Parliament, they must carry the blame and pay for it over the five years. So that next time, they make a better choice. I thank Madam Chairman.

MR. ATAMVAKU ZUBAIRI (Arua Municipality)—I am opposed to the so called right to recall.

Madam Chairman, I have not only heard, but also listened to the argument advanced in support of the

so called right to recall. Madam Chairman, there has been allusion to the argument that, why do we accept the right of recall in the RC system and not in this Constitution we are making? I think that question is misplaced. It is misplaced because, the Constitution we are making, we assume and we pray that it is going to be democratic determined moreover by the sovereign will of the people of Uganda. Therefore, what we follow in the so called RC system, must not of necessity be transferred into a Constitution that is being born out of the sovereign mind of the people of Uganda. Madam Chairman, why do I say so? The reasons are quite clear. The RC system was not generated out of the democratic aspirations of the people. The people of Uganda did not elect themselves or their representatives to indorse the RC system. Therefore, the question of recall might have been implanted with out the will of the people. But in a democratically elected Parliament, where the representatives are supposed to serve for a tenure of five years, to see that the people have the right to recall, is indeed to abort the entire democratic process. Madam Chairman, we are being told time and again that all power belongs to the people. I agree, power must belong to the people, but this power must be exercised with responsibility and discipline. I repeat, this power must be exercised with the sense of responsibility and discipline. Madam Chairman, you imagine, just because democracy is the supporter's choice, should the people of Arua Municipality elect me in 1995, then in 1996, some few mongers go around and de-stabilise my mind, with a sense of irresponsibility and lack of discipline. Do you call that democracy? I do not think so. You do not call it democracy. It is therefore improper that we constitutionally license the mongers to go around, de-stabilise, democratically elected representatives of the people, I think that is absolutely wrong. It is a mockery of law and order. Madam Chairman, when representatives are elected to Parliament, they are sent with a sense of judgement. This callous utterances that my people have sent me with these instructions, these are raw arguments, they are not well cooked at all. You are sent with instructions but with a sense of judgment. Now you imagine, people sent on the instruction that we want you to go to the Parliament and ensure that two Universities are built in Arua Municipality. Honestly speaking, that kind of instruction is popular, but does it tally with the sense of reason and availability of resources? I do not think so! The responsibility of a Member of Parliament is funda-

mentally national. The constituents are important in so far as they are part of a nation. But for you to say that, the primary importance is attached to the electoral area from which you come, is to compartmentalise this country in such that we can no longer talk of one country, one nation and one people. Really, Madam Chairman, we are working to build one people, one country one nation. We must therefore know that, these electoral areas are only important in relation to their constituting one country. At least this is the judgment when it obtains that this country was one before the mischief mongers came and split the country along ethnic lines. Madam Chairman, can I continue?

THE DEPUTY CHAIRMAN: But you have taken enough time. Make your point and then we move on.

MR. ATAMVAKU ZUBAIRI: I therefore conclude by saying that the fact that in some parts of Uganda, Members of Parliament ever crossed from the ruling party does not justify this. After all, we are already making a provision to the effect that, those who cross the Floor, may have to go back to seek a new mandate, which provision still I have my doubts about, because I think an MP must have a sense of judgment. On the whole therefore, Madam Chairman, I oppose the so called right to recall. It is a right to chaos and irresponsibility and indiscipline. Thank you.

MISS. KABIRISI LUBERENGA (Women - Bushenyi): Thank you Madam Chairman. Madam Chairman, I rise to oppose the Motion on the Floor. I am for the recall of the Members who do not deliver what they promised. Madam Chairperson, we have heard arguments on this Floor to the effect that, Members of Parliament are national leaders. I agree, nobody is saying they are not, but what they are saying is this. When you go to look for votes, you stand up and make promises to the people, then you get to the Parliament, and you decide you are a national leader. I am beginning to wonder why those people do not wait for the Head of State to pick them, to become just nominated Members of Parliament. If you need votes from our people and you make promises to them, we expect you to deliver those promises. Madam Chairperson, somebody said that we should make the five years automatic. I do not agree. It is true we have said that Parliament should last for five years, but we did not say that the people who go in should stay in for five

years. What if you die? Are we going to say Parliament ceases? So, the five years are not automatic Madam Chairperson. Madam Chairperson, Hon. Batanyende made a statement which others have defeated. Those who have the right to hire should have the right to fire. Madam Chairperson, I would like to see those who are supporting the automatic five years to our people and stand up and tell them that you give me your votes. I am going to be a national leader, I will not bother whether you have roads or bridges. I would like to see how many of them would get votes Madam Chairman. So, when we are making a Constitution we must look at the needs of the people whom we come here to represent. It is true we want to build a nation, and we all support that idea, but not at the expense of the peasant who sweat, put you to the Parliament, and who pay to maintain you in that Parliament. Finally, Madam Chairperson, people have talked about the ganging up of opponents. My personal view is, if you are a Member of Parliament who is delivering what you promised the people on top of being a national leader, I do not see why your opponents, who also want votes, should gang up against you. Why do you not bring them into your camp? Because the fear is that, these people are going to go around and work to undermine you. That might happen, true. But then, we must remember that when you are recalled as an individual, only one of your opponents can occupy that seat. How are they going to decide that it is joined and they gang up against you and then they bring you out? You should make it your responsibility as a national leader and a national builder. The moment you get to Parliament, get your opponents into your camp and together you build your constituency. Madam Chairperson, with those few words, I beg to strongly beg the delegates here, to remember the promises we made to our people. We made promises to come here and give them power and power to recall their Members of Parliament who do not perform is one of those. I want to point out this case, Madam Chairperson. When we come to the reasons for recall, this is going to come up. We have had cases whereby for example, a member of a given group, those of us who belong to groups, ceases to be a member of that group. And yet he or she must occupy that seat for the next five years, a case in point is Bushenyi district. As I speak, I do not have a woman Member of Parliament, because when they created Ntungamo district, my woman representative went to Ntungamo, but yet she still represents Bushenyi but she never goes there. Why

should we be encumbered with such a person. We need a right to recall people who do not deliver services to us. Madam Chairperson, I beg to stop there. Thank you very much.

MISS. NANKABIRWA SENTAMU (Women - Kiboga): Thank you Madam Chairperson. I rise to oppose the Amendment on the Floor to delete this power to recall. When I look at the Chapter concerning the Constitution, the opening Clause, Clause 1, that all power belongs to the people, who shall exercise their sovereignty in accordance with this Constitution. That is the first reason why I think this power should remain in the Constitution. When it is time to campaign, people go down to these voters and promise a lot of things. They are the bosses, but after rising to these positions, why do you fear these voters whom you take to be the bosses when you are asking for their votes? What power are we talking about when we say that all power belongs to the people? Look at the grounds on which a Member of Parliament is going to be recalled. Please Hon. Delegates, if you say that all power belongs to the people and then you do not want to constitutionalise the power to recall, then you are deceiving the voters. What is on the ground is that, people of Uganda want their power to recall you. You Hon. delegates who go back to them to ask for votes and then you think you will forget, when you reach in the Parliament, that is out. Let us put this in the Constitution, try to find the procedure of recall, the grounds on which the Member of Parliament is going to be recalled. This power must stay in the Constitution. I beg to oppose. Thank you very much.

MR. PAULETYANG (Tororo County): Madam Chairman, thank you very much indeed. I would like to pick up my contribution from the observation made, Madam Chairman, that this is a very sensitive matter. I crave for the indulgence of my Colleagues in the Hall to look at it that way, not in the excitement of winning an argument one way or the other. Madam Chairperson, we are talking not about delegates to Constituent Assembly, we are talking about representatives to the Parliament. A representative to the Parliament as well as taking care of the decisions for which he was elected in the Constituency, has got all the basis of the collective wisdom that he acquires in the House also to assume the national constituency in that regard. That is my understanding of a Member of Parliament. He is not tied to his constituency nor is he

going to be only speaking about the national issues. Now, we have very, very, wisely decided as Article No. 1, that power lies with the people. Madam Chairman, I am one of those who believe that where perhaps we have gone wrong sometimes, is to appear to envisage each and every situation to be enshrined in the Constitution. The moment I have endorsed the proposal that the supreme power lies with the people. Whether or not any other power is enshrined in the Constitution, the people by that fact alone, have a right to recall their Member of Parliament. To impeach their President, to do everything. That is my understanding. Whether this Constitution has a specific provision as long as we have deleted that the supreme power lies with the people, the people have a right to recall their Member of Parliament, whether or not he is in this Constitution. So, accordingly, Madam Chairperson, I would like to reflect the views of my constituency, who in the first initial reaction to the Odoki Draft Constitution, were excited. Madam Chairman, when they saw this proposal by the Odoki Commission, the people of Tororo county were excited about it, they were happy about it. Why? It is because they were basing their reaction on the previous Constitutions which never recognised the supremacy of the people. Now, we have come here and luckily enough have endorsed that supremacy. Now, eventually they changed their mind, said, look, this point about recall must be considered in a wider perspective than merely a reaction to the past. A Member of Parliament they said, should be judged on the overall performance of his term of office not a daily occurrence or an incident which may not be typical of that Member of Parliament on the basis of which the recall issue may be generated. Secondly, they said, given our experience, the last 30 years of independence, and here we have also to anticipate political parties. We have got to anticipate a situation where manoeuvring and arm twisting and all that, will be the order of the day. And it will continue, that the recall that is envisaged may not, and cannot necessarily be confined to the interests of the constituency. In other words, it can be manipulated from outside. So that, in fact the example that was given where a Member of Parliament could be booted out of the House even by his own party. Even if that party is in power because he may not be necessarily following the footsteps of the whips of that party. So, Madam Chairman, I stand for the deletion of this Article. Madam Chairman, checks on behaviour and effectiveness of the individual are well taken care or can be well taken

care of in the Parliamentary Rules of Procedure. Or in addition to that, we have now deliberately as a policy encouraged a very vigilant and vibrant press which will expose the shortcomings of the individual. Now, madam Chairman, let us look at this matter very coolly. We are talking about representatives not delegates. We are not talking about ourselves. I do not think many of us as of now have taken a decision that we will stand or will not stand. I think that is for the future. We have to coolly examine this matter in the interest of the country at large. If you are going to have a Member of Parliament, whose tenure of office is inspected every week, he is neither going to be effective in the constituency nor is he going to be effective in the House. Because all the time he is going to look around as to what point he may be subjected to recall. And if we provided separately for it here, outside the provision for the people to be screened in power, it is going to be exploited by those who are politically and directly interested in the presence or non presence of this Member of Parliament or representative in the House. So, I stand for the deletion of this provision. Thank you.

MRS. VICTORIA SEBAGEREKA (Women-Mukono): Thank you Madam Chairperson. Madam Chairperson, I would like to call for consistency in the Constitution making process. I would like, if we give power to the people with one hand, we should not take it out with another hand. Madam Chairperson, I feel that for the time being, the people of Uganda, feel that they are part and parcel of the decision making process. If they decide to elect their member to Parliament, if that Member does not deliver, they should have the right to recall that member. First and foremost, members of Parliament are elected to represent the local constituencies but when they are there they are expected also to look after the national constituency. But they go there on the wish of the people who elect them. They are a bridge between the local government and the national government so the people are the ones who are a yard-stick to measure whether that person is delivering or not. Madam Chairperson, a person can be a good debater and may not be able to deliver to his constituency. So I would like here to stress that we must - *(Interruption)*. Madam Chairperson I am being interrupted - I would like to stress the importance of the constituency of the people who elected us to be the checks and balances of us. I am talking now here in the Constituent Assembly the laws we pass, whatever we do, they are interested and we should not let

their trust in us down. When it is Parliament they also have a right to give us what we should talk about. Madam Chairperson, there is a fear of ganging up but when somebody is responsible and he is carrying out his duties responsibly we should not under-rate the mass out there. The people who elect their representatives that they are not interested. They are interested and when they are going to recall that person they recall them on the ground that, that person has not done what is expected of him/her. I would like Members to remember during the campaigns. Whatever you promised those people they did not take it out of their mouth. You are the ones who promised and if you cannot deliver you have a right or an obligation to explain why you have not delivered. But we should respect their views and they should be given the right to recall. There is always a ganging up process in every big organisation - *(Interruption)*

THE CHAIRMAN: Order, order. Proceed please.

MRS. SEBAGEREKA: In every big organisation there is ganging up and that ganging up is only defused when somebody is delivering. They will not gang against you if you are delivering. Therefore, Madam Chairperson, I strongly oppose the deletion of this Article and people should be given the power to recall. I thank you.

THE DEPUTY CHAIRMAN: Hon. Delegates, as you can observe everybody wants to speak and if we allow two hundred and eighty four Delegates to speak, we will stay here three days so I put the question. The contention is that Article 137 be deleted. *(Interruption)* Order, order. Do not start rigging before we start the elections.

(Question put and negatived)

MR. MULENGA: Thank you, Madam Chairman. Madam Chairman, the committee recommends that Clause (1) of Article 137 should read as follows: "*Subject to the provisions of this Article the electorate of any constituency and any interest group referred to in Article 131 have the right to recall their Member of Parliament before the expiry of the term of Parliament.*" Mr. Chairman, beg to move.

MR. KARUHANGA ELLY (Nyabushozi County): Madam, I had misread, I thought you are on (2) but you are on (1) and I want to contribute on (2), so I beg your pardon.

MR. KAGIMU KIWANUKA (Bukomansimbi County): Madam Chairman, I think I wanted to clarify. We have passed already Clause (1) of Article 137, we have already pronounced ourselves on that and now I think we are going on Clause (2) of Article 137, I think the Chairman of the Committee is a bit confused. So I beg, Madam Chairperson, that the chairman of the committee goes to Clause (2) of Article 137, that is where we are.

THE DEPUTY CHAIRMAN: Hon. Mulenga, there is a query by Hon. Kagimu Kiwanuka I think you can interpret it better.

MR. MULENGA: Madam Chairman, with due respect what was being debated was whether to delete the Article or not. We have not yet expressed ourselves on the Clause (1) so it is not I who is confused.

MR. KAGIMU KIWANUKA: Madam Chairman, as you know according to our Rules we do not debate - we go clause by clause - *(interruption)*

THE DEPUTY CHAIRMAN: Hon. Kagimu Kiwanuka, what I understand the Motion on the Floor was to delete the whole article. Now, the whole Article is retained according to our decision, so we go to 137 (1) that is where we are.

MR. BAGEYA PATRICK (Kigulu County North): Thank you, Madam Chairperson. Madam Chairperson, in (1) all we need to do is to pronounce ourselves on this Article because we have taken a good time debating it. We have decided not to delete it, which is a clear indication that everybody or at least the majority are in support of this particular Article. So for avoidance of any doubt can we kindly pronounce ourselves to this particular Article?

THE DEPUTY CHAIRMAN: Hon. Bageya, if you want consent you do not put up your hand. You just say AYE if there is no hand then I know the thing is clear but once you put up your hand I assume that you have a point to make. Once I see any hand up I have to respond.

MR. BAGEYA: I was only trying to clear the confusion.

THE DEPUTY CHAIRMAN: There is no confusion.

MR. KARUHANGA: Madam Chairperson, as a person who has been lucky to follow the proceedings, I think if we leave the wording in 137(1) as it is, we stand the risk of misunderstanding what the intention of this House is especially in relation to the words 'interest group.' Can we be much more clear than that because the words 'interest groups' is repeated in various areas. I wanted Hon. Mulenga to help me.

MR. MULENGA: Madam Chairman, it is not just 'interest group.' It says, 'interest group referred to in Article 131.' If Hon. Karuhanga would like us to be more explicit than that then he might want to suggest how more explicit.

THE DEPUTY CHAIRMAN: Hon. Karuhanga, can you be explicit so that we move on.

MR. KARUHANGA: Yes, I think we can move on.

THE DEPUTY CHAIRMAN: So I put the question on (1).

(Question put and agreed to)

MR. MULENGA: Madam Chairman, it is recommended that Clause (2) should read as follows: "A Member of Parliament may be recalled from that office on any of the following grounds: (a) physical or mental incapacity rendering that Member incapable of performing the functions of that office."

THE DEPUTY CHAIRMAN: Hon. Karuhanga has some problem.

MR. KARUHANGA: Thank you, Madam Chairperson. My problem is, yes a Member of Parliament may be recalled from that office from any of the following grounds, the physical or mental capacity. Is it going to be judged by two-thirds of the members of the electorate or is it by a doctor? It is not very clear to me what we are trying to achieve here. Really if somebody has got a mental incapacity you have to go to two-thirds debate on this. I just wanted to know whether this is in reference to (1) or it is independent on its own. If it is in reference to (1) then it is not clear to me whether we have achieved our purpose.

LT. MAYOMBO NOBLE (NRA Delegate): Is Hon. Karuhanga in order, Madam Chairperson, to

refer to two-thirds when the two-thirds he is talking about has not been discussed anywhere by this Assembly?

We have only passed Article 137 (1) which makes no mention of the method in which a Member of Parliament can be withdrawn. Is he therefore in order?

MR. KARUHANGA: Yes, because it is in (3). Hon. Mayombo is not reading the clause in context - he is reading the clause in isolation.

THE DEPUTY CHAIRMAN: We are on (2) and we are on 137. We have finished (1), we have finished (2). Where is the wording that is indicating the three-quarters?

MR. KARUHANGA: Madam Chairperson, I would like you to look at page 16 (3). Maybe we should discuss that first before we discuss this. *(Interruption)*. I am interested to know whether this is an independent clause from 137 which is the right of recall.

THE DEPUTY CHAIRMAN: Okay, Hon. Karuhanga, let us look at it this way. We are saying that a Member of Parliament may be recalled from that office on any of the following grounds, physical and mental incapacity. Now, then you need a medical report. You get a medical report, you take it to Parliament. Definitely if the man is a vegetable, the man is a vegetable, nobody will say that he or she remains. So I really do not see. This is vetoing because even here where we say it is a hundred percent we say AYE or NO. So I think this is just vetoing rather than anything else. Anyway let me ask Hon. Mulenga to help us here.

MR. MULENGA: Madam Chairman, the procedure is that members of the constituency by the fraction we recommend will petition and then the Electoral Commission will be asked to investigate. It is at that stage that the medical certificate if any will be required through that investigation. We are not asking the constituency to take the man to the doctor.

THE DEPUTY CHAIRMAN: I think we put the question on that one.

(Question put and agreed to)

MR. MULENGA: "*(b) Misconduct or misbehaviour likely to bring hatred, ridicule, contempt or disrepute to the office.*"

THE DEPUTY CHAIRMAN: I do not see any problem.

(Question put and agreed to)

MR. MULENGA: "*(c) Persistent deserting of the electorate without reasonable cause.*"

(Question put and agreed to)

MR. MULENGA: Clause 3. Madam Chairman, it is recommended that Clause 3 should be read as follows: "*The recall of a Member of Parliament should be initiated...*" *(Interruption)*

THE DEPUTY CHAIRMAN: Hang on Hon. Mulenga. There is a Motion to include a (d) from Hon. Hope Kabirisi and Hon. Mazima and Hon. Masiko. So let us hear their insertions (d) before you move on.

MISS. KABIRISI: Thank you, Madam Chairperson. As a member of an interest group we would like to move an amendment to add sub-section (d) to Article 137 which will read as follows, I am just adding another condition: "*Ceasing to be a member of the interest group which one was elected to represent.*" Madam Chairman, I beg to move.

THE DEPUTY CHAIRMAN: But is that not contained in the introductory part of (1)?

MISS. KABIRISI: Madam Chairperson, if I am seconded I would like to tell you the reason why we want that added.

THE DEPUTY CHAIRMAN: Okay, you are seconded by Hon. Victoria Ssebageraka.

MISS. KABIRISI: Thank you, Madam Chairperson. Much as you say that we are covered in (1), to me (1) reads that: "*Subject to the provisions of this Article the electorate of any constituency or interest group have the right to recall their member.*" But we are not given specific grounds. That is why we want to add that when one ceases to be a member of that interest group automatically we should have a right to recall that representative. In our view, we have had cases as I told you earlier on that we have had, for example, a case in Bushenyi when they created Ntungamo District and our woman now belongs to Ntungamo District but represents Bushenyi District. We have had cases where - *(Interruption)*

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

MR. HASHAKA JACKSON (Kibale County): Thank you, Madam Chairperson. I want to be clarified by the Mover. She says that unless one ceases to be a member of that group, can one cease to be a woman unless she dies? Can one cease to be a lame person, can one cease to be a youth unless he is grown up?

MRS. KABIRISI: Thank you, Hon. Hashaka. One does not seem to be a woman but one ceases to be a member of the interest group in that we are elected to be representatives of given districts. So when you stop being a member of our district and you belong to another district, we would like to have the right to recall you. We have found from experience that once you no longer belong to that particular group you stop taking care of the interests of that group. Hon. Hashaka wants to know whether one stops being a youth. Definitely we have an age limit for the youth so once you are no longer in the youth group or once you are no longer a worker or once you are a demobilised soldier we would like to have somebody else who will take care of our interests. *(Interruption)*

MRS. BYENKYA BEATRICE (Women - Hoima): Information. I just wanted to inform my Hon. Colleague that the example she is giving is rather a wrong one. Because the NRC member for Bushenyi, when the district was broken into two, Ntungamo and Bushenyi, the woman Representative decided to be a member for Bushenyi. In any case such an instance was taken care of. Another instance is when Tororo and Pallisa were divided into two, the Woman Representative decided to remain in Tororo and there were by-elections for Pallisa. So that one does not hold water.

MISS. KABIRISI: Thank you Madam Hon. Byenkya.

THE DEPUTY CHAIRMAN: There is also another request for clarification from Hon. Byaruhanga.

DR. BYARURANGA FABIUS (Kitagwenda County): Thank you, Madam Chairperson. Whereas I agree with the spirit of Hon. Kabirisi amendment, she should note that we are now debating Article 137. The home for her proposal is

actually 136 because if you are no longer a youth then definitely you should give up your position automatically. We should not go through the rigours of a process that is going to be prescribed in 137. So she could wait until reconsideration and bring her amendment and put it in 136.

THE DEPUTY CHAIRMAN: And perhaps Hon. Kabirisi I just need some clarification here, how about transfer by marriage? Where you have for example if I belong to Ntungamo and marry in Nebbi, will I lose my position where I am born?

MISS. KABIRISI: No, you will not because you would have stood there either because you are born there or because you are living there or because you are working there. So that one you do not lose your seat. What we are talking about is when you stop being a member of that particular group. Somebody has brought up the example of stopping being a youth whereby you no longer actually represent the interests of the youth. We have had examples of stopping being a worker - *(Interruption)*.

DR. WANDIRA KAZIBWE (Kigulu County South): Thank you very much, Madam Chairperson. I want to help my colleague from Bushenyi that the way we shall be electing the particular interest groups should be by a Statute which will be presented to Parliament. I do not think that it is really necessary to specify in detail how a member of an interest group will lose their position in Parliament. That should be taken care of by the Statute that establishes these groups and the way they will be elected. So I wanted to assure that her case will be taken care of by Parliament. Thank you, Madam Chairperson.

MISS. KABIRISI: Thank you Hon. Dr. Kazibwe. If we are going to have that, why are we bothering with the first three conditions because we thought that once we go down to specify in the Constitution we might as well specify for our individual group. That is why we decided to bring this otherwise if we are going to depend on the Statute we would not be bothering with (a), (b) and (c).

DR. WANDIRA KAZIBWE: Madam Chair if I may help her further, those interest groups the moment they become Members of Parliament these conditions we have specified will also apply to them. So these are general conditions otherwise the specific provision for the interest groups will have

to be specified in the Statute that set up the modes through which we shall elect them and how they will lose their membership.

MR. SEBI HAROUN (Koboko County): Thank you very much, Madam Chairman. I am requesting my sister, Hon. Kabirisi, to look at 2(c) which says 'persistent deserting.' I would rather say persistent desertion of the electorate without reasonable cause. Now, looking at this section of Clause 2, I am wondering whether this would not take care of her interest because when you say the electorate, in this particular case your electorate would be the youth or the women, the interest group. I, therefore, think that (c) actually does take care of her query. Maybe then you may not need another separate (d) because (c) is good enough, it takes care of the electorate which either the youth or the women or people with disabilities or the workers and the army.

MISS. KABIRISI: May I continue now, Madam Chairperson?

THE DEPUTY CHAIRMAN: Oh, yes but round up.

MISS. KABIRISI: Madam Chairperson, in view of the contribution from Hon. Kazibwe assuring me that Parliament would take care of the necessary. In view of Hon. Sebi's contribution that we shall be calling these people deserters, I beg to withdraw the amendment.

THE DEPUTY CHAIRMAN: There is no Motion on the Floor Hon. Sserwanga Lwanga. Okay, let me hear what you want to say.

LT. COL. SSERWANGA LWANGA (NRA Delegate): Thank you very much for giving me the Floor. Maybe before I bring this Motion I would seek a clarification from the chairman of committee Two. When they were considering grounds for recall why did they forget crossing the Floor? Because, according to me, if there are to be grounds for recall, it would be that. I do not see it on the grounds for recall.

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

MR. MULENGA: Madam Chairperson, we did not include that ground in the section on recall because crossing the Floor will automatically make

the person cease to be a Member of Parliament as we shall see when we come to 136. And it would also have helped Hon. Kabirisi because there is a clause there which says that if circumstances arise which would have made one disqualified to stand then that person ceases to qualify. Like if you stood as youth and you get out of that bracket by age you would cease to be a representative and a by-election would be held. So let us wait for 136 it will satisfy Hon. Sserwanga Lwanga.

THE DEPUTY CHAIRMAN: Hon. Sserwanga Lwanga if you came late do not complain. Hon. Mulenga proceed.

MR. MULENGA: Madam Chairman, it is noted in the report that there was to be a minority recommendation against this clause 3 but I have been advised that the Movers of the minority recommendation have dropped. I therefore move that Clause 3 be adopted.

(Question put and agreed to)

MR. MULENGA: "Clause 4, on receipt of the petition referred to in Clause 3 of this Article, the speaker shall, within seven days require the Electoral Commission to conduct the public inquiry into the matters alleged in the petition and the Electoral Commission shall expeditiously conduct the necessary inquiry and report the its findings to the Speaker." I beg to move.

(Question put and agreed to)

MR. MULENGA: "Clause 5, if the Electoral Commission reports that (a) it is satisfied from the inquiry with the genuineness of the petition the Speaker shall declare the seat in question vacant."

THE DEPUTY CHAIRMAN: There does not seem to be any query. We move.

MR. MULENGA: "(b) It is not satisfied with the genuineness of the petition the Speaker shall immediately declare that the petition was unjustified."

THE DEPUTY CHAIRMAN: That is cleared.

MR. MULENGA: "Clause 6, subject to the provisions of clauses 2, 3, 4 and 5 of this Article, Parliament shall, by law, prescribe the procedure to be followed for the recall of a Member of Parliament."

MR. SSEBAANA KIZITO (Makindye Division East): Thank you very much, Madam Chairperson. I just want to ask the Chairman of the Select Committee where they considered the question of the events of a by-election, would the person who has been disqualified be entitled to stand again.

MR. MULENGA: Madam Chairman, if such a person continued to be qualified to stand, then he would be entitled to stand. That will be the test whether the recall was correct or not. That is why for example, we have recommended that such recall be supported by a large number to avoid the situation like in the draft where one third would recall a person and then when there is a by-election, the two thirds return him.

PROF. KANYEIHAMBA : Thank you Madam Chairperson. Before we express ourselves on this article, I wished a clarification from the chairman of the committee particularly in relation to Clause 3 and 5 (a), the genuineness of the petition. I recall, Madame Chairperson, that in seeking petition for the removal of the president, we required the petitioners to sign the petitioner. Particularly, we were moved by that on the grounds that here in this C.A, there were amendments which were supposed to be supported by so many people and then people disclaimed them. They said they had not been consulted, their names had gone there. Similarly, in the case of recall of a Member of Parliament. If we are to see that these people are genuine, should we not require that not only must it be by two thirds but it must be signed those people rather than to say that the petition is in writing? We have kept that formulation in the case of the president. I think it would be even more important that we keep this formulation in the case of an MP when people for example, may not have expressed themselves on this matter and some petitioners come and say they are supported by two thirds majority. I wanted a clarification from the Chairman.

MR. MULENGA: But Madame Chairman, that is exactly what Clause 3 says. It says by petition in writing, setting out the grounds relied on and signed by at least two thirds.

PROF. KANYEIHAMBA: Okay. Thank you.

MR. NGOBI MATTHIAS (Presidential Nominee): Madame Chairman, I have some problem in 5 (a) and I would like the Chairman (*Interruption*)

THE DEPUTY CHAIRMAN: But we have passed that one and you did not put up your hand.

MR. NGOBI: It is related to what has been raised that is, the genuineness of the petition.

THE DEPUTY CHAIRMAN: But he was relating it to number 6. We are on number 6, so you should be making reference on (a) rather than substantive -

MR. NGOBI: I am sorry, then I will relate it to number 6.

THE DEPUTY CHAIRMAN: Okay, please.

MR. NGOBI: If the members, the voters have petitioned in writing and signed, why should it be a requirement again to have that matter considered afresh by the commission? If you can verify the genuineness of the signatures, then automatically the seat should be declared vacant and we go to election.

MR. MULENGA: Madame Chairman, among the points that the electoral commission will consider is whether the signing was genuine. It was not a forgery. We have set up a machinery to verify so that we are satisfied that petition is genuine in every aspect. So, it is not enough to produce a petition signed and say it is correct. We are saying the commission should go, investigate in public to make sure that the signatories are the voters for example, they are not people pulled from elsewhere and so forth.

MR. RWABIITA DEO (Ibanda South): Thank you very much Madam Chairperson. I beg clarification from the Chairman of the Committee. When we talk of signatures. As we know the majority of our peasants are illiterate. They do not know how to write. They cannot even sign their names. What provision do you put? Can we not use thumbs for these people and can that be satisfied as a signature or not?

MR. MULENGA: We used the word '*signed*.' You can sign by thumb.

MR. ERESU ELYANU (Kaberamaido County): Madame Chairperson, I would like to inform Hon. Rwabita and everybody else here present that when the committee sat, that consideration was taken

seriously. In fact, that is the justification for the petition to go to the electoral commission so that electoral commission verifies the signatures against the voters' register. So that whether a person does not know how to read or does not know how to sign and he has thumb printer. We at least know his name appears in the voters' register and will so be verified. So, the issue of taking it to the electoral commission and for the petition to be taken to the electoral commission plus the signatures, is indeed to make genuineness of the signatures to be verified. Number (2), the necessity to go to the Election Commission to verify all these things is also to prove that actually the petitioners are not having reasons which are faked. In fact, it is to protect the sitting Member of Parliament being challenged for being removed from office.

THE DEPUTY CHAIRMAN: I think we put the question on that one.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: Then we pronounce ourselves on Article 137. I do not see any amendment which has been effected. Do you have any amendment? I do not see any amendment that was effected. I want to put question on 137. Now, I put the question that 137 do stand part of this Constitution. Those in favour say aye, to the contrary, no.

(Question put and agreed to)

MR. MULENGA: Madame Chairman, I now request that we go back to Article 136 and the Committee recommends that Clause I should read: "A Member of Parliament shall vacate his or her seat in Parliament if recalled by the electorate in his or her constituency in accordance with this constitution." As I have indicated Madame Chairman, the minority report has been withdrawn. So, the note in the report should now be ignored. Madame Chairman, I beg to move.

THE DEPUTY CHAIRMAN: So, (a) is passed. Yes.

MR. MULENGA: "(b) If he or she resigns his or her office in writing, signed by him or her and address the Speaker. (c) If such circumstances arise that if that person were not a Member of Parliament would cause that person to be disqualified for elections as a Member of Parliament under

Article 133 of this Constitution. (d) Subject to the provisions of this constitution, upon dissolution of Parliament."

THE DEPUTY CHAIRMAN: Okay, no problem.

MR. MULENGA: "(e) If that person is absent from fifteen sittings of Parliament without permission in writing of the Speaker during any period when Parliament is continuously meeting is unable to offer satisfactory explanation to the relevant Parliamentary Committee for his or her absence."

THE DEPUTY CHAIRMAN: There seems not to be any problem. Passed. Okay, Hon. Kibirango wants to be clarified. *(Interjections)*

MR. MULENGA: "(f) If that person is found guilty by the appropriate tribunal of grave violation of the Leadership Code of Conduct and the punishment imposed is or includes the vacation of the Office of a Member of Parliament."

(Question put and agreed to)

MR. MULENGA: "(g) If that person leaves the party for which he or she stood as a candidate for the election to parliament to another party or to remain in Parliament as an independent Member."

THE DEPUTY CHAIRMAN: There seems to be no problem.

MR. MULENGA: "(h) If having been elected to Parliament as an independent candidate that person joins a political party."

THE DEPUTY CHAIRMAN: The ayes have it.

MR. MULENGA: "(i) If that person is appointed to any public office."

(Question put and agreed to)

MAJ. KIBIRANGO GYAGENDA (NRA Delegate): Madame Chairperson, *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Mwendha, this is not a political rally. *(Laughter)*

MAJ. KIBIRANGO: Madame Chairman, now that we have heard grounds for vacation *(Interruption)*

THE DEPUTY CHAIRMAN: What is the clarification about Hon. Adyebo?

MR. ADYEBO GEORGE (Kwania County): Madame Chairperson, you will recall that last week Thursday, we suspended conclusion on one of these articles which I think we are going to tackle today. Sub article (i) is almost a subset of that decision. That is to say, if that person is appointed to any public office, that member of Parliament will cease to be in the constituency. Madam Chairperson, this is a very crucial decision we are making here and I think we should make this decision hand in hand with what we suspended last week. I would therefore, like with due respect to appeal to all the Hon. Members that this is part and parcel of the provision that says that once you are made a minister, you should therefore, relinquish your constituency.

THE DEPUTY CHAIRMAN: Let us get information from Hon. Mulenga.

MR. MULENGA: Madame Chairman, public office does not include political office. By the definition, Office of a minister is not a public office in the sense of this constitution. If you look at Article 286, it defines what public office is.

AN HON. DELEGATE: Madame Chairperson, I am seeking clarification from the chairman of committee 2, whether in his opinion what we have passed in Article 137 (2) a, does not fit better as a ground for vacation other than a ground for recall. Madam Chairperson, 137 (2) a, reads that a Member of Parliament may be recalled from that office on any of the following grounds (a) physical or mental incapacity rendering that member incapable of performing the functions of that office and that is a medical situation. It is my contention Madam Chairperson, that seek his guidance, whether in his opinion, it does not fit better as a ground for vacation of a parliamentarian's seat.

MR. MULENGA: Madame Chairman, circumstances listed in 136 are matters which need no investigation like if I may illustrate this way. The recall will be definite once it is made after the procedure. When you cross from one party to another, that does not need investigation, it is a fact and can be determined immediately. But the case of physical or mental incapacity rendering that person incapable of performing the functions of that office,

will need investigation. You may allege that someone is sick and the question will arise that is that person so sick that he is incapable of performing? That is where the investigation will be required. That is why we put that one in Article 137 rather 136 because it is a matter of degrees. Whether you are incapable, despite your physical incapacity whether you are incapable to function as to be investigated.

MR. LUMALA DEOGRATIUS (Kalungu West): Madam Chairman, I am seeking clarification with regard to changing parties from one to the other. In practice, someone may decide not to formally resign from one party to another for fearing that he will not be elected if he did so. So, he sits on benches of the opposition but will always vote with the other party.

THE DEPUTY CHAIRMAN: Hon. Lumala I think we had finished on that one. You are taking us back. Does it relate to number (2) which we are going to? I have been very alert if you had put up your hand I would have seen you. Hon. Mulenga.

MR. MULENGA: Perhaps to put the minds of Hon. Lumala and others at ease, the word used is leaves. He can leave either voluntarily or by expulsion. If that party notices that he is no longer supporting them, they might expel him from the party and therefore, he leaves the party. Madam chairman, the Committee recommends that Clause 2 reads as follows: *'Notwithstanding paragraphs (g) and (h) of Clause 1 of this article, Membership of a coalition government of which his or her original party forms part shall not affect the status of any Member of Parliament.'*

THE DEPUTY CHAIRMAN: Those in favour say aye, to the contrary, no.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, I put the question on Article 136 that does stand part of this Constitution. Those in favour say aye to the contrary, no.

(Question put and agreed to)

MR. MULENGA: Madame Chairman, the committee recommends that Article 137 in the Draft should be deleted as superfluous because its contents are already taken care of by provisions on the Leadership Code of Conduct.

THE DEPUTY CHAIRMAN: We are on Chapter 138, Hon. Mulenga.

MR. MULENGA: I just wanted that formal decision to be made that the original 137 be deleted as superfluous and then I move 138.

THE DEPUTY CHAIRMAN: I do not see any discontent. Those in favour say aye to the contrary no.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, the original is deleted and we go on to 138.

MR. MULENGA: Madame Chairman, the committee recommends that Article 138 should read as follows: *'Clause (1) A Member of Parliament shall be paid such emoluments and such gratuity and shall be provided with such facilities as may be determined by Parliament.'*

THE DEPUTY CHAIRMAN: I have an amendment by Hon. Byaruhanga and Hon. Kuteesa. You can proceed.

DR. BYARUHANGA: Thank you Madam Chairperson. I wish to amend Clause 1 of Article 138 by rewriting it to read as follows: *'A member of Parliament shall be paid such emoluments and such gratuity and shall be provided with such facilities as the president may, with the approval of Parliament determine.'* Madame Chairperson, I beg to move.

THE DEPUTY CHAIRMAN: Is that seconded? Hon. Kavuma is seconding it.

DR. BYARUHANGA: Madame Chairperson and Hon. Members, the Draft Constitution provided for Parliament to determine its own emoluments but with the approval of the president. This approval by the president was rejected by Committee II for the given reasons in their report that the president could easily use this power to compromise Parliament. However, the committee adapted a very unfortunate position Madame Chairperson, where parliament would decide its own emoluments without any checks. I call it unfortunate because it is a principle of law and natural justice that one should not determine his own pace. The lawyers say that no one should be a judge in his own cause. My

present amendment provides for the emolument of parliament to be decided in a similar manner as the emoluments of all public, judicial and political offices including the emoluments of the president are decided. The practice is that for all offices, the determination of emoluments is initiated by the Minister of Public Service in consultation with the Minister of Finance. Having these two offices, having agreed on what is fair, morally justified and affordable, that is, within the budget, the proposal is brought to cabinet. When cabinet has accepted the proposed emoluments, they are brought to Parliament for endorsement by resolution and this is what I wish us to adapt in this constitution. I have brought in the word 'president' in its wide sense to mean 'government' because I found I could not use cabinet, I could not use the word 'government.' So, I brought in the word 'president' in its wide sense because we know that whatever president does, he does in consultation with cabinet and after due consultation with the relevant offices. Now, this position which I am suggesting is definitely different from what has been suggested by Committee II. *(Interjections)* Where in their own mechanism, there would be of course, a committee of privileges of Parliament. This committee of privileges of Parliament would initiate, would work out these figures, initiate the decision on the emoluments and then bring this decision to a full parliament to decide, to endorse or decide by resolution. I am opposed to this position because it is actually the present position we have in the 1967 Constitution. This is a practice that is right now being used by the NRC. Now, I have observed during my time in the NRC that sometimes this action causes embarrassment to some of us. For example, the last rise of emoluments of NRC Members was a 280% rise and it was not based on any reasonable argument except that the committee felt that the emoluments of NRC Members should be higher than those of CA Members. All of a sudden without due consideration of budgetary constraints, the emoluments were raised by 280 per cent and I believe definitely this action is going to seriously affect this year's budget. Having said that, I strongly believe that the present arrangement we have that is being even asked by the committee is not right because it does not provide any checks. It does not provide any checks or balances. Because in the case of the president, we have written that his emoluments will be decided by Parliament but in the case of Parliament, we are just saying it plainly that Parliament will just decide its entitlement without really bringing any other sector

of government into prey and I believe that this is not correct. On those grounds, Madame Chairperson, I beg to move.

THE DEPUTY CHAIRMAN: Hon. before you leave the Floor, Hon. Mulondo wants information.

MR. MULONDO BESWERI (Mityana County South): Madame Chairperson, I wanted to give my Hon. Friend some information. It is normal practice that Parliament sets out its own form of work including remuneration. There is no other body in the country which is above parliament to set remuneration for these Members. Therefore, I think this is quite proper and adequate.

MR. MBURA MUHINDO (Busongora South): I would like to give a clarification, Madame Chairperson. This august House should not be given the impression that Parliament works arbitrary to fix its own enumeration. Proposals come from the relevant ministries and these proposals are brought to Parliament just for debate and then parliament may pass them. But it is not true that Parliament will just sit and say this is what we shall earn and it earns that. That is really wrong. That impression should not be given.

MR. AMANYA MUSHEGA (Igara County East): Thank you Madame Chairperson. I thank Hon. Muhindo who is also a current Member of our NRC for yielding the Floor. The last increment for the package of Members of NRC, the current NRC where I am a historical member. It is the Parliament which sat and passed its own payment without reference even to the Minister of Finance and held government at ransom. They said unless their allowances are approved, the budget will not be approved. These facts should be known as far as the current parliament is working. *(Applause)* If other Parliaments in the world are not doing it, that it is a different matter. But the current practice and recent increment, Parliament sat and said we have the right to pass our own payment and nobody can question it. That is what was done.

THE DEPUTY CHAIRMAN: Further information from Hon. Adyebo.

MR. ADYĒBO COSMAS (Kwania County): Thank you Madame Chairperson. I would like to give information to Hon. Members which confirms what Hon. Amanyā Mushega has just given

you. You know at that time I happened to be the Prime Minister. So, when it came to the increment of those emoluments which Hon. Dr. Byaruhanga is introducing for discussion, I tried to interject by saying, I think we need transparency and for the first time those parliamentarians who were very friendly to me showed me a lot of heavy fist. They said keep quiet, even if you are a prime minister. So, I think it is in order for us to also make Parliament be transparent. Madame Chairman, we have given a lot of reference to Parliament even you know impeachment of President you go to Parliament. Even appointment of DPP, go to Parliament. Now, let also Parliament go to another authority so that we also have checks and balances for parliament. *(Applause)* Thank you.

THE DEPUTY CHAIRMAN: Hon. Tibamanya.

MR. TIBAMANYA URBAN (Kashari County): Madame Chairperson, I support the Motion on the Floor. The position as recommended by the Committee gives a blanket check to Parliament whereby on its own Motion, it can increase its own payments without reference to the treasury, without reference to the economy of the country. We have been in this constitution talking of checks and balances. I think here too, there needs to be a check whereby the Executive can check on the Legislature as far as emoluments are concerned. Take a position, Madam Chairperson, where Members of Parliament have been through an election campaign and as experience shows, quite a bit of money is needed by individual Member and at the first sitting we say we increase our salaries. That will be very, very unfortunate. The Hon. Members Motion is brought in good faith and should be supported by the House. I thank you.

MR. SSENDAULA GERALD (Bukoto South): As I am a Member of Committee 2, and I contributed in the Draft Report. We did, of course, deliberate very seriously on this matter. Finally we arrived to this. But I am afraid on a second thought. I feel the Hon. Member's Motion is right and fitting. Madam Chairperson, it is extremely serious that after we had removed the National Council of State. Initially everything was meant to be checked by the National Council of State. And considering that we removed the National Council of State, there is no way that emoluments for Members of Parliament can be checked. That of course was a puzzle within the Committee. But it is now begin-

ning to emerge, considering that we have the President who will have gone out to the people and elected on a one man one vote. That President is totally responsible to all Ugandans on the performance of his Government. Naturally the economic performance which involves finance, emoluments and so on are very vital to that President. So, I support the idea that the Committee that will be responsible for the privileges and welfare of Members can deliberate on emolument finally recommend these emoluments to the President who would approve them. So, it is important that we provide the checks and balances on this matter. Thank you.

MR. LIIGA ALOYSIUS (Buvuma Islands): Madam Chairman, I am also a Member of Committee 2 and I participated in passing the current situation. However, after hearing Hon. Amanyā Mushega and the former Prime Minister, I am bound to take my position and support the Amendment on the Floor. Hon. Delegates it is terrible to hear that the N.R.C. is holding this country at ransom and saying that, unless we get this we are not doing that. For future peace and tranquility of this country, I think the emoluments of our Hon. Members in Parliament should have somebody else to approve them after Parliament has looked at them. It is unfortunate, Madam Chairperson, that responsible as the Members of Parliament should be, they should take a position which leads to ruin for this country simply because to gratify themselves.

Madam Chairperson, I strongly support this Amendment and I think judging by the mood of the House, put the Question. Thank you.

MR. ONGARIA STEVEN (Tororo Municipality): Madam Chairperson, we have agreed in this House here that Parliament is a discipline organ of Government. That is why in fact, we went to the extent of making the Parliament approve such things like appointment for senior public servants and other important appointments in Government. Now, Parliament universally, is responsible for approving particular expenditures in Government. Now, it is the one role which is known for the Parliament to play everywhere in the world.

THE DEPUTY CHAIRMAN: Hon. Ongaria, I think this Motion has a great value because he says, as the President may, with approval of Parliament. So, what we are debating is already contained in his Amendment.

MR. ONGARIA: Yes. But what I am opposed to is the President approving the salaries of Members of Parliament. I am telling you that it is the role of the Parliament because normally it is the Ministry of Finance which works out the proposals and those proposals are brought to the Parliament. It is the Members of Parliament to consider and approve them. It is not the Parliament which proposes the salaries which *(interruption)*-

LT. COL. SSERWANGA LWANGA: Madam Chairperson, the information I want to give the Hon. Member holding the Floor is that in the last increment of N.R.C. the Motion was moved by the Chairman of the Welfare Committee, Hon. John Ndege. I remember very well that Hon. Late Kafumbe Mukasa tried to labour very much to explain. He was asking for Shs.100,000/= per sitting, but the minister could at least go for Shs 70,000/= or Shs.80,000/= and the man refused. The Parliament was very hostile and we did not transact business. So, it is not true to say that these figures had come from the Ministry of Finance. These were not Kafumbe's figures. These were Hon. John Ndege's figures.

MR. ONGARIA: Madam Chairman, one other information really is that when these matters are brought to the Parliament, they will have been discussed by the Cabinet. So, the Cabinet discusses them, approves and if they disapprove of the Figures, they have a right to throw them out.

MR. AMANYA MUSHEGA (Igara County East): Is it in order for Hon. Ongaria to continue to give false information to this august Assembly as if it is the truth that the figures Parliament approved were passed through Cabinet. When he knows very well that they were not, they came from a Committee of Parliament. The Committee of Parliament even said the Minister of Finance had no right constitutionally to question the Figures presented to Parliament by the Committee of Parliament. Is he in order?

THE DEPUTY CHAIRMAN: Hon. Ongaria, refrain from giving incorrect information. If you know it is correct you can prove it.

MR. ONGARIA: Madam Chairperson, I am talking about the normal procedure which operates between Parliament and Cabinet. Of late there have been some figures even in the newspapers and these figures were said to have been approved by the Cabinet

MR. MWONDHA PATRICK (Bukooli County North): Thank you, Madam Chairperson. I would like to inform Hon. Ongaria and in fact the House, that we should not base our decisions on what happened in the N.R.C when they were asking for increments. We all know that normally happens when one tries to impose, like it has happened under the N.R.M. The N.R.C was just behaving in an expected manner to hold the N.R.M. at ransom. I do not think that should be the guide when we are debating this matter.

MR. ONGARIA: Madam Chairperson, I wanted really to finish this point by saying that I know this issue that we are discussing here has been discussed. For instance, in my neighbourhood I have papers in briefcase at home, where for instance, in Kenya the Parliament approves the salaries of the Members of Parliament. The same thing happens in Tanzania. Madam Chairperson, I do not see why we should now here differ this principle which is universal. I thank you.

MR. MAYANJA ABUBAKER (Busujju County): Madam Chairperson, I am surprised! I am not a Member of Committee 2, but I want to support the position recommended by the Committee very strongly. I do not know why people should feel suddenly timid. It is the duty of Parliament to provide funds. It has always been historically in the struggle between King and Parliament which was won by Parliament. Parliament won because it was the one which had the power to provide funds. Now, if it is the duty of Parliament, it is Parliament which passes Budget. The Government proposes, but the ultimate authority to say AYE or NO to determine how much shall go to what department, for what function. It is the responsibility of Parliament. *(Applause)* Therefore, it has been said that if you allow Members of Parliament to determine their salaries, they shall say to the President, we shall not pass your Budget or whatever else measures until we are paid. But which comes first, it is this chicken egg situation. Because if also you say that the President shall determine the salaries of Members of Parliament, it can be argued that the President shall tell Members or I shall not pay until you have done this and that. *(Applause)* Therefore, unless you want to appeal to God to come and bring some authority to determine this issue. Somebody either Parliament or the Government must determine the salaries of the Members of Parliament. In my view there is no doubt what-so-ever that this must be

determined by the Members of Parliament themselves.

MR. ELYAU MIKE (Kalaki County): Madam Chairperson, you see Members had an impression that the economy had grown. So, Members thought that when Government says that economy has grown, there was money, there was no doubt they passed this thing.

MR. ABU MAYANJA: Madam Chairperson, the point at issue is Parliament shall determine their salaries. This Assembly appears to have opted for a Presidential system of Government. We want Members of Parliament to have offices to be able to run their affairs. We want Members of Parliament to be big men, independent and do their role while the President does also his role. Thank you.

MR. MULENGA: Madam Chairman, this is a Clause that was looked at and debated in depth. First of all the Committee 2 took the view that it is Parliament which approves or determines finally the salaries of all including itself. I would like to comment Hon. Delegates, on the views expressed by Hon. Abu Mayanja. This has historical connotation. Although our reasons were summarised you can see that was the line we were taking that Parliament should not at any time, feel arm-twisted by the Executive which Hon. Mayanja has made. Madam Chairman, everywhere in the world it is Parliament that determines the emoluments and benefits of its Members. When I listened to the arguments about checks and balances I thought there was a point being made. But in fact ultimately if you say that Parliament shall determine its remuneration of its Members, it is as it would have been said, on basis of the practice that proposals are made by the executive and brought to Parliament. Now, the incident that has been decided should not excite us into fearing that Parliament will always want wild remuneration for itself because Parliament is the one that has to raise the funds of the country. They cannot remunerate themselves if they have not raised through taxation funds for the budget that is proposed by Government, obviously enough Funds to cover it. So, on principle, it is Parliament that raises money and that determines how - *(interruption)*

MR. KAVUMA STEVEN (Kyadondo South): Madam Chairman, the only information I wanted to give was that whereas the facts we are quoting are

operating in circumstances that are very different from ours. For instance, Hon. Mayanja was talking of the British experience. But their institutions have been developing for a long time. They have no budgetary problems. I must reveal that unfortunately today we are operating on a cash budget as a nation which is unfortunate. So I do not think we can equate ourselves to the status of those other countries where the circumstances pertaining to the capacity to meet their obligations are totally different from ours. Madam Chairperson, I think we must take into account the fluid situation in which we are operating and the requirement that there must be a check somewhere. Because, Madam Chairperson, as you heard Hon. Elyau was saying, when Parliament passed that resolution, they were unaware that the economy could not sustain. These mistakes could continue to be made. That is the impression I wanted to give.

MR. MULENGA: Thank you, Madam Chairman. Hon. Kavuma's intervention was not information. But let me make correction. When we referred to practice we did not refer to practice of U.K only. But even here, since independence it has been Parliament that determines the salaries and remuneration of Members of Parliament. Even the Mover of this Motion, Hon. Byaruhanga did concede that the practice is, the Ministry of Finance and Public Service do make the proposals in ordinary circumstances. They make the proposals and submit to Parliament and Parliament determines.

AN HON. DELEGATE: Madam Chairperson, is it in order for Hon. Mulenga to say that even after independence this has been the practice here when in actual fact the position was that the Leader of Government Business would initiate the proposal and then Parliament approves.

THE DEPUTY CHAIRMAN: That was a problem of dialogue.

MR. MULENGA: Thank you. Madam Chairman, the point I was stressing in support of the Committee recommendation was that until Hon. Ndege's move, all the time since Independence the practice has been that the matter is determined by Parliament. In the past it has been always the Minister who initiates, but it is Parliament which determines. That is why he goes to Parliament. So, that is the practice we are talking about. It is going to be completely reversed if we are to pass the

Amendment by Hon. Byaruhanga which puts the determining in the President, that the President shall determine subject to approval of Parliament. This has not been heard of anywhere. So if he was saying proposals will come from Executive, I would have no objection. But to say that it is Executive to determine, I think that is wrong.

MR. KAYONDE ISRAEL (Gomba County): Madam Chairperson, I am seeking clarification from the Mover. He has subjected the decision to two bodies. That is why I think we have a problem. He is talking of the President determining and the approval by Parliament. Now where lies the ultimate authority to decide finally and what happens if there is a disagreement on the two. Can he clarify?

MR. SEBALU KENNEDY (Youth - Central): Madam Chairman, I would like to seek clarification from Hon. Dr. Byaruhanga before I make my decision on this one. Because he seems to base his amendment on an incident that happened in Parliament. But then I would like to know prior to that incident. What was the practice of determining emoluments for Members of Parliament?

DR. BYARUHANGA: Madam Chairperson, an impression has been created by Hon. Abu Mayanja and the Hon. Chairman of the Committee that I am taking away powers of Parliament in as far as financial control or financial management of the country is concerned. Madam Chairperson, my Amendment does not go that far. All I am saying is that the Executive should come in determine the package that should be paid to Parliamentarians as it does come in for every other office in this country. It has been argued that in the normal practice that has been the case. Members have been saying that in practice all the proposals on emoluments of Parliamentarians have usually come from the Government. In fact one Member told us that it has usually been the Leader of Government Business. But then we gave you an example, where a weakness was seen in the Constitution or Provisions. We do not wish to leave this weakness in our constitution. If we leave it there, it may not be exploited tomorrow, but we know that if this weakness is seen and left there at one time it will be exploited. All I am seeking is that let the proposals come from the Government and yet those proposals be endorsed by Parliament as Parliament does for every other office in the country including the office of the President of the country.

MR. MULENGA: Madam Chairman, there is a provision that backs the practice we have been talking and that is coming in Article 146. Article 146 restricts movement of financial Bills and Motions that they shall be moved on behalf of Government. Let me read at Page 30 of our Report. *'Parliament shall not, unless the Bill or the Motion is introduced on behalf of the Government, proceed upon the Bill including an Amendment Bill that in the opinion of the person presiding having provision for any of the following: the imposition of taxation, a judge on the consolidated Fund or other public Funds of Uganda or the alteration of any such a judge otherwise than by reduction or the payment.'* I do not need to go through all that. All it means is, that if we have this in place, the Motion which has been cited as an example, that was moved by Hon. Ndege in N.R.C. would not proceed unless it was moved on behalf of Government. Really the fear is that the practice may be ignored is now covered. The Constitution is going to restrict movement of Bills and Motions that have financial implications including increasing salaries will be restricted to be moved by on behalf of Government.

DR. BYARUHANGA: Madam Chairman, the Hon. Chairman, of the Committee has already drawn my attention to the implications of the proposed Clause. But it is a proposed Clause we have not got there. I do not know whether it will pass or not, and therefore, I cannot base my argument on that promise. So, I am still of the strong view that it is very wrong for Parliament by itself acting independently to decide its own emolument package. Thank you, Madam Chairperson.

THE DEPUTY CHAIRMAN: Thank you very much. Now I put the Question on Hon. Byaruhanga's Motion.

(Question put and negatived)

MR. MULENGA: Madam Chairman, Clause 2 is recommended to read as follows: *'A Member of Parliament shall not hold Office as a Director of a Statutory Corporation or of any Enterprise on or controlled by Government when other Office of profit or emolument likely to compromise his or her Office.'*

MR. RICHARD KAIJUKA: Madam Chairman, the clarification I am seeking is in connection with 138 (1).

THE DEPUTY CHAIRMAN: We shall come on that one at Reconsideration Stage.

MR. BYAKIKA SAMSON (Bunyole County): Madam Chairperson, I move that Article 138 Clause 2 be amended by deleting all the words after *Government* in line 4 and substituting them with the words *or any other public office of profits*. So that the Clause reads as follows: *'A Member of Parliament shall not hold office as a Director of Statutory Corporation or of any Enterprise owned or controlled by Government or any other public office.'* I beg to move.

MR. NASASIRA JOHN (Kazo County): Thank you Madam Chairperson. I want you to assist me on the procedure because as far as I understand, we did make our position on the Amendment or moved by Dr. Byaruhanga. But we have not yet proclaimed ourselves on Clause 1 of Article 138. After Dr. Byaruhanga's Amendment was lost we have gone straight away to Clause 2 without having proclaimed ourselves on Clause 1.

THE DEPUTY CHAIRMAN: Thank you. I think you are right Hon. Nasasira. In which case Hon. Kaijuka will have the Floor to make another Amendment. After that one Hon. Kaijuka can produce another Amendment.

MR. KAIJUKA RICHARD (Sheema County North): Thank you, Madam Chairperson. I take this opportunity to say that in my view it will not be good to institutionalise Parliament as being the sole authority in terms of determining emoluments for Members of Parliament. It is obvious that when you ask an individual to determine not only terms but generally emoluments relating to whatever job one does. It is natural that you would want to give yourself whatever you may think is right or wrong. I am reminded by colleagues here, that at a later stage there is a provision which restricts Members of Parliament from moving a Motion that has financial implication and I was whispering to them that notwithstanding that provision. Supposing when we get that stage we do not pass that very Clause. In my judgement it makes a lot of sense if we are going to have healthy financial management of our governance that we put in place a correct provision that everyone understands. With this background I want to move, Madam Chairperson, in order not to waste people's time. I think people should not look at what has been happening or what

is happening. The question is, what is it that you like to have in a constitution for good governance in future? I therefore, move an Amendment as follows, it is a very simple Amendment. 'May be determined by Parliament as submitted by Government.'

THE DEPUTY CHAIRMAN: Is that seconded?

HON. DELEGATES: No.

THE DEPUTY CHAIRMAN: Your Motion is not seconded. I put the Question on one.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: The minority report is on (3) not (2). Hon. Mulenga, better clarify this.

MR. BYAKIKA: Madam Chairperson, I move that Article 138 (2) be amended by deleting all the words after *Government* in line 4 and substituting them with the words *or any other public office of profit* so that the Clause reads as follows: *-(interruption)-*

MR. KWERONDA RUHEMBA (Kajara County): Madam Chairperson, I note that there is a minority Report.

MR. MULENGA: Madam Chairperson, the minority report is on the same Clause except if you notice we moved Clause 3 to 2. So, in our Report it reads Clause 2, but it is a modification on Amendment of 3 in the Draft. So, as we had indicated earlier, you wanted Hon. Byakika to read out his and we determine which should come first.

Madam Chairman, it seems to me using the rule that we start with an Amendment which is furthest from the working text. That is a Draft Constitution, then Hon. Byakika's Amendment seems to be further than the Amendment recommended by the Committee and definitely much further than the minority Report which seeks to retain the text of the Draft. Although in practice we had developed this point of saying that minority Report should be considered first. I think where you have an Amendment like this, it seems to me that the only way to use is that one of the furthest.

MR. BYAKIKA: Madam Chairperson, I move that Article 138 (2) be amended by deleting all the

words after *Government* in line 4 and substituting them with the words *or any other public office of profit* so that the Clause reads as follows: "A Member of Parliament cannot hold office as a Director of a Statutory Corporation or of any Enterprise owned or controlled by government or any other public office of profit." I beg to move.

THE DEPUTY CHAIRMAN: Your Motion was already seconded. So, Hon. Byakika, can you speak on your Motion.

MR. BYAKIKA: Madam Chairperson, the proposed Amendment in the Draft as put up by Select Committee 2 intends to deprive the person elected to Parliament of his or her livelihood. For the person to service a Constituency he or she must have a financial base. This is indeed the case in the more advanced countries. A person who is already in his or her own way to become a Managing Director of his or her own establishment is required according to this proposal to relinquish his salary job. This is catastrophic. A salary of Shs.100,000/= paid to Parliamentarians does not enable him or her to live on it leave alone enabling him or her to service his Constituency. Madam Chairperson, a Member of Parliament is expected to offer full time service to the Nation in his Constituency. By virtue of his appointment he is expected not only to leave decently but also to receive people and to go to his people in the Constituency and render services to them. I did not see how a Member of Parliament can be contented with salaries and allowances which are paid to him. Yesterday in the Monitor the total package of a Member of Parliament was announced to be around Shs.2.2m/= a month. But the actual salary is in fact much less than that. The only person who can sit in this Government office whether he is a Minister or a Member of Parliament without undue financial worries is the one who has earnings from his other sources. The salary would be for such people to indulge into embezzlement of Government Funds by diverting Funds from Government Votes for use in an authorised Madam Chairperson. It would be most unfortunate if this requirement was included in the Constitution. It would encourage would be Members of Parliament to decline offering their candidature for fear of becoming pompous while they are expected to do national duties. I therefore, move that this Amendment be accepted by all Hon. Members so that those who are returned may not succumb to embezzlement of Government Funds. I beg to move.

DR. KABAYO PATRICK (Kassanda South): Thank you. I had wanted to point out the logic of requiring us to debate the minority Report first, because Hon. Byakika's Motion is a proposed Amendment on the Report of the Committee. The Report of the Committee also being a proposed Amendment on the Draft position. The practice has been in the past that we debate the minority report first and then the Amendment will be after that.

THE DEPUTY CHAIRMAN: You see we have a contradiction in the rules here. You see, (3) is not standing alone. It is combined. So, there is no 3 as such. It is two.

PROF. KABWEGYERE TARSIS (Igara County West): Madam Chairperson, I have difficulties in understanding this Motion particularly the words added that are supposed to make the difference in the Text. I do not know what the Mover means by '*other public office of profit.*' May I be clarified?

MR. MUKWAYA ABBEY (Busiro County East): Madam Chairman, I would like Hon. Byakika to clarify to me why he deleted in his Amendment the word '*compromise.*'

THE DEPUTY CHAIRMAN: Before he clarifies, let me try to make an interpretation and we see whether we agree. The Committee proposes the combination of one and two to become one. And three to become two just because of numbering. So, one and two is embedded one which we have passed. Then two is actually three except by numbering. Now, by interpretation the Amendment by the Minority Report is furthest because it is reintroducing 3 where you have removed the leadership code.

MR. MULENGA: Madam Chairperson, you have to clear furthest from what. That rule says furthest from the word, 'king text'. In other words, from the Draft Constitution. Now, the Minority Report is not moving away at all from that text. It is saying it should be retained. So, it is not far away.

THE DEPUTY CHAIRMAN: What I am saying is that the Amendment by the Committee is nearer to Hon. Byakika's Motion than number 3 in the original Draft. Therefore, in which case we go to the minority report.

MR. MULENGA: Do we not debate an Amendment first. Minority Report is not amending. The other two are amending. Therefore, my submission was, if we use that furthest rule, we would have to say that Hon. Byakika's Amendment is furthest because of cutting out the provision Hon. Mukwaya has just mentioned. Then if we dispose off that we would come to an Amendment by the Committee.

AN HON. DELEGATE: The minority report is dealt with first. This is what we have been following regardless of whether it is furthest or nearest or whatever the case may be. But what we have been following. And I think what we have been accepting, is that we deal with the minority report first before even Amendments. So the issue of what is contained in the minority report whether it is furthest of nearest does not arise. What surprise that there is an official record of the minority report.

THE DEPUTY CHAIRMAN: Okay. Thank you. I think now we should agree. Because from my judgement we are not proceeding right whether it is furthest or not. So, I ask Hon. Byakika to suspend his Motion until we have cleared the majority report.

MR. MULENGA: Madam Chairperson, this minority report was headed by Hon. Kasajja. But I do not see him.

MR. BEN WACHA (Oyam County North): Madam Chairperson, on procedure the minority report we are talking about now states that the original position in the draft should be retained. I do not think we can go ahead and start discussing that before we have dealt with a position which says that another Clause should be instituted instead of the original draft.

THE DEPUTY CHAIRMAN: Where is the other

MR. BEN WACHA: The committee is stating that another clause, another formulation should be instituted instead of the original draft.

THE DEPUTY CHAIRMAN: Yah whatever the minority report is considered first.

MR. BEN WACHA: No Madam. The minority report states that we stand by the draft. There is a position which is stating that we move away from

the draft. I think the logical position should have been that we deal with any recommendation any amendment which seeks to amend the position which is in the committee positions. After disposing of that, we then go to the committee recommendation, should that one fail, we will logically go back to the draft.

THE DEPUTY CHAIRMAN: No we go to the minority report, it is by coincidence that the minority report is considering the draft directly.

MR. RINGWEGI SAM (Padyere County): I thank you, Madam Chairperson. We should realise one thing that whereas we have been debating minority reports as a matter of practice, it was because the minority report would be introducing something new. It would not be seeking to retain the position in the drafts I would like us to look at the argument which Hon. Ben Wacha has presented which the chairman of the committee had also presented. The argument is this, the committee considered Clause (3) in the draft, and decided that it should move away from the formulation which is in the draft. This was the majority decision of the committee, that the formulation in the draft should not be retained but a new formulation inserted. The minority said no, we do not agree with that position, we want the position in the draft to be retained. Now when we moved here, Hon. Byakika is now seeking to amend the recommendation of the committee. It would, therefore, logically follow that Hon. Byakika's amendment, the proposed amendment is now departing furthest from the position in the original draft which implies that it should be discussed and disposed of first. If it succeeds then the committee's recommendation also fails and the position in the draft which is now reflected as a minority recommendation also fails. But if it fails then the Assembly would resort to discussing the committee's recommendation because that one is seeking to depart from the position in the draft. Should the committee's recommendation which constitutes the majority also fail, then we would come back to the position in the draft which is the minority position. This is the logic.

THE DEPUTY CHAIRMAN: That means we will have discussed the committee's report before the minority report.

MR. RINGWEGI: That is true, and there is nothing wrong with that.

THE DEPUTY CHAIRMAN: So, we discuss the minority report reject it then we go to the committee's report then Hon. Byakika will amend that report. That is what it should be. Let us not be derailed because of what the content of the amendment is. Let us clear the minority report go back to the report by the majority. If it is not cleared then Hon. Byakika will amend that original by the committee. I think let us go and consult it is lunch time then come back in the afternoon with a clear decision. I request Hon. Mulenga to clear this because I see you are doing the wrong things. We have a minority report which we will dispose of if delegates feel it is not in their favour they throw it out and go back to the main report. If it is in their favour, we retain it as suggested that is the procedure we have been following. And it is just coincidental. That is the minority report touches on the main draft. I do not see anything abnormal about it. So we proceed with those people who moved the minority report.

MR. KASAJJA GEORGE (Bulamogi County): Madam Chairperson, we are moving a minority report on Article 138 Clause (3). We moved that Clause (3) of Article 138 of the draft constitution do stand part of the constitution without amendments. Madam Chairperson, the reason is, this minority report is as a result of the recommendation of the majority report Clause (2) of a report. Article 138 which states that a Member of Parliament shall not hold office as a director of a statutory corporation or of any enterprise owned or controlled by government or any other office or profit or emolument likely to compromise his or her office. Madam Chairperson, we who are moving the minority report are of the view that this majority report is very restrictive on the Members of Parliament. Because the Members of Parliament as we see it should be given chance to gain experience when they have been elected in Parliament in the operations of Industry and public corporations. But if we are going to deter them from being directors. How are they going to get the experience of involving themselves in these corporations which are of public nature? In any case, Madam Chairperson, we are saying that if you are a Member of Parliament and you have been elected by people you are more answerable to the people. You are more answerable to the nation than I think any other person. Therefore, if you are in a public corporation I do not think you will really have that wish to see that the corporation does not, work for its own

success. For some Members have been giving reasons which to us we think are not very much convincing that because of the past history Members of Parliament who have been appointed directors have misbehaved to the extent of that they have made these corporations fail. I would like Madam Chairperson, to inform the Hon. Members that after passing the Code of conduct, you find that now the Member of Parliament is going to be very careful in the way he is going to handle himself and also the affairs of the nation because the Code of Conduct will restrict you to the provisions that you have to behave in accordance with the provisions as the Member of Parliament is expected to behave. Madam Chairperson, the second point is that in Uganda we a limited number of qualified personnel. Now to bar Members of Parliament who could be having expertise in that area. For example a person is qualified in management affairs or economic affairs or is a prominent lawyer and you prevent them when he could do a good job for the nation. Simply because he is a Member of Parliament, we find that this one is actually trying to deny a nation which is young and which has limited resources to utilize the resources that it has at hand, Madam Chairperson, Members of Parliament are representatives, they are not delegates. Therefore, in order to be a better representative one needs to have a wide experience both theoretical and practical. And how do you get this practical experience, because you could have been trained as a good economist or a good manager but if you are not given that experience to use that knowledge or put in practice then you will be denied and that is what we call human rights. So we want to say that a Member of Parliament should be given the opportunity also to put in practice the knowledge that he has gained if he is a qualified person in that profession let him be given the opportunity to use that knowledge. We feel that the emphasis should be placed on the principles that whatever office a Member should hold outside Parliament, should not conflict with his duties as a representative. Or should not compromise his or her office. So as a Member of Parliament, if you are a director you are not a full time employee, you are just given a small amount which we call either sitting allowance. You do not earn actually any salary, there is no salary that Directors that earn. So we feel that in principle this thing does not conflict the principle of a Member of Parliament not indulging himself with something which might compromise his being neutral in presenting his views in the Parliament.

Madam Chairperson, the statutory corporations are people's corporations. A Member of Parliament is more qualified to be an overseer of these people's bodies because he is answerable directly to those people who elected him. Therefore, this is one of the strongest reasons we are saying that a Member of Parliament should not, be barred from participating and using his expertise. Lastly but by no means the least, we want to remind the Members that we should not make a constitution by basing ourselves on small personal experiences. Simply because we know that either in 1985 or 1982 or 1996 a Member of Parliament did this and therefore, that one comes in to become a constitutional matter. Some of these issues could be handled as a statute, could even be put in a statute. But not to put them in a constitution. Madam Chairperson, I would like also to inform the Members that we are under an era of privatisation. Most of the public corporations have been divested and have been returned to their rightful owners. And if we put in a constitution a provision that a Member of Parliament cannot be a director in a public corporation supposing all these corporations are sold, which means that this provision is going to be redundant. So why do you have to vote something which is going to be redundant in a constitution. Madam Chairperson, with those few reasons that I have given I feel that for the good use of our limited human resources, and for also giving the Members of Parliament to practice the knowledge that they have acquired let them not be barred from being directors of public corporations. With those, I wish to move. I thank you very much.

DR. MATEKE PHILEMON (Bufumbira South): Madam Chairperson, I oppose this minority report vehemently. I am talking from practical experience. For the short time I have been in Parliament since 1989, some of our colleagues have been made directors in some of our parastatals. These directors are largely responsible for the failure of these parastatals, and I believe they are responsible for this privatisation measure. If they had run down these parastatals, I think we would not have taken a decision to sell these parastatals. Secondly, Members of Parliament are supposed to be watch-dogs. We are supposed to see how these parastatals are being run. You can not be a watch-dog at the same time you participate in the running of those parastatals.

Thirdly this patronage business it causes some sort of conflicts in our society. Because you hear so and

so has been made a director simply he talks big, he talks very loudly and I think this is not a good practice. So, Madam I vehemently oppose this minority report.

MR. CHEBET MAIKUT (Kween County): Madam Chairperson, thank you very much. I think when we are debating this Motion here, some Members have some feelings on what has been happening in the past. I will begin from where Hon. Mateke said in 1989 when he joined NRC, that corruption had begun to take its stock, I think in my view this is not true. This practice of corruption begun long way back and members of the board or statutory boards should not be totally held responsible. While it is true that some boards of directors are responsible for not guiding in terms of policy, guiding their respective corporations properly. It can also be argued that some corporations have benefited very strongly from the presence of at least one or so Members of Parliament in the past. And there are examples if members wish we can give examples of corporations or authorities which have done well who have Members of Parliament as directors. So we cannot really generalise in my view. So in that respect, Madam Chairman, I would like to look at the question of policy which in my view is important as the cardinal role of the boards of directors. Because if we have got to demarcate their line of operation. Well then it is evidence that their role is supposed to be nearer policy guidelines. The kind of guiding, directing, the policy lines of the operations of that cooperation not the day to day management of such a statutory body. So really in my view if you have a director who has got to sit maybe in a year three times, in my view I do not think that he can play a very negative role towards the running of that cooperation. Madam Chairperson, we know that Parliament is not only constituted of Members of Parliament who are only directly elected. You might have somebody who may be in the army. For example, in the present NRC, you might have somebody holding any other office of enrollment but equally carrying out his role very effectively. Now what is the rationale of denying a Member of Parliament being a Member of the board of the directors. When we have for example, a minister at the same time in Parliament who is holding another office of emolument or any other person for that matter. So in my view, Madam Chairperson, I have chanced to look through some constitutions of some countries and this provision is catered for. It is not totally wrong to say that we should not have

Members of Boards of Directors in these corporations. And moreover, if for example we looked at our history, I have not seen any corporation that has constituted its Board of Directors solely from Members of Parliament. If anything if you examined the Membership of these Boards of Directors you may have one or two or none at all in any corporations that has existed or that has been established statutory in this country. So, Madam Chairperson, I would like to suggest very strongly that let us not narrow the spectrum of tapping of human resource base that may be critically required in some of our corporations. Because if we say we do not want certain class of citizens then for sure we are limiting the selection pool of human resource that we required. So in that respect, I would like strongly to support the position taken by the minority, that Motion moved by Hon. Kasajja and I appeal to Members to take it. Let us not bar our Members for no genuine cause. Thank you very much.

DR. MUGYENYIPONSIANO (Isingiro North): Thank you, Madam Chairperson. I think I am beginning to get worried why we ever spend a lot of time discussing some of these provisions. I am worried because what is this provision intended to cure if we say that for instance Members of Parliament shall not be Members of any Board of corporation. Madam Chairperson, are we trying to save the time of a Member of Parliament so that he can have enough time to go to the constituency? Or so that he or she can have enough time to sit and make good laws, are we trying to save money so that he is not double paid? Madam Chairperson, those are the principles we need to clearly define. Then we shall come to a good conclusion. In my view I think the two provisions one from the majority report of the committee and definitely the one of Hon. Byakika is worse because it has removed the most important element of compromising the particular office. That definitely is worse. But even the committee one, it is curing. We may not get the indeed cure because we have already passed the leadership code of conduct which definitely is going to look into among other people Members of Parliament as the responsible leaders of this country. Secondly, are we imagining a country Uganda where we are going to enumerate this Member of Parliament to the extent he or she will be self sustaining by virtue of being a Member of Parliament? This morning Hon. Kasajja who was moving Motion was quoting the 2 million which even the government denied being too much. Are we saying

that we are going to have the economy that is going to sustain these Members of Parliament and make them comfortable to do their work as we are envisaging? In my view, Madam Chairperson we are lying to ourselves. The economy of Uganda is definitely going to be as it is or slightly better than what it is right now. I therefore, feel that being a Member of Parliament is not going to be a full time job as you may call it in the right sense. Currently Members of Parliament are sitting in the afternoon only. What is wrong with that if a Member of Parliament goes to a Board meeting in the Morning in the afternoon he goes to Parliament. Madam Chairperson, the two Clauses of the majority report and even Hon. Byakika definitely are not curing what they are intended to cure. I give an example of a Hon. Member who is a chairman of UCOBAC. Suppose I am a chairman of UCOBAC, it is not a public corporation don't you think that may compromise my time as a Member of Parliament? Suppose I am appointed to become a resident director of UNICEF Tanzania, are these provisions prohibiting me from holding that particular office? So this is not one of the public corporations in my view, it is not a statutory corporation. If I am heading a non-governmental organization which may sometimes take almost all my time. So, Madam Chairperson, I may at the end of the day, the enumeration being poor in Parliament, open my private clinic. I may spend all my time in my private clinic which is not a public corporation, is not a statutory corporation and by that reasoning it may not achieve what we are trying to cure. So, Madam Chairperson, my feeling is that, the two provisions of the committee and Hon. Byakika definitely do not cure what we are intended to cures. And I would want to add on the voice of Hon. Chebet Maikut that it is not true that it is Members of Parliament who are on these Boards that are spoiling them. You find a Member of Parliament only one on the Board of about 9 people and moreover he is not a Chairman. How are we blaming this one man when we are not blaming the remaining? Madam Chairperson, why are we trying to remove these Members of Parliament from society? Members of Parliament shall not be ministers, Members of Parliament shall not go to the Boards, the other we are going to say they should not belong to the church councils of their beliefs, we recall add on and say they should not be clan leaders and so on. I do not know why we are lifting these Members of Parliament from society and say you should not. Because definitely we banned them from being on the local councils. We

are going to say you should not be a member of any school in your area, member of the Board. Why are we lifting them from society and putting them in the air? So, Madam Chairperson, I end by definitely saying that I support the minority report and I do think the two reports both the committee and Hon. Byakika definitely cannot cure what we are intending to cure. This can only be attained after a period of time when our democracy has grown when our economy has grown say after sometime. This is when the two positions can be achieved, but right now I would appeal to Members to support the minority report. I thank you.

MR. BWAMBALE WALEMBA IVAN (Bukonzo County East): Thank you, Madam Chairperson. Madam Chairperson I speak to support the minority report. I have just a few reasons to give, arguing that patronage causes conflict in the parastatals. I think this is not founded. I believe these directors have sometimes influenced employment. And sometimes even have led to some dismissals and have even interfered with the smooth running of corporation. But to me that is no reason at all it is only because of those directors personality and possibly ignorance of the law governing those parastatals. So we cannot say that patronage causes conflicts in these corporations. The second reason Madam Chairperson and which I hope carries more weight, is that directors are the policy makers in those corporations. At the same time we are also aware that Members of Parliament are also policy makers. So it would be a good idea if at least a Member of Parliament got a chance to join these directors who are also policy makers and possibly try to guide them on some government policies. Lastly, Madam Chairperson, I believe that we should have the right pages in the right holes. So since these Members of Parliament are policy makers by nature, they should be the right people to join these public corporations so as to reinforce the work of the members of the Board of Directors. I beg to support the minority report Madam Chairperson.

MR. OWOR CHARLES (Aswa County): Madam Chairperson, I rise to oppose the minority report. Madam Chairperson, I think we should not forget the realities that have existed in the politics of Uganda with regard to this issue of politicians, especially Members of Parliament belonging to Boards of parastatals or government owned corporations. This has always been used as avenues for

rewarding supporters or intimidating those who might differ. Madam Chairperson, we all know the time of the politics of allocation. Where in order to get essential commodities you had to get an allocation from the minister to go to the Board of Directors. Maybe to the chairman of the Board of Directors to have this allocation letter approved. The beneficiaries of this are always people who have to pledge their support to the government of the day. Some people are saying this is no longer the case but the concept can still be applied in another context. The idea is that government-owned corporations or parastatals are always decided over by some line ministers, which line Ministers begin to see who should be appointed on which Board. And when this Minister appoints you on that Board you have to maintain the relationship with him. When matters come to Parliament if that minister is being carpeted for some mismanagement of his ministry you must keep quiet otherwise you will disrupt the eating arrangement. Madam Chairperson, these are realities in our politics and we cannot deny them. Madam Chairperson, with regard to the provision about the compromise. That could arise out of a Member of Parliament belonging to some of these statutory corporations or parastatals. It is very possible, Madam Chairperson, for a Member of Parliament to be derailed from his major objective. We have just discussed this issue when we were discussing the idea of recall. The right of recall of Members of Parliament. And it came up as matter of debate what the role of a Member of Parliament is. A Member of Parliament is primarily sent to discuss national legislative issues. When we begin having inexperienced people sitting on Boards to manage business oriented things we begin to see the mismanagement of this corporation. And these have existed in our history and probably still do exist where people are appointed without any kind of background of experience in that particular corporation or that particular line of business. And in today's world of competitive business, today's world of privatisation where it is competence and good business practice that must make a corporation or an institution a business institution to function properly as opposed to just political experience. Madam Chairperson, I think if we delete this provision that is recommended by committee 2 it will be very dangerous for our economy. I therefore, oppose this minority report. Thank you Madam.

MR. AWORIAGGREY (Samia Bugwe North):
Madam Chairperson, I thank you for the opportu-

nity. Initially my interest was to seek clarification on two main items, but since you have accorded me the opportunity of substantive contribution. I appreciate your magnanimity. Madam Chairperson, I was seeking initially clarification on the issue of what is a government control parastatal body. My question is, as a Member of Parliament and a businessman in these days of divestiture, whereby some of the parastatal bodies are being sold to the private sector or investors I may take an interest in a government control parastatal such as Nile Hotel, Uganda Airlines or others. And as a businessman I could buy up to 20 or 30 percent of a parastatal body owned by government at the same time I am a Member of Parliament. Are you going to disqualify me because of my business interests? I am Director of Uganda Airlines by virtue of my financial capacity to buy shares and you are saying this is a government-owned parastatal therefore resign from Parliament. Aren't we restricting our economic activities? Madam Chairperson, I was seeking, first of all that clarification. Madam Chairperson, it is very well known in the business community particularly in a capitalist world led by the US that when you have an interest in a particular business concerned where there could be conflict of interest you establish what they call a blind trust. Some of us here in the Cabinet already have such an arrangement with various organs. I said some of us. A colleague is correcting that you are not in a Cabinet so you can't speak as some of us. I said some of us here. Some of the NRC members already hold interest in parastatal bodies. Madam Chairperson are we going to disqualify Hon. So and so from being a Member of Parliament because he bought shares and by virtue of his share in Uganda Airlines therefore, he must quit? Mr. Chairperson, I think this particular amendment is unfortunate, is very narrow based is almost outdated because the trend of events is in the other direction. We are getting fewer and fewer government parastatal bodies. If any at all, Madam Chairperson in this age of divestiture, I think we are making a law which is already redundant. We will not need it by the year 1997, a majority of the parastatal bodies with a few exceptions will have been bought by the private sector. You cannot have substantial share-holding in a particular organization of economic nature unless you sit on the Board. So Madam Chairperson, before even they clarify I would like to make it quite clear that this law that we are trying to make is already outdated. It holds no water, it is already doomed by the government policy itself.

MR. KWERONDA RUHEMBA: Madam Chairperson, I stand to oppose the minority view. I am a Member of committee 2 Madam Chairperson, and in this committee we looked at the provision and we found it was lacking in some aspects. The aspect in which it was lacking was one, that it was mentioning the Code and we found that the Code was not touching on the issues that we wanted to touch on. And these issues we wanted to include were, one, this Member of Parliament should not be a Director of a statutory corporations or any other enterprise owned by government. Because if he becomes a member of these two organisations he is carrying out executive functions. Should these organizations be run down as a Member of Parliament there is no way he can criticize government because he is part and parcel of the problems that may have run these organizations down. Secondly, we borrowed from that Clause -

THE DEPUTY CHAIRMAN: Hon. Kweronda, the mover of the Motion has some information.

MR. BYAKIKA: Point of information. Madam Chairperson, I wish to thank Hon. Kweronda for giving way. I want to inform him before he informs the House. Directors of Boards are not executives, they are policy makers. So I think if he wants to contribute, let him contribute on that basis.

MR. KWERONDA RUHEMBA: I can substantiate, Madam Chairperson, on that point. These very Members of Parliament who are on Boards we know they are resident in Kampala, but when you go to dig into their claims and Madam Chairperson, I have been looking into this problem. You find these fellows have been claiming to have come either from Kisoro or from Gulu or from Arua when actually we know that they have come from Kampala to come and sit but he claims he has just come from Fort Portal.

Madam Chairperson, we have also found that these very men whenever they want to dash to their constituency, they have been encroaching on vehicles belonging to these parastatal organizations. They have been syphoning fuel from those organizations and running down to their constituencies. And they have been claiming they are staying in hotels when actually they are staying in their own houses. Actually some of them are actually housed by government. So it is those very points that we wanted to include in the majority view. Madam

Chairman, we were trying to save these men from being compromised. We have also found out that some Members on these Boards, have been part and parcel of conniving with general managers whom they are supposed to be giving policy to, by either hiding taxes or defending their weaknesses. And therefore, they have become compromised. On the other aspect which says that any other office of profit or emolument likely to compromise their offices. Members of Parliament can be compromised if he is in an organization where he has got a personal interest and his personal interest is at stake vis-vis the national interest. He will favour his personal interest and this is what we are trying to cure, Madam Chairperson. Madam Chairperson, last but not least, I think yesterday you remember we were trying to say that the Executive should not carry out legislative functions. That Article is still in abeyance but also here we were trying to cure the problem of legislators having to find themselves in carrying out Executive functions. We actually had that point in the background also trying to separate the functions of the Executive from the functions of the legislature and vice versa. So that we can strengthen the checks that Parliament can be able to check the Executive. The Executive can also be able to check the Legislature. Otherwise when you have Executive doing the job of the Legislature and you have the Legislature doing the job of the Executive, there is no way you will ever separate these functions. There is no way you can strengthen the checks and balances. So, in order to further these checks, we must certainly stop Legislators from carrying out Executive functions. But, Madam Chairperson, lastly, this does not mean that if somebody is running his own business that he is stopped. I think it was Hon. Mugenyi who was trying to insinuate this. If you have got your own business and you are running it with your wife and you are a director in that business, there is nothing that stops you from running that office. So you can carry out your own business, you can be a director in your own business because this clause does not stop you from doing that. I thank you, Madam Chairperson.

MRS. GERTRUDE KULANY (Women - Kapchorwa): Thank you, Madam Chairperson. The clarification I was seeking from the Member who has just finished is that was he really directing this complaint on Members of Parliament getting fuel and taking parastatal vehicles? Does this only concern the Members of Parliament or the entire

board? So if he is really condemning the entire board let him be clear or is it only the Members of Parliament who seek for such special favours?

MR. KWERONDA RUHEMBA: I agree, Madam Chairperson, that Members of the Board are collectively responsible for these acts. But since a Member of Parliament is one of them and he cannot check what they are doing and he is also doing the same as they are doing, he is compromising his position. In other words he is spectating over a crumbling organisation and yet, as a Member of Parliament, where he could have spoken and said "look, this is wrong." Here he is not able to say because he is a beneficiary and that is what we are trying to cure in the majority view.

MR. DICK NYAI (Ayivu County): Thank you very much, Madam Chairperson. Madam Chairperson, I sympathise a great deal with the Movers of the minority report. But before I give them my unlimited support I would wish to invite them to consider the following. I think there are two principles we are trying to put in place. One is that we are trying to avoid a conflict of interest. If that is the major principle I do not believe we will be achieving it if we go against one of the Articles we have already passed saying that we shall not make any law or parts of this constitution which discriminates against any sector of society. Statutory corporations are public corporations of which Ugandans are shareholders and those Ugandans include parliamentarians. And I think it would be dangerous for this Assembly to say that parliamentarians are less Ugandans than non-parliamentarians. I think we should adopt this principle. In that line, Madam Chairperson, I think I believe what we should be putting in place and why I am going to propose an amendment if they can accept it is this. When you are legislating for society know the principle you are trying to guard. I think in this case it is the principle that if I run Speed Delivery for instance. And whether I am a Member of Parliament or not but I am a Ugandan and I am appointed to the Board of Directors of Uganda Posts and Telecommunications Corporation, I should be able to say there is here a conflict of interest. I can not serve both masters. So for the avoidance of giving discrimination between parliamentarians and other Ugandans. I would beg the people who have filed the minority report to amend that to read as follows because the Leadership Code is specifically talking about how individuals will behave and how they

will be disciplined. I think what would be a very simple and straight-forward statement in our Constitution would be as follows: "*A Member of Parliament shall not hold any office of profit or emolument likely to compromise his or her office.*" I think that would cover what we are all talking about. If a Member of Parliament is given any office and he does not compromise him I do not see why we should keep him out. So, Madam Chairperson, through you I would like to ask the person who moved the minority whether this would be a suitable compromise? Then may be we can adduce further reasons to it. Thank you, Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Dick Nyai, what we are debating is whether to go back to the original. If it is dropped then we have a chance to amend what the majority of the committee were proposing.

MR. DICK NYAI: Madam Chairperson, I thought I had a chance through your magnanimity to even move an amendment to this one first.

THE DEPUTY CHAIRMAN: Okay.

MR. DICK NYAI: I would like to move, Madam Chairperson, that the Motion now reads: "*A Member of Parliament shall not hold any office of profit or emolument likely to compromise his or her office.*" I beg to move, Madam Chairperson.

MR. KASAJJA: Thank you very much, Madam Chairperson. Since the principle that the amendment Hon. Dick Nyai is bringing does not conflict with the principle that I have presented, I have no problem in accepting his amendment.

THE DEPUTY CHAIRMAN: Hon. Dick Nyai are you moving subject to the Leadership Code? Can you put it in writing so that I grasp what really you are saying?

MR. DICK NYAI: You are right, Madam Chairperson, I will bring this right in immediately but what I am saying is simply that the Motion should read as follows: "*A Member of Parliament shall not hold any office of profit or emolument likely to compromise his or her office.*" I beg to move.

THE DEPUTY CHAIRMAN: Is that seconded?

MR. KITAKA GAWERA (Bbale County): Thank you very much indeed. Madam Chairperson, with my long experience in the government statutory corporations I would like to make the following observations which are completely in support of Hon. Dick Nyai's amendment. Since I started my long experience in the parastatals as far back as 1963 - *(Interjection)* - yes. My services are still required by this country. Madam Chairperson, I have observed that the Members of Parliament who have served on these Boards have done a tremendous good job. Indeed their services have been very invariable on these parastatals where I have been one of the top executive. Madam Chairperson, I would like to inform you that these dedicated Members of Parliament some of whom are here are an asset to the country. If I may mention, there is Hon. Elyau who when I was on Lint Marketing Board as a top executive served honourably that particular parastatal body. I would like to say that it was because when these Hon. Members of Parliament who were very dedicated left these parastatals and I also when I left that parastatal that it collapsed. *(Laughter)* Madam Chairperson, may I mention that since Members of Parliament on the Board of Directors meet just several times of the year, if I may say a minimum of three times a year as such they do not in any way take part in the executive or the day to day activities of the parastatals. These Members of Parliament are very much experienced they have relevant experiences and also knowledge of the relevant boards. Just as I have mentioned Hon. Elyau because he came from a cotton growing area and his knowledge and experience were very invariable on the Lint Marketing Board. Even on the Board where I am now, the Coffee Marketing Board. I have found the Members of Parliament or Members of NRC who are serving on these Boards to be really very invariable. They are contributing quite a lot to the well-being of the Board. And I would like to say that it was because of this invariable experience that this particular board which, as you will appreciate, for a very long time was in the public eye as being one of the corrupt parastatals. But I would like to inform you and my Colleagues, the honourables, that since we were there with these Hon. Members of the NRC the Coffee Marketing Board has now had another facelift. It is one of the good boards which are really doing a wonderful job except that now at the moment the industry has been privatised or the industry has been liberalised and we have over a hundred competitors this is why the

board may possibly fail in the long run. Our market share has dwindled quite a lot. Therefore, I urge Members of this august House to support my friend, Dick Nyai's amendment. This could be entirely in the best interest of Uganda and it will be. Once you agree with this, you will be taken as one of the best debaters that this country has ever had. Thank you very much, Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Kitaka Gawera, Hon. Bidandi Ssali wants to be clarified.

MR. BIDANDI SSALI: Madam Chairperson, I want to be clarified over this Motion. The effect of the minority report is that 138 (1), (2) and (3) remain. But the amendment brought by Hon. Dick Nyai, may I understand it from him that he is amending (3) of Article 138 instead of (3) we take the amendment he has proposed. Do I understand it that way from him?

MR. DICK NYAI: Thank you very much, Madam Chairperson. I am quite sure my senior colleague, Hon. Bidandi Ssali, if we are sharing the same circulation from the secretariat on page 19. It says minority recommendation that Clause 3 of Article 138 of the Draft Constitution do stand part of the Constitution without amendment. And it is that clause I am seeking to amend not 102 or any other.

MR. ABALIWANO ALBERT (Bugubula South): Madam Chairperson, I am not going to bother the House too much all that I wanted was to clarify one point. Because I happen to be one of those who have worked both systems. A system without Members of Parliament and a system with Members of Parliament. One thing that the House should take note of is the fact that Members of Parliament sometimes serve on these Boards. Not necessarily in their capacity as Members of Parliament but as Members that belong to certain pressure groups that send them as representatives on these Boards in their own right as members of those pressure groups. This is because if you are a Member of Parliament you represent a number of complex problems and complex interests. You cannot simply go to Parliament because you have been sent from a particular area and that particular area sometimes may have specialised way in which it operates. You may be coming from an area like Katwe. For instance, Katwe people may have special interests and they send you to Parliament to look after those interests. Therefore, sometimes if

you belong to a bigger body like say the Manufacturers Association or you belong to the Federation of Uganda Employers, these people, when parastatals are set up and they say that body will have a representative from the Federation of Employers. Or they would have somebody representing the interests of the Manufacturers. That manufacturers body will elect you to go and represent them and they would normally do this because of the special interest the member may have in their body. Two, because you are near government and therefore you are able to convince everybody about what is actually happening in that particular association. It is important that if these bodies are able to support certain candidates for Parliament it is a good thing for them. It is only then that their interests will be heard in the House of Parliament because if they don't then they will never be heard at all. So I think this is something that everybody who is talking is leaving out. Perhaps it would be wrong to have a deliberate policy where Parliament will legislate and say that they must necessarily be represented on each board of directors of a parastatal organisation. However, if they do come in through some other bodies I think they should be allowed to come on so that they are able to represent the interests of those bodies that do exist. The other point which I would like maybe to point out which is very important is the fact that it is wrong for us to always believe that parastatal problems are as a result of boards. I think the parastatal problems have always been bigger than just boards. They have been bigger than sometimes management. We need more or less to realise that any contribution that is being made by Members of Parliament is mainly because they are able to bring to the notice of the government the problems of these bodies. As I have said I have worked on both sides, I have worked before Members of parliament were allowed to be on the boards and now when they can be on these boards and there is a world of difference. I think the problems of the parastatals have been highlighted more than ever before. This has come as a result of the knowledge that has been gained by the government. And for those who are managing they can now get faster to Ministers than they have ever done before. In the past it was very difficult even to get a comment from any Minister regarding a parastatal body purely because there was no person of influence to go and talk to the Minister concerned. Now we can go direct to the Ministers through these bodies. So I think with those two remarks I would like to end there. Thank you Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Delegates, I think we have really surveyed this issue but then I have another request here that we transfer this clause 3 of Article 138 to the Leadership Code. If we are transferring we have to agree on the version otherwise you do not transfer something you are not sure of. So we have to know what we are talking about, then location is a different matter all together. So I think we pronounce ourselves or not on this one then after knowing whether it is saying or not. We shall decide on the transfer, you can bring that one when they are doing the drafting. Now, what is on the Floor is Hon. Dick Nyai, he was trying in his belief to improve on (3), the minority report is saying we go to (3). Hon. Dick Nyai is saying we go back to it but we do something to it by having it read "*A Member of Parliament shall not hold any office of profit or emoluments likely to compromise his or her office.*" Now, that is on the Floor.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So Hon. Byakika's amendment and that of the Report from the Committee falls by the way side. I hear now Hon. Ringwegi is in the Chair. Before we proceed Hon. Dick Nyai we wish to have somebody seconding your Motion, we do not have any. Sorry we have completed 138 and we need to put the question on the article in full. Now I put the question that Article 138 as amended do stand part of this Constitution.

(Question put and agreed to)

MR. RINGWEGI SAM (Padyere County): Thank you, Madam Chairperson. Madam Chairperson, Select Committee Two considered Article 139 of the Draft Constitution and now recommends to the plenary that Article in the Draft Constitution be retained to stand part of the Constitution without amendment. The only amendment that comes into this Article is a consequential amendment and I will draw the attention of the House when we come to Clause 2 of Article 139. Madam Chairperson, the Committee recommends that Article 139 Clause (1) should read as follows: "*The High Court shall have jurisdiction to hear and determine any question whether (a) a person has been validly elected a Member of Parliament or the seat of a Member of Parliament has become vacant.*"

DR. BYARUHANGA: Thank you. Madam Chairperson, I was just seeking clarification although what I am going to say may not exactly fit in (1) but it really belongs to this article. My clarification is from the chairman of the committee. Did the committee consider trying to limit the time in which these petitions could be heard as we have done for the Presidency? Because in the past, Madam Chairperson, we have had cases where petitions were never heard. For example, the petition of Hon. Kitariko I think in 1980 was not even heard by 1985 and up to today.

THE DEPUTY CHAIRMAN: Hon. Byaruhanga, Hon. Kirenga says he has the answer.

MR. KIRENGA EMMANUEL (Mityana North): Madam Chairperson, that complaint by Hon. Byaruhanga is taken care of or will be taken care of when we come to consider the Judiciary. In the Chapter dealing with the High Court there is a provision that cases concerning election petitions will be heard as expeditiously as possible, in fact within 60 days. So that one will be taken care of although we have not come to it yet but when we come to that it will be dealt with, Madam Chairperson.

THE DEPUTY CHAIRMAN: I think that is clear. I think we put in 1 (a).

(Question put and agreed to.)

MR. RINGWEGI: Madam Chairperson, Select Committee Two of the Constituent Assembly recommends that paragraph (b) to Clause 1 of Article 139 should read as follows: "*Whether a person has been validly elected as Speaker or Deputy Speaker or having been so elected has vacated that office.*" I beg to move.

(Question put and agreed to)

MR. RINGWEGI: Madam Chairperson, Select Committee Two recommends to the Plenary that Clause 2 of Article 139 should read as follows: "*A person aggrieved by the determination of the High Court under this Article may appeal to the Court of Appeal.*" I would like to draw the attention of the House that there is a consequential amendment in this clause. We have introduced the word 'Court of Appeal,' which stands in for the words which in the original provision were meant to be the High Court.

This is because in another Chapter which the Committee considered on the establishment of the Courts of Judicature. A new Court of Appeal has been introduced in the system of courts. Therefore the system of appeal would then proceed in the hierarchy of the High Court. Having the first or the original jurisdiction to hear and determine election petitions with an option of appeal to the Court of Appeal before you reach the final court which is the Supreme Court. So, Madam Chairperson, that is why the Court of Appeal appears there in place of the Supreme Court. So the Committee recommends that the clause should now read: "*A person aggrieved by the determination of the High Court under this Article may appeal to the Court of Appeal,*" instead of the Supreme Court. I beg to move.

LT. MAYOMBO NOBLE (NRA Delegate): I wish to be clarified, Madam Chairperson, by the Chairman of Committee Two. To the best of my knowledge, Madam Chairperson, cases of aggrieved persons in the electoral problems of electoral malpractices are currently handled by Magistrate Courts and they are not appealable to the High Court. The intention of the Committee Two in my view was to make a judgement by the Magistrates Courts on an election petition appealable to the High Court. Madam Chairperson, the Chairman of Committee Two will clarify to me whether or not it will delay the process of pronouncement with finality cases of election petitions if originating from the Magistrates Courts they do not end at the High Court but they have to go to the Court of Appeal? I beg that clarification, Madam Chairperson.

MR. RINGWEGI: Thank you, Madam Chairperson. I would like to inform Hon. Mayombo that by this provision we are seeking to establish or to vest the original jurisdiction of hearing or determining election petitions in the High Court. You will not have any petition originating in the Magistrates Courts. The fear that Hon. Mayombo is talking about or the scenario he is talking about was a specific case during the recent C.A. elections. When by the C.A. Statute jurisdiction of hearing election petitions in respect to that election was vested in Magistrates Courts without any option to appeal. But here the provision is seeking to vest this jurisdiction in the High Court. And since we have introduced the Court of Appeal, it would logically follow therefore that if a person in an election petition is not satisfied with the decision of the High

Court he would then go to the second court which is the Court of Appeal instead of jumping that tier and going to the Supreme Court. The position in the Draft was that an election petition would originate from the High Court. And then if there was a dissatisfaction then the party who is dissatisfied with the results in the High Court would appeal to the Supreme Court. But with the introduction of the Court of Appeal it would, therefore, logically follow that the first appeal should be to the Court of Appeal and then to the Supreme Court. In all these cases, as Hon. Kirenga pointed out when we get to Article 169 under the Chapter on Judiciary, we shall find what provision the Committee set in place to ensure that all the trials, all the determination of election matters are done expeditiously without undue delay. I thank you, Madam Chairperson.

THE DEPUTY CHAIRMAN: I think that is clear, I put the question.

(Question put and agreed to)

MR. RINGWEGI: Madam Chairperson, Select Committee Two recommends that Clause 3 of Article 139 should read as follows: "*Parliament shall by law make provision with respect to (a) the persons eligible to apply to the High Court for determination of any question under this Article; and (b) the circumstances and manner in which and the conditions upon which any such application may be made.*" I beg to move.

(Question put and agreed to)

MR. BATEGANYA: Thank you, Madam Chairperson. I wish to add a (c) to read as follows: "*That Parliament shall by law make provision with respect to the period in which such an appeal may be made and heard.*"

THE DEPUTY CHAIRMAN: Is that seconded? Your Motion is not seconded so we put the question that 139 - *(Interruption)* - is it another provision? I do not see anybody's hand up so we put the question that 139 do stand part of this Constitution.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So 139 stands part of the Constitution.

MR. RINGWEGI: Madam Chairperson, Select Committee Two recommends that Article 140

should read as follows: "*There shall be a public officer designated Clerk to Parliament, appointed by the President in consultation with the Public Service Commission and such other members of staff as may be necessary for efficient discharge of the functions of Parliament.*" I beg to move.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So it is so decided that 140 stand part of this Constitution.

MR. RINGWEGI: Madam Chairperson, Select Committee Two recommends to the Plenary that Article 141 be amended to read as follows: "*Except as otherwise provided by this Constitution no decision of Parliament shall be taken unless one-third of all Members of Parliament are present.*" I would wish to inform the House, Madam Chairperson, that there is a minority recommendation to this report by Select Committee Two and the minority's view I think was spear-headed by Hon. Eresu.

MR. ERESU ELYANU (Kaberamaido County): Madam Chairperson, the minority view of the Select Committee Two on Article 141 came about as a result of the following observation which I think are strong reasons to forward their case. Article 141 of the Draft Constitution should be the one to be retained and that one which is in the Select Committee recommendation be deleted. Madam Chairperson, the view is that we are creating a Parliament which is a strong Parliament and that Parliament must be a very responsible Parliament. That Parliament will supervise the Executive and that Parliament will be a supreme body through which the people of Uganda will express their wishes, aspirations and their yearnings. We believe that the recommendation by the Select Committee removes the element of quorum. In other words Parliament can transact business without any number, minimum number which is required except at the time of voting. So if we are going to have a Parliament which is responsible, a Parliament which must show to the Executive that it is serious. We must have a minimum number of people and that minimum number of people must be large enough so that they can transact business. In other words, the members of Parliament should be responsible people, they should be responsible citizens. After all they have the contract with the electorate that has elected them. Number two, we believe that the quorum must be regarded as a serious matter at the time of deliberations before

voting is taken in Parliament so that they vote after following what they have participated in their deliberations. By the fact that the essence of responsibility, the essence of responsibility has already been passed in Article 136 Clause (e). It stipulates that should a Member of Parliament be absent consecutively fifteen times without any justified cause, such a Member should be recalled. This means Members of Parliament by virtue of the allegiance they will have sworn to be Members of Parliament. They are commanded by their sense of responsibility and—(Interruption) Madam Chairperson, we should realise that Article 136 Clause (e) which we have passed is very much fitting to the stand that we are taking in our minority position that we retain Article 141 as it is in the Draft. I would not like to waste much of the Members' time, I only would like to stop here by reminding you that we are creating a Parliament which is a strong Parliament and that Parliament has an over-riding responsibility to supervise even the Executive. If we have a Parliament which is not responsible whereby people will deliberate, three people, five people to deliberate and then only wait until there is quorum for people to vote we are actually betraying the course of this nation. Thank you.

MR. MALIRO GASTON (Mwenge County North): Thank you Madam Chairman. Madam Chairperson, I support the minority report. When you read, Madam Chairperson, the new formulation the import of it is to say that even if you have less than one-third of all Members of Parliament. Those few can sit and deliberate only that they will not pass a decision. I do not see the value of people sitting, talking and passing no resolution at all. Madam Chairperson, if we are going to have decisions affecting the whole country it is important that at least more than a third is present. I do not see anything wrong with Article 141 which says the quorum of Parliament apart from the person presiding shall be one-third of all the Members of Parliament. One-third is already a small number, I do not see why the committee decided that fewer than a third should also sit and represent the people of Uganda, Madam Chairperson. So I support the minority report.

MRS. KALEMARHODA (Kiboga East): Thank you very much, Madam Chairman. Madam Chairman, I also oppose the amendment and support the minority recommendation. This is a very simple matter and, of course, it is a very short article. I fail

to see the sense of even taking time and trouble to amend this article. It suggests that the committee which I have found as it has been very serious in its work in the last Chapter and in this one but this Article seems that the committee was not serious enough. It wanted Members of Parliament to choose to be in Parliament or not to be full time. It suggested that Members of Parliament, a few can take a decision on behalf of the whole country. Therefore, it gave a lot of liberty to Members who are elected by the people to do their own businesses, come, sign in the book, sit for ten minutes, get out. If they want to come again at 4.00 or 5.00 or not to come back again. When the amendment says in the report, I have read their note, that what is essential is to make a decision by Parliament but a Parliament of 300. And if a decision is made by three or ten people, that is ridiculing the legislature and taking a very important matter too lightly. So, Madam Chairman, I oppose the amendment.

MR. BAGEYA PATRICK (Kigulu County North): Thank you very much, Madam Chairperson. Fellow Delegates, I stand to support the minority report. Madam Chairperson, fellow Delegates, we have been labouring here to give power to Parliament. To me it looks ridiculous when we come back here and we say although the Parliament has got power they do not need to have a quorum. I think we are negating the essence of empowering Parliament. The reason why we are sitting here at least most of us, we are trying to kill the no-quorum syndrome and if we sit here and deliberate that we will not need a quorum in Parliament. I think we are nose diving. We have got to instill discipline in Parliament, the people that elected us are expecting a job to be performed by their Members of Parliament. During the campaigns we promised heaven and when it come to performance we do not want to get involved. Realising that there are a number of people who wish to join Parliament there is no reason why you should be elected as a Member of Parliament and then abdicate from your lawful duties. It is important and it is imperative if we want to become consistent and we want power to the people, the people can only exercise that power through their Members of Parliament. And if we are going to say that Members of Parliament can absent themselves and not collate to make important decisions for the nation then I think there could be a serious hidden agenda that I do not expect to be a party to. Therefore, Madam Chairperson, if we are serious that we are trying to make a Constitution to

make a better Uganda the least we can offer the electorate is to have a discipline of having a quorum to deliberate important matters of this nation. I therefore implore and I request very earnestly Hon. Members deliberating this Constitution to put serious consideration to the repercussion of having a Parliament making decisions, debating without a quorum. It does not do us any good for people who have not been present during the deliberations of any issue just to come in and vote. Therefore, Madam Chairperson, I strongly support the minority view and the quorum of Parliament apart from the persons presiding shall be one-third. In fact, I had wanted to make it a little higher. I thank you.

THE DEPUTY CHAIRMAN: Hon. Delegates, now I want those in favour those who are opposing the minority report. Hon. Kaijuka.

MR. KAIJUKA RICHARD (Sheema County North): Madam Chairperson, I see two points in the Committee's recommendation. One, by saying 'except as otherwise provided by this Constitution.' The Committee is recognising that somewhere in the Constitution there are provisions where Parliament may require more than a third and that I think is not in dispute. In other words within this Constitution we have passed elsewhere some aspects that must require some percentages other than a third. That is why by bringing in this clause they are saying except as otherwise provided by this Constitution no decision should be taken. So I see that as an improvement over what I read in 141. That is number one. I want someone to tell me whether my understanding is correct or wrong. Certainly that is number one aspect. The second one, it certainly cannot be wrong because I know we have passed provisions - *(Laughter)* - Madam, Chairperson.

THE DEPUTY CHAIRMAN: Proceed, Hon. Kaijuka.

MR. KAIJUKA: Thank you for your usual good guidance. I was proceeding to add that the second aspect to this recommendation is the relevant one where we are having a dispute. By suggesting that no decision of Parliament shall be taken unless one-third of all Members of Parliament are present. You are suggesting that discussion can go on in the House but when it comes to the critical time of taking a decision that is when you need a third. I think that is where the debate is as far as I can see and that is why I am saying that let us be serious. If

we want to use my understanding of the Parliament. What we want to institutionalise in this Constitution, is that Parliament that will make use of committee system. In other words from zero hour, should you have a serious Parliament you will have to make a number of committees, specialised committees. And Members of Parliament must find time to get involved seriously in these committees. In other words people are discussing in routine matter, serious Members continue discussing the affairs in the committee, hence this provision. In other words, it is not contradictory but it contributes to smooth running of Parliament. These are well considered views - *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Kule Muranga want to be clarified.

MR. KULE MURANGA (Busongora North): Thank you, Madam Chairman. I would like to get clarified from the Member on the Floor why a committee does not have a quorum. And on top of that whether somebody who comes only to vote knows what he is voting for? Why vote on a matter he does not know? Madam Chairman, I would like the Hon. Member from Sheema North to clarify on that. Thank you.

THE DEPUTY CHAIRMAN: Hon. Kaijuka, there is another clarification. Let us have them and then you answer once.

MR. KASAJJA: Thank you very much. I would like Hon. Kaijuka to clarify to me, let us take a hypothetical number of say a Parliament which has about a hundred people. Now, in your own view what do you think the reasonable number would be of Members to start a meeting? In a hypothetical Parliament where we have 100 people, what is the minimum number you would expect to start a meeting, at least, to reach a reasonable decision?

MR. KATENTA APUULI (Conservative Party): I thank you, Madam Chairperson. I would like to request the Hon. Member holding the Floor to clarify me in a Uganda context where it takes so many days sometimes weeks to produce Hansard. Where Members of Parliament are not provided with offices and there are no televisions in those offices so that they can follow the debate like in the United States Congress. How on earth can we expect to be able to vote on a matter that we have not been following in terms of debate if we do not insist on a quorum?

MR. ABBEY MUKWAYA (Busiro East): Thank you, Madam Chairperson. Can Hon. Kajjuka clarify to me how he would feel in case he was the Minister in such a situation and he wanted to present a Bill to Parliament. He finds only three or four or five people sitting and he starts his business with such a number of people and at the end of his elaborate explanation and exposition he wants Parliament to vote. How would he act in such a situation? Thank you very much, Madam Chairperson.

MR. KAJJUKA: Thank you, Madam Chairperson. I welcome these issues raised because apparently it will help us to understand the real issues after I have responded. First, I think I wanted to make a general comment before I answer specific questions. I want us to assume that we want to put in place a legislative body that is going to be facilitated. I do not want people to imagine that because we have had systems where people have not been facilitated that we shall forever be what we are forever, amen! That will be a wrong approach to our way forward, that is a general comment. Let me start by addressing question number one raised by Hon. Kule Muranga. He wanted me to clarify how I would respond or react to having a situation where people just come to vote when they have not listened to the content of the debate. There are two answers to that. One, if you are a serious Member of Parliament, there is an agenda that is printed well before time. You know exactly what is to be debated. You should be in touch and you should have in place a facility that can print whatever has been discussed the previous day. So if you cannot read them then you should not be a Member of Parliament. Certainly I am looking forward to a Parliament that is responsive, that is ready to do its work. So I am afraid I would not be worried because instead of having a House of 200 all listening to each other, if I have about twenty of them discussing the way forward on how to transform an economy I am happier at the end of the day. That is number one. Number two, Madam Chairperson, Hon. Kasajja was wondering in a given situation whether I had an idea of what I would call an appropriate quorum should the situation arise where you do not have every Member of Parliament in the House. I think I am not disagreeing with the recommendation of a third, that is why I welcome the committee's response and recommendation. They are saying should you get to a situation when a decision has to be taken clearly you must have a third. But for

discussing routine, where people are telling you stories from A to Z, some of them are not serious, some are serious. You might as well allow for people at the same time do some serious work. The third question was raised by Hon. Katenta Apuuli. I think that is the point I started with. You are saying you are starting off from where we are and I want to say that it is correct. The observation is correct because Members of Parliament today are not facilitated. Most of them do not have clerical assistants should you want to research in terms of historical documents, in terms of historical Bills or you want to do thorough research on any subject, you certainly should have some research assistants. This today we do not have. I am looking forward to a stage where you should have these research assistants. I am looking forward to having a full-fledged library and I am looking forward to a Hansard that may be produced regularly. Therefore, given this situation if you may permit me to just conclude my remarks, given that I am looking for a practical business oriented Parliament and I am not looking forward to a lazy dragging on type of Parliament, it is really a choice of the House. If you want us to continue as we are another twenty or thirty years from now and we continue in the same manner, you are free to constitutionalise that but I am recommending that we take my line and then people will be serious and we shall get on with business. Number four, Hon. Mukwaya was wondering what would happen to me if I came to present a Bill and I find a skeleton of people. They may be two or three but knowing exactly what type of Bills I would end up presenting. Chances are that I will always find there a big number. Now, should a situation arise, we are saying a serious business like a Bill is taken care of by our provision because you have to take a decision on that, therefore, you would require a quorum. That is my understanding of this provision. So your worries will really will tend to be taken care of. Madam Chairperson I could go for hours on end but it is sufficient for me to conclude by saying that I know everybody is saying he or she is going for minority recommendation. If you seriously look at the recommendation from the committee, they took time off. They recognise that addition of 'except as otherwise provided,' had a bearing because of what is already provided for and they are looking forward to an efficient management style. Thank you for listening to me.

THE DEPUTY CHAIRMAN: Okay, let me give a chance to the chairman. Usually the chairman is

given the lee-way to make a final note so I think it is in order.

MR. MULENGA: Thank you, Madam Chairman. Madam Chairman, I sought to be heard firstly to explain the reason we came to this recommendation. Secondly, to dispel some remarks that have been made in the contribution in support of the minority report. Hon. Kalema went to the extent of saying that the committee was not serious. We were very serious. We discussed this matter very seriously and at length and Hon. Bageya says that there may be a hidden agenda, there is no hidden agenda. The point to note and I think I could not put it better than Hon. Kajjuka has put it. In fact I am very impressed that although he was not in the deliberations that came up with this recommendation he has picked it out and seen the value of it. Madam Chairman, the background is this. While you talk about no quorum syndrome it is a fact of life that many times particularly I think really nobody here of all people should not recognise that quorum or failure of quorum has caused a lot of expense to the State without much value derived from it. The NRC and now the CA has been hit by this requirement for starting with a given number of people before you can deliberate. You delay for fifteen minutes, the Assembly is disbanded for a whole day. That we have experienced even here. So you have to consider what value we get from that compared to what we would get if we were a bit relaxed on that rigid requirement. We have to weigh, it is not enough to say we are all patriotic, we are all responsible, we should be responsible. The fact of the matter is that people will be people. People will be late so for us to sit here and say no, future Parliament must always be serious and not be late, that is the expression that we are putting our head in the sand. The reality of the matter is that people will be late and this requirement will cost the country with no benefit from it. Madam Chairman, as Hon. Kajjuka put it, the important thing to note is that a decision has to be taken by a reasonable number, the quorum. We have accepted that no decision shall be taken unless there is a quorum. Therefore, when you talk about few people should not decide for the entire nation, we are talking about decision making. It is not enough to say we have a 100 people sitting in the House representing the people but what are they there for? To listen? Now, I turn to that question of listening (*interruption*)

THE DEPUTY CHAIRMAN: Hon. Mulenga, be brief so that we go to other business.

MR. MULENGA: Yes, okay, but I think the Committee deserves to be heard on why it came to this decision. Let me conclude or try and wind up Madam Chairman. The other point is, now if I am to be brief I think clarification should wait. The second important point is this, if we are to be as serious or if those who will be in Parliament has to be as serious as we expect them, they will not fail to know what is going on or what is going to be debated, they are expected to read. It is not the speech by the Minister introducing a Bill that they should depend on in deciding one way or the other, they are expected to read ahead of time. There will be a Bill published. They read the Bill, they research, they even investigate, they go to inquire from the Ministry. Any Member of Parliament who only depends on going to the House will not be contributing usefully. Madam Chairman, it is because of that the committee thought we should identify what is the importance of the numbers, the quorum. And that is the decision making entity quorum to decision making but not bog down progress of Parliament merely because even as few as two people are missing to make the quorum required. Madam Chairman, I would oppose the amendment or rather the minority report.

THE DEPUTY CHAIRMAN: Thank you very much, Hon. Mulenga, but perhaps I am not biasing the House but as a reminder that is where we started here in the Constituent Assembly. And you are expected beginning business when we are not together a substantial number and that is why we have been failing to have a quorum. So does the wrong correct a wrong? Any way I put the question on the minority report.

(Question put and agreed to.)

THE DEPUTY CHAIRMAN: I think I need to put the question on 141 that 141 as contained in the Draft Report be part of this Constitution.

(Question put and agreed to.)

Article 141 as contained in the original Draft Report agreed to.

MR. MULENGA: Article 142. The committee, Madam Chairman, recommends that Article 142 of the Draft Constitution be amended in Clause 1 to read as follows: "Except as otherwise prescribed by this Constitution or any law which is consistent with this Constitution any question proposed for

decision of Parliament shall be determined by a majority of votes of the Members present and voting."

(Question put and agreed to)

MR. MULENGA: Clause 2. The Committee recommends that Clause 2 be retained to read as follows: *"The person presiding in Parliament shall have neither an original nor a casting vote and if on any question before Parliament the votes are equally divided the Motion shall be lost."*

(Question put and agreed to)

MR. MULENGA: Madam Chairman, the committee recommends that Clause 3 and 4 of the Draft be deleted. The reason, Madam Chairman, is that Clause 3 of the Draft Constitution, the provisions of that clause should be in the Rules of Procedure of Parliament. There is no need to provide in the Constitution what the rules may provide. The way it is framed is that the Rules of Procedure may make provision under which a Member of Parliament is prohibited from voting on question on which he has interest. Madam Chairman, this is being permissive but it is not necessary to permit what will go in the Rules of procedure. So we thought that it was superfluous or unnecessary.

(Question put and agreed to)

Clause 3 and 4 deleted.

Article 142, as amended, agreed to.

MR. MULENGA: Madam Chairman, the committee recommends that in Article 143 Clause (1) be retained to read as follows: *"Parliament shall appoint Standing Committees and other committees necessary for the efficient discharge of its functions."*

(Question put and agreed to)

MR. MULENGA: Madam Chairperson, the committee recommends that Clause (2), (4) and (7) be deleted. Clause (2) Madam Chairman seeks to establish committees as listed from paragraph (a) to (i). I want to assure the Hon. Members that before we decided to recommend that Clause (2) be deleted we did a thorough discussion. We even appointed a special sub committee to consider whether

there are any committees, subject committees that should always be there, that we can be sure that in all future situations will be there. We found that it was not possible at this juncture to predict that in future and at every time such a committee either on public utilities or on agriculture or on what will be a priority in that Parliament and the government of the day. We therefore thought it fit to leave that responsibility to Parliament when it comes into office to determine what its priority committees should be.

THE DEPUTY CHAIRMAN: There seems not to be any problem so we agree that Clause (2), (4) and (7) be deleted.

(Question put and agreed to)

MR. MULENGA: Madam Chairman, the committee recommends that (2) of 143 should now read: *"The following shall apply with respect to the composition of the committees of Parliament; (a) Members of the Standing Committees shall be elected from the Members of Parliament at the commencement of the first session of Parliament. (b) the Vice President and Ministers - (Interruption)"*

THE DEPUTY CHAIRMAN: Hon. Karuhanga has his hands up on (a).

MR. KARUHANGA ELLY (Nyabushozi County): Thank you, Madam Chairperson. I have a problem with the first session of Parliament. Madam Chairperson I wanted the Chairman to explain to me whether this is what it actually means in effect. Is it when the Members have been elected and they have come and it is the first month or this is left to Parliament to decide when they do that? It is not very clear.

MR. MULENGA: Madam Chairman, I am sure Hon. Karuhanga knows the meaning of a session. There are no months or days, the Parliament and its managers decide when a session ends. In a later section about summoning, proroguing sessions of Parliament, Article 148 it is provided that a session of Parliament shall be held at such a place within Uganda and shall commence at such a time as the Speaker may by proclamation appoint. Then it says that the Speaker may by proclamation prologue Parliament, then you move to another session. So it is in the first session that we are saying the committees should be appointed.

MR. KARUHANGA: Madam Chairperson, having understood that explanation and I am grateful for the attention that has been drawn to the House on Article 148. I have problems with the word 'commencement of the session' and I tell you the reason why I have difficulty in it. Madam Chairperson, when members are elected they do not know and they come for the session. They take the oath, the swearing in. There is need for a little familiarisation, and they need to know each other. I want to tell you that, based on the experience I have had in Parliament in the past. I am glad the former National Political Commissar is here. At that time we had to elect members to committees, especially, the National Executive Council, we actually, did not know each other, and much as we tried to complain we were too new to even make a real complaint to felt by the organizers of the business. I would like to appeal to you, Madam and to the Members of the House, that the word 'commencement' is too abrupt and will not make new members know which of the committee they are really very good at. It needs a little bit of time and it is a bit of an ambush, and members need to know where they could be. I would like to appeal to the Hon. Members of the House, that I move that we delete the word 'commencement' but it should be in the first session of Parliament, but not at commencement of the session. So, I would like to be during the first session. I hereby move, if I am seconded.

MR. MULENGA: I would not have any objection to that, Madam Chairman.

THE DEPUTY CHAIRMAN: Okay, in view of that really I think we should not waste time on that one. But I think Hon. Malinga is insisting, but as I know that he is a good draftsman let us hear from him.

MR. MALINGA: Thank you, Madam Chairman. I was of the same opinion as Hon. Karuhanga that it should be during the first session of Parliament. But I would like to add this to it, 'following a dissolution.' In other words, it should be the first session following a general election. As it is now, the provision is not clear.

THE DEPUTY CHAIRMAN: Hon. Malinga, that would be a drafting matter which you can refer to. So, I put the question on 2(a) as amended.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, we insert the word 'during' in place of 'Commencement.'

MR. MULENGA: *The Vice President and ministers are not qualified to be members of committees of Parliament but may be invited to take part in their proceedings.*

MR. NGOBI MATTHIAS: Point of clarification. Thank you very much, Madam Chairman. I would like some clarification on this matter, because since we have *-(Interruption)*

THE DEPUTY CHAIRMAN: I thought I had given the Floor to Hon. Rwabiita.

MR. NGOBI: Sorry, I misheard you, I thought you said Ngobi.

MR. RWABITA: Thank you very much, Madam Chairman. Madam Chairman, by the fact that we stood on clause (d) of 131, in the same spirit I think this provision must wait until we have made a decision about whether a Vice President or a minister can be *-(Interjections)- yes, yes -(Interruption)*

MR. KARUHANGA: Point of information. I would like to inform Hon. Rwabiita that, in fact, this provision does not really relate to the decision we have to take on the question of whether minister will be Members of Parliament or not. In my view this is redundant because the committees, anyway, do question ministers. They are set up to interrogate ministers, performance. So, what we are stating in (b) is really obvious. The ministers cannot be members. It is not practical, even if they are Members of Parliament they still would not be members of the committee, and putting it here is just a waste of time. It should just be deleted.

MR. NGOBI: Thank you very much, Madam Chairman. My problem is that this subclause (b) states that ministers or the Vice President may be invited. I think it would probably be better whether we decided that they are Members of Parliament or not. They will be ex-official, they assume that they have the option to attend in case they think that the matter to be considered by a particular committee is of interest. So that they do not have to wait to be invited. They may be invited, but if they feel that the matter is of interest, and if they wish they could attend, although they may not have a vote. So, that

is some clarification before I move a specific Amendment, I would like to ask the Chairman of the committee to clarify that point.

MR. MULENGA: Madam Chairman, I do not know whether in normal practice, Parliamentary committees are open to all members like our Select Committees were open to all members. What is intended here is - *(Interruption)*

MR. ELYAUMIKE: Point of information. Thank you, Madam Chairperson. It is almost the same practice, because if you have got interest in a particular committee, and you are not in that committee, you can attend but you may not vote. So, there is no difference with ours here. So, also the ministers who are concerned or Deputy Ministers should also attend so that when we are discussing or the discussion is live, when you ask questions, you do not need to run up and down again there to help the committees.

MR. MULENGA: So, Madam Chairman, I would have no objection in stating that the Vice President and Ministers are not qualified to be members of committees but may participate in their proceedings. Invited or not, I think, that is what Hon. Ngobi was concerned about.

MR. NGOBI: Thank you very much, that may be a bit satisfactory, but I was thinking we will delete the words 'being invited to take part in the proceedings' and insert, therefore, 'attend the proceedings'.

MR. MULENGA: Well, attend, take part, unless you are insisting that they should only be in attendance, rather than participate in deliberations.

MR. ABALIWANO: I wanted both read the Vice President and Minister are not qualified to members of committees of Parliament, but may attend or be invited to take part in their proceedings. I think that is better English. I beg to move.

THE DEPUTY CHAIRMAN: Okay, it is supported and I do not see any query, and the committee is accepting it.

MR. KAYONDE ISRAEL: Madam Chairman, while we dismissed Hon. Rwabita, I think, it is necessary to recognise that currently the practice, a minister who is a Member of NRC or could be a Member of Parliament could belong to a commit-

tee in his right, which is not necessarily his portfolio. A committee which does not relate to his portfolio, but he would be a member of a committee where he has, let us say, particular interest and he has better qualification and whatever. So, I think, it is important that before we pronounce ourselves, we recognise that once a decision is taken that ministers will be Members of Parliament in their right and they are representing constituencies, they could be members of particular committees. I think this is necessary. So, before we pronounce ourselves, the minister could be useful in a particular committee, but he does not have to be a member of a committee which is his portfolio.

THE DEPUTY CHAIRMAN: Hon. Kayonde, that should constitute a whole Amendment, moved and seconded. Because it is changing the meaning of what we are talking about.

PROF. KABWEGYERE TARSIS (Igara West): Thank you, Madam Chairman. I had raised my hand, in fact, to raise a point of order, because I think, Hon. Kayonde is confusing the House, rather misleading the House. In parliamentary procedure, ministers are not expected and they are not members of committees of Parliament Standing Committees. It is known, and the very fact that they are not members does not mean that they have lost on their representatives in the House. Secondly, Madam Chairman, I was thinking that Hon. Karuhanga had a point. The procedures of who is a member of the committee and so on and so forth should be defined in the rules of procedure of the House. But when we come out here to say the ministers and so on should not be, when in fact, it is being redundant because this is really what happens. I do not know of any Parliament where committee members are also ministers. Because the committees are set up - *(Interruption)*.

MR. MULENGA: Point of information. Thank you Mr. chairman. I want to inform the Hon. Delegate on the Floor that the purpose of this is to ensure that there is no doubt. If, for example, a backbencher, whatever expression you want to use, is a member of a committee, and tomorrow is appointed a minister, there should not be a question as to whether he continues or not on that committee. It makes matters clear.

MR. KAIJUKA: Madam Chairman, the main reason why I think this clause is there, is not so much because we have parliamentary procedures.

I think the major reason and the principle reason is because of the principle of separation of powers. You have the Executive and the Legislature. A minute you are appointed a minister you are an arm of the Executive and, therefore, should not really be part and parcel of a parliamentary committee, that is the main reason. Thank you.

MR. AKURE PETER (Jie County): Point of information. Madam Chairperson, the practice in the NRC is that, the ministers only appear in the committees when they are called to answer some queries in their ministries. That is when we have these ministers appear before these committees.

PROF. KABWEGYERE: Thank you, Madam Chairman. At least, I was receiving information and I now conclude. The addition is that clarity is necessary when there is vagueness. The practice is very clear, the separation of powers is very clear, Parliament is setting up committees, and these are committees of Parliament, they are not committees of Cabinet. Therefore, clarity is obvious. As far as I am concerned, Madam, it is not necessary to have (b) in the Constitution. I, therefore, support Hon. Karuhanga for the deletion of (b).

THE DEPUTY CHAIRMAN: He did not move any Amendment.

PROF. KABWEGYERE: I therefore, move Madam Chairman, that clause (b) paragraph (b) of article 143 be deleted.

MR. KOMAKEC LEANDER (Aruu County): Thank you, Madam Chairman. I put up my hand to support this Motion, because I think the Assembly is wasting its time. This is a normal practice that ministers are not selected on these Select Committees. It is not just the NRC, but all Parliaments where ministers do sit, ministers are not members to these committees. So, I see no point in trying to put something into our Constitution when it is obvious.

THE DEPUTY CHAIRMAN: Okay, let me put the question on this one it seems to be clear. Those in favour of deletion as moved by Hon. Karuhanga say aye and to the contrary no.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, (b) is so deleted.

PROF. KABWEGYERE: Thank you, Madam Chairperson. I would like to have it recorded that the Motion that has just been passed was moved by Prof. Kabwegyere of Igara West.

THE DEPUTY CHAIRMAN: As suggested by Hon. Karuhanga. Okay, can we proceed?

MR. OBUA OTUA (Erute County North): Thank you very much, Madam Chairperson. Madam Chairperson, I am begging your indulgence to take you back just slightly on (a), because I think the wording *-(Interjections)* no, it is a very small matter, Madam Chairperson.

THE DEPUTY CHAIRMAN: No, we are not going back. You can reserve it for reconsideration.

MR. OBUA OTUA: But, Madam, can I bring it up before the question on the article is put, because it is just a small matter? May I please, be allowed to bring it before the whole article is put. Thank you.

THE DEPUTY CHAIRMAN: Okay, let us hear from him but if it is matter of substance I will not allow you to complete. You can proceed.

MR. OBUA OTUA: Thank you, Madam Chairperson. As I said, it is a very slight matter; (a) says 'the members of the Standing Committees shall be elected from the Members of Parliament.' I thought 'from Members of Parliament' is redundant, because where else could they have been elected from? Why do you not simply say; 'the Members of the Standing Committee shall be elected during the first session of Parliament' instead of saying from the Members of Parliament. There is no where else they are going to be elected from.

THE DEPUTY CHAIRMAN: Okay, that is drafting, and the Drafting Committee will take note of that. Okay, Hon. Mulenga we go to (c).

MR. MULENGA: For (c) "*The rules of procedure of Parliament shall prescribe the manner in which the members and Chairpersons of the committees are to be elected.*"

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, we pronounce ourselves on 143, that 143 as amended does stand part of the Constitution. Sorry, you see, it was because of the deletion. So, we are going to original 5, which is now becoming 3 - *(Interjections)* yes, but you see we are trying to look at the draft and the way the numbers have been changing. So, now we go to 3 which was 5.

MR. MULENGA: Madam Chairman, the committee recommends that should read: *"The functions of Standing Committees shall include, to discuss and make recommendations on all Bills read before Parliament."*

(Question put and agreed to)

MR. BASALIZA HENRY (Fort Portal Municipality): Thank you very much, Madam Chairperson. I just propose that these functions should be left to Parliament rather than to be included in the Constitution. Therefore, I move for deletion of clause 3:

MR. MULENGA: Madam Chairman, I am a bit apprehensive since the mood of - *(Interruption)*

THE DEPUTY CHAIRMAN: Let me get you right. You are saying on 3(b).

MR. BASALIZA: Madam Chairperson, I am saying that the whole clause 3 should be deleted, from (a) (b) (c) up to (e) be deleted.

MR. MULENGA: Madam Chairman, I was saying that if you look at the original text, it says, 'the functions of Standing Committees are as follows.' It seemed to suggest those were the only functions. And we amended to say 'shall include.' Now, why do we do that? Because the idea is that these must be their functions, if any others are to be added they will be added by Parliament. But when you create an organ or a body in a Constitution, you should indicate what you expect it to do! You do not just say there shall be a committee and keep quiet. You might as well not say it because the Parliament could establish committees in any case without it being in the Constitution. But we have seen it fit to say Parliament should have committees and we are saying for future Parliaments we shall have committees. What do we expect those committees to do? We state it, that is the reason that we should have - *(Interruption)*.

MR. OGWEL LOOTE (Moroto Municipality): Thank you very much, Madam Chairman. Having listened to the Chairman of the Select Committee, and having the committee analysed all the functions of the Standing Committees, and also as the Chairman is saying we need to put some clause. They had suggested that we delete. So, I feel that we summarise and make one clause which reads: *"The functions of the Standing Committees shall be prescribed by Parliament."* So, that we do not now put all these down there that is what I wanted to suggest to the Chairman. Thank you, Madam Chairman.

MR. WANENDEYA WILLIAM (Budadiri East): Thank you very much, Madam Chairman, for the first time this afternoon to have been given an opportunity. Madam Chairman, in as much as we canceled (b) under 2, where some of these things are obvious in parliamentary procedures, I fully agree with Hon. Loote that the function of the Standing Committees of Parliament shall be prescribed by Parliament. And there we end, because even number 4, would be application to that deletion. Therefore, everything should be prescribed by an Act of Parliament. I beg to second that change of Motion. I thank you, Madam Chairperson.

MR. CHEBET MAIKUT (Kween County): Point of procedure. Madam Chairperson, we have already pronounced ourselves on Clause (a) of Article 3. Under procedure, I would like to seek your guidance as to whether the mover of this Motion is seeking to delete (b) up to (e) and leave (a) which we have already pronounced ourselves on. Or we are revisiting (a), because we have already pronounced ourselves on it! So, Madam Chairman, I am seeking that clarification.

THE DEPUTY CHAIRMAN: We have not finally put the question.

MR. ABALIWANO: Madam Chairperson, I would like to support the Chairman in cautioning us in simply continuously deleting certain points within the Constitution which we would like to see for emphasis' sake. Because there are certain things which you say that you create this, you create that, but you have to say that body will be responsible for the following for emphasis. But this afternoon we seem to be in a very, very deleting mood, everything that comes delete, delete. I would like to see the emphasis being placed on some of these bodies.

I am looking to the question of, at one stage when certain parties here were overpowerful and they could have passed anything in Parliament, except making a man a woman and a woman a man. This could have been possible, because of the powers which they had, they could change anything! So, what is important, if anything of that nature happens, you may be able to contest that it is unconstitutional. Now, if you left this thing to Parliament, it may not necessarily be contested as constitutional other than arguing the point that is legal or not legal. That is the point why sometimes we want these things to be in the Constitution for emphasis and for later that we can contest it whether it is constitutional or not. Thank you, Madam Chairman.

MR. ERESU ELYANU: Madam Chairperson, I am a member of committee 2. I would like to bring to the attention of the Hon. Delegates here present, that if you read the opening of Clause 3 it states that the function of Standing Committees 'shall include' emphasises the fact that apart from other function that will be prescribed by Parliament. Constitutionally it is important that we include these. So, if we are in a deleting mood, we must be aware of the fact that, Madam Chairperson, we want to have committees which can function, and constitutionally provided for to function. That is even emphasised in part (e) of clause 3 which says to report to Parliament. In other words it emphasises the fact that apart from whatever they will have done as committees, they must report to Parliament on their functions. The only thing which is left out is that Parliament could probably prescribe when they should report, but to report to Parliament here emphasises part of their duty. In fact, reporting to Parliament is one way of reporting to the nation. These are very important provisions, we should not lose sight of. I beg we retain.

DR. SSEMAJEJE HIGIRO (Lwemiyaga County): Thank you very much, Madam. These committees are very important. They make decisions, they make recommendations which affect this nation in a very important way. Just as we have created other institutions like the Bank of Uganda and others. And we have indicated certain functions which they will have to undertake and others. I think we should not simply say we create committees and leave it that way. I think the committee has a point here. If there is a function which we think is superfluous, we can remove it. But the idea of having some functions constitutionally put here is very, very useful, Madam Chairperson. I beg that we have them.

MR. NDEGE JOHN (Luuka County): Thank you, Madam Chairman. In support of the same, I would like to say that two years to really have these committees accepted by the executive is short. Because some of the people in the executive thought that they are only responsible to the appointing agent, and some of them refuse even to come and appear before backbenchers because they thought they were too high. Now, they thought it is not their duty to come and defend their policies. Now, we eventually, put up these committees to the - *(Interruption)*

MR. BASALIZA: Point of procedure. Madam Chairperson, thank you very much. In the light of the explanation we have got from the Chairman of committee 2, and other Members, I beg to withdraw the Motion *(Applause)*

THE DEPUTY CHAIRMAN: Okay, thank you very much. Now, we proceed. We are at (b).

MR. MULENGA: Initiate any deal within their respective areas of competent.

MR. WANENDEYA: Madam Chairperson, much as you have pronounced that we should have them, but I feel that we are taking wrong pass in the sense that -

THE DEPUTY CHAIRMAN: But the House has decided.

MR. WANENDEYA: But, Madam, I was not given an opportunity to put my case.

THE DEPUTY CHAIRMAN: Okay, but your statement is not going to change the 280 people. So, we proceed Hon. Mulenga

MR. MULENGA: Thank you Madam Chairman. Paragraph (c) "To assess and evaluate activities of government and other bodies; (d) to carry out relevant research in their respective fields; and (e) to report to Parliament on their functions," that is clause 3.

(Question put and agreed to)

MR. MULENGA: Clause 4, in the exercise of their functions under this article, committees of Parliament (a) may call any minister or any person holding a public office and private individuals, to submit a memorandum or appear before them to

give evidence; (b) may co-opt any Member of Parliament or employ qualified persons to assist them in the discharge of their functions; (c) shall have the powers of the High Court, or a Judge of the High Court at a trial for (1) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise; (2) compelling the production of documents and (3) issuing a commission or request to examine witnesses abroad. That is the end of clause 4 and article.

THE DEPUTY CHAIRMAN: Thank you very much, now I put the question on Article 143 as amended that it does stand part of this Constitution.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: Hon. Delegates, for the sake of good discussion and continuity, I propose that we adjourn so that we start tomorrow on the phrased 144, in case we are unable to complete it. So, we stand adjourned until tomorrow at 9.00 a.m.

(The Assembly rose and adjourned until Friday, 24th March, 1995 at 9.00 a.m.)