



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

TUESDAY, 23RD MAY 1995

MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda

[Pg 4440]

Tuesday, 23rd May 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)

CONSIDERATION STAGE OF THE DRAFT
CONSTITUTION OF THE REPUBLIC OF
UGANDA

CHAPTER SIX

ARTICLE 85 - ELECTORAL COMMISSION.

THE DEPUTY CHAIRMAN: Hon. delegates, we successfully completed Article 84 and now I call upon the Chairman of the Committee to go to the next Article.

MR. SAM KUTEESA (Mawogola County) Thank you, Madam Chairman. The Committee recommends that Clause (1) of Article 85 be amended to read as follows. *"There shall be an Electoral Commission which shall consist of a Chairman, a Deputy Chairman and not less than three and not more than five other members appointed by the President with the approval of Parliament."* Madam Chairman, originally the Committee had recommended that the wording should be there shall be an independent Electoral Commission and so on, but the Technical Committee has removed the word *"Independence"* in this Clause and put it in Article 87 which is on page 14 of this report. They put Article 87 which reads: *"The Commission shall be independent and except otherwise provided in this Constitution or any other law in the performance of its functions, it shall not be subject to the direction or control of any person or authority."* This is the decision by the Technical Committee who think that the word *"independent"* is better used in Article 87 rather than Clause (1) of Article 85. So, Madam Chairman, it was felt by the Committee that the President should not appoint on his own but he should nominate names which should be approved by Parliament and the figures of three and not more than five, are included so that when you have a Chairman and Deputy Chairman and you have

three other people, you would have a total of five or if you have five, you have a total of seven and since we are not giving a Chairman a casting vote, that would be useful whenever voting is carried out by members of the Commission.

Madam Chairman, the Committee feels that with the approval of Parliament, the Electoral Commission will be, as much as possible, independent and will have had the approval of the highest institution, the legislative institution in the country. Madam Chairman, I beg to move.

MR. MWONDHA (Bukooli County North): Thank you, Madam Chairman. Madam Chairman, I am a member of Committee Five, I have an amendment which I would like to move, and in moving this amendment, I have consulted with the Chairman of Committee Five, I also did consult with the Chairman of the Constituent Assembly yesterday. I did that consultation because the matter over which I want to move the amendment had been a subject of discussion in the Committee. Madam Chairman, I would like to move that Article 85 Clause (1) reads as follows: *"There shall be an Electoral Commission which shall consist of a Chairman, a Deputy Chairman, and not less than three and not more than five other members appointed by the President in consultation with the political parties and with the approval of Parliament."*

THE DEPUTY CHAIRMAN: Is it seconded? Yeah! it is seconded. This was moved and seconded by Hon. Wasswa Lule and Adoko Nekyon and Ben Wacha. What is the procedure hon. Byaruhanga?

DR. BYARUHANGA (Kitagwenda County) Thank you, Madam Chairman. Since we are yet to decide the political system that shall be used in leading or choosing the leadership of this country, I beg that we do not discuss this Article now, let us discuss it after we have decided on the political system because as we talk now, that amendment is meaningless in the present political system.

PROF. NABUDERE (Budadiri West): Point of clarification! Thank you for giving way Hon. Byaruhanga. I would like to be clarified by you whether you mean that this Constitution we are making is dependent on a situation of the next five years or ten years in which we have to decide on a

political system. I thought that under Article 51 Clause (1) (e) which we passed, this Constitution guarantees the right of Ugandans to form political organisation of their choice. I would like to be clarified because you seem to imply that until we decide the system we shall use either in the next five years or ten years, we cannot accept a principle of a Constitution which is supposed to be time lasting.

DR. BYARUHANGA: Madam Chairman, I have read the entire report on Chapter 6 from our Committee Five, they are proposing two alternative political systems. In one of the systems - the Movement system, the parties are not supposed to put forward candidates to be elected. In another system, the multiparty system, the parties shall be free to put forward candidates. So, in my view, the amendment of Mwendha will only be relevant when the multi-party political system is in place, it cannot be relevant when the Movement system is in place. That is why I had suggested - I was not throwing away Mwendha's amendment, that is why I had suggested that let us first wait and settle the political system issue and then we can come back to Hon. Mwendha's amendment.

MR. KABERUKA: Point of order! Thank you Madam Chairman. The point of order is this. Hon. Mwendha having been a member of Committee Five, is he in order to move an amendment when he did not bring it as a Minority Report? Our Rules say that if you have taken part in consultation, you come as a Minority Report not as an Amendment.

THE DEPUTY CHAIRMAN: Let us inquire from the Chairman of the Committee. Was this brought and debated?

MR. SAM KUTESA: Well, you see Madam Chairman, this Motion was presented and debated and rejected in Committee Five and the Minutes will attest to that. But as to whether he can bring a Motion as a member or not, unless it is a Minority Report, that will be certainly your interpretation of the Rules.

THE DEPUTY CHAIRMAN: Now, Hon. delegates, the procedure has been that once a Minority Report was brought and it was debated and defeated, it is not re-opened. So, what Hon. Mwendha you should have done is to get perhaps another member to move the Motion. Other members of the Committee are allowed - I mean other members of

other committees, I think can bring their Motion, but this is irregular. Anyway, let us hear from Hon. Kanyeihamba.

PROF. KANYEIHAMBA: Madam Chairman, in fact as I understand it, in fact the Movers had already discussed this matter with the Chairman who obviously gave them the lead. My own interpretation of the Rules is that, yes, the Select Committee has the Majority Report, you could have a Minority Report. But it does not mean that every member who was in that Committee agreed with the majority report or the Minority Report, there may be areas where you did not want to form a Minority Report. Nevertheless, you want to raise that issue in the Plenary and I think members are entitled, although they are individuals, they are entitled to move amendments on the Majority and it is debated here and either approved or debated and there has been precedents, Madam Chairman. So, I think that the member is in order to bring an amendment even though he was a Member of this Committee. I think he should not be defeated just on procedural ground.

MR. KWERONDA RUHEMBA: (Kajara): Madam Chairman, the point the Chairman of Committee Five raised and which some people are trying to push aside is that this Amendment came to the Committee as it is. It was debated, it was defeated and why did it not come as a Minority Report? Why does it come as a Motion similar to the one which was presented at that time? That is the question.

THE DEPUTY CHAIRMAN: If I could ask the Chairman of the Committee, let us clear a few things so that we do the right thing. When we were discussing Article 84, all the proposed amendments which were rejected were included, all of them. Let us look at 85 - do you have that list - like we did in 84.

MR. SAM KUTESA: Madam Chairman, this particular Motion does not seem to have been repeated in this report as having been debated. What I am stating, however is a fact, that it was debated in this form and the Minutes do exist, and it was defeated. But my own opinion, Madam Chairman, if I may be allowed to forward it, is that we should not stifle any effort with this kind of Motion. Rather than sweep it under the carpet, I would suggest that we debate it - *(Applause)* - and

that the Assembly should not hide anything simply by using technical methods. However, having said that, Madam Chairman, I would say that we have adopted a certain procedure and if we do raise everything that had been raised in the Committee, then the our purposes of having set up Committees will be defeated. But if the members feel so strongly about this Motion, my suggestion is that, it should be debated and the Plenary takes a decision on it. I thank you.

THE DEPUTY CHAIRMAN: Hon. delegates, from the advice of the Chairman of the Legal and Drafting and the Chairman of the Committee, although this is inconsistent with our rules, but then also, although the Chairman of the Committee did not indicate in the report that this was discussed and rejected like he did in 84, we have given a benefit of doubt to this provision and allow Hon. Mwendha to support his Motion. Let him defend his motion and then we shall call for clarification.

MR. MWONDHA: Thank you very much, Madam Chairman. It is true that I feel very strongly about this Motion and it is on that feeling that I did seek the indulgence of the Chairman of Committee Five and of the Assembly, to allow me to move this Motion.

Madam Chairman, the amendment seeks to enshrine the spirit of consensus in our new Constitution. It also is a confidence building measure. Elections are extremely momentous in the life of any nation; they relate the transmission and transfer of power - transmission from the governed to the governor and transfer from the out-going to the incoming. This process can easily become delicate. Those in charge of such a process, the Electoral Commission should do so with a blessing of everybody concerned. The way to acquire that blessing should be in the manner of their appointment. This amendment seeks to bring the political parties in the picture so that they can be able to give their blessing to the electoral Commission. By so doing, the parties will be able to give confidence and credence to the Electoral Commission and not indeed the Electoral Commission, but in their entire conduct of elections, their entire conduct of their duties. The Electoral Commission too, will work without fear or favour since they will now know that they will have the blessing of every player in the game. It can be difficult for a referee to officiate in a match where it is clear that one side doubts his ability and

integrity. This confidence is important if at the end of the day, the elections are to be free and fair. Fairness is not only done but has to be seen.

In the proposed amendment, we are giving a chance to the President of the day to show that fairness, we are also giving a chance to the President of the day to act in a Statesmanly manner; we are asking him to act above partisan considerations. We are not asking too much of the President to give a gesture of statesmanship by consulting with other contenders. In a democratic society, respect for one another is very important. We are simply asking the President to extend that respect to other contenders. Other members may argue, like indeed Hon. Byaruhanga had started to argue, that this amendment is meaningless, particularly when the Movement system is operational. But Hon. Byaruhanga should note that even when the Movement is in charge, the Parties are not banned, the Parties are operational, the Parties exist and the Parties are supposed to influence and sometimes, not only influence, but lead public opinion. In fact, I think it should even be more relevant when the Movement is operational because it could give direction to the Movement.

Madam Chairman, other members may argue that since we have provided for the approval of Parliament, that in itself will generate enough consultation. But it is also possible that you can have a party which has no members in Parliament. Suppose a Party is started mid-term, is a new party, it may as well not have members in Parliament and Madam Chairman, I would like members really to look at this amendment as one that brings in a culture, a new culture of being tolerant to each other. I thank you Madam Chairman.

MR. ELYAU (Kalaki County) Madam Chairman, the amendment as I see it, although originally I had not intended to support it, but it gives me to see a clear point of harmony if we need harmony in Uganda. You see, these Parties, although some of us doubt them, but one day they will come. You see, the Parties are like a gear box in a vehicle. If you are a good driver and you happen to find a ditch ahead, the only way you can reverse the vehicle is to put reverse gear. So, the people of Uganda according to what I listened to, appear to be wanting to - where they can have a chance at government if possible. So, let us give them the chance, that is why we are here, mixed tribes, mixed thinking, why? To look

for simple ways of living together amicably and honourably.

Now, if the President can consult with the Parties and the names are given, what is wrong in that? Because after all, they will come to Parliament for confirmation. So, those are like things for research, maybe what is necessary in this amendment is, what about the people who are independent, this is what I wanted Hon Mwendha to tell me. What about those who are independent, how will they come there? That is where there is a vacuum, but if it remains a shopping area for looking for candidates who are eventually brought back to Parliament in names, there is nothing wrong there. So, I am appealing to members that let us try to be very, very generous if we are to produce a document to be respected. So, the only way we can reject this amendment in this CA Assembly, although it was defeated in the Committee, the Committee was an area for research, but here, we have a right to put things correct.

Madam Chairman, if we go back to the people today, you will be surprised. I did a lot of research, I found out that people seem to want these Parties not because they are bad, not because they are good but because they are a means to change Government. I thank you.

MR. KIWAGAMA (Bunya West): Thank you, Madam Chairman. I am reluctant to support this amendment for two reasons. Political Parties are just mere associations and I think the Mover is thinking of just a few political parties like we may be having or we had for the last elections. But there is a situation where you may have as many as 50 or more, Political Parties in the country. Now, if it came for consultation, the President would find it very, very difficult to knock a consensus on candidates to be presented to Parliament and therefore, he would make the procedure of appointing a Commission very cumbersome and difficult. In my opinion, since Parliament is a body elected by the people, let it suffice to approve the Commission because then it can be interpreted as the people who have approved through Parliament. It is true, you may have a Parliament dominated by a single Party, but if that Parliament is a result of a general election, a fair election, then there is nothing you can do about it; that is the wish of the people, they elected that Parliament the way it is, and therefore, the decision of the Parliament is sufficient.

Madam Chairman, I think that this process should not be made so difficult, the process of appointing a Commission. The formulation approved by the Committee, I think is sufficient, simple enough and we should go by that and we should reject this Amendment, Madam Chairperson.

MR. KATONGOLE TIRUSASIRA (Bugabula North): Thank you Madam Chairman. Madam Chairman, I am also reluctant to support this Motion. My reasoning is as follows Madam Chairman. We all know here that Parliament is the supreme organ of Government, whether you are in multi-party, or Movement, you must have a Parliament and as far as I am concerned, the principle of consulting a Parliament is the most important thing. Madam Chairman, if we include Political Parties being consulted, supposing in future, we have something between Political Parties and Movement and we have already put a phrase in the Constitution! That is where I have my fear, Madam Chairman. Next point, Madam Chairman, is that if we include Political Parties, we are likely to create problems because we are likely to get organisations like the Army also wanting to be consulted, we are likely to get organisations like religious leaders also wanting to be consulted, we are likely to get even organisations like, Women, wanting to be consulted. So, I think this is too much really, Parliament alone is enough. Therefore, for those three reasons, I would like to oppose this Motion. Thank you very much.

MR. LEANDER KOMAKEC (Aruu County): Thank you very much, Madam Chairman. I rise to support this Motion in the name of democracy. This Motion was moved, I think, in respect - when you want to respect the principle of democracy. I think we have all agreed in the CA that we are going to be ruled by a democratic process on the principle of democracy and the principle of democracy enshrines one very fundamental issue. That for the building of a peoples Government, the people will be organised along common beliefs or common ideas about how Government may be run and this is normally expressed in a political association. It is very difficult to run democratic systems based on individuals as such, it is the association of the individual in a free thinking and a free association which is really the essence of a democratic process and by requiring the President to consult with the people of Uganda as represented by political parties, we are actually saying that the President should

appoint a Commission which will reflect the general political thinking of country.

The point was made here that if we require that Political Parties should give their opinion and Political Parties are very many, maybe 100 of them, it will be impossible for the President or anybody to consult with a large number of Political Parties. Precisely, if it is the opinion of the country that is reflected in many divisions, it is that much important that whoever is going to appoint a Commission for electing, every body's opinion as expressed by a recognised unit of association should be reflected. You see, the point is that the President need not take the advice of the different political parties but he has to take them into account. All this Motion is saying is that he should consult as widely as possible and the political groupings in the country is the widest possible place where the President can get this kind of consultation. Parliament will approve the members appointed but on the members nominated by the President, Parliament may not be fully reflective of the general political thinking in the country. It is only Political Parties in their varieties that actually reflect the political thinking of the great majority of a population. You see, if there is a group in society which is, maybe, marginalised politically, they may not be in Parliament, they may not be in government but their vote is important, it is important that the body, the Electoral Commission should reflect, they should have confidence in the Commission which will regulate and which will guide peoples voting system.

So, it is really in the name of a truly democratic system in this country and in the name of fair play, in trying to reflect all opinions, political opinion as expressed by political associations, that we require that the President should go beyond Parliament to get the opinion. But the approval will be done by Parliament, there is no question about that. Parliament may reflect political opinion but it may not be so. So, it is on that basis that we want political thinking as reflected in political parties to be reflected in the making of the Electoral Commission. That Motion seeks to require the President to go out and to do it, it does not mean that all opinions will be - must be agreeable but the fact is that consultation has to be given throughout and it is on that basis, in the name of democracy that I support this Motion. Thank you, Madam Chairman.

MR. NGOBI (Presidential Nominee): Thank you, Madam Chairman. You see, this is a very important debate because in the quest for proper governance, we must have a system whereby we select those that will lead us. The way the Committee came up with this formulation, to me, it appears to be the best because it is independent, it is not depending on other peoples opinions, Parties as such but really those Parties that matter will actually be in the next Parliament and therefore, they will be able to voice their opinions. My problem with the suggested formulation is that it suggests that the President in consultation with political parties... Now, Political Parties, which ones? There is no way you are going to measure because I have seen it in this country and in fact, outside as well, whereby some people who have got enough personality and so on, can declare themselves into a Party even if they are single handed, five or ten. So, unless you can define what political party you are going to consult, you are only putting a formula that will cause problems. If we would like to have this consultation, it should be included in the functioning of the commission, not at the time of appointment because after all, we are saying that we will appoint not less than three and not more than five. Now, supposing you have so many other political parties, are you going to have a forum whereby you will agree that these three you are going to appoint are agreed upon by the various political parties? I think the best forum is Parliament, without bringing in political parties.

Madam Chairman, we had in the 1980 an election and in fact in that election, each party which existed then was given the widest opportunity to present their views and see how elections will be organised. But at the end of it all, one political party which had a philosophy that it must not fail, if it failed, then it will either over throw the Constitution or declare themselves winners, they chose to declare themselves, to be the winners but if anybody else did not agree, he is going to be put in prison, five years or more. So, it would have been better and it is better that we speak to something independent because this is not being made for a particular party. This is made for the people of Uganda and if the members can change from one party to another, the Constitution should be independent and therefore, with those views, I find it very difficult to support the amendment. I think the best thing for us to support is the Committee's report, so that later on, if anybody would like an input by a political party in the

performance of the Commission, that is where I should allow for that provision, but here, let us have a Commission appointed with the approval of Parliament and all those that are interested in standing, of course, first of all, it will be members of Parliament and I assume that they will belong to various parties, there is chance to say which one should be appointed. I therefore oppose the amendment, I think it is proper that we should - the formulation of the Committee is best for this country. I thank you.

THE DEPUTY CHAIRMAN: Hon. delegates, I am moving this way so do not be irritated that I am moving in one direction. Hon. Nankabirwa.

MISS NANKABIRWA (Women - Kiboga): Thank you, Madam Chairman. I just wanted to be clarified by either the Chairman of Committee Five or the Hon. Mover whether he at any time tried to amend Clause (1) of Article 85 so as to increase the members of the Commission. If he did not, I wonder how his amendment can work because it seems he just considered just a few parties, maybe one or two, forgetting that there are other vigorous groups which can make parties. Unless he tried to increase the members on the Commission, I do not think his amendment can work. Thank you very much.

MR. DICK ODUR (Dokolo County) Thank you, Madam Chairman. Before I go on to making my contribution, I would like to give information. Consultations does not mean that members of the Electoral Commission are going to be Party members from those various Parties that are going to be consulted. It really means due care is taken to have opinion about the independent who will be appointed to the Commission.

Madam Chairman, I would also like to inform Hon. Delegates that this is actually not a very new thing because since way back in 1962, we already have a provision to that effect. I would like to read the provision for you. *"There shall be an electoral commission - (this is in the 1962 Constitution) - which shall consist of a Chairman and not less than two other members appointed by the President, acting in accordance with the advice of the Prime Minister."* But then, before tendering advice to the President, with respect to the appointment or removal from office of a member of Electoral Commission, the Prime Minister shall consult the leader

of the opposition. So, this requirement was already there. Madam Chairman, I would like to remind members that with regard to the Electoral Commission in other countries, there is evidence - (*Interruption*)

MR. SEBALU KENNEDY (Youth - Central Region): Thank you, Madam Chairman. I would like to thank Hon. Odur for giving way for my clarification. I would like him to clarify to me what he means by the leader of opposition in this respect because I have a feeling that a leader of opposition is supposed to be in Parliament and this is already catered for. So can he throw more light on that?

MR. ODUR: As far as this particular Article in the 1962 Constitution is concerned, the leader of opposition was taken as the party with the highest number of members of Parliament in the House, who is in opposition to the ruling party. This is the definition of the leader of opposition in respect to this Article.

Madam Chairman, I think we all agree that the election processes in Africa have never been smooth and I see this particular Amendment as assisting us to build a viable, democratic institution and that is why I very strongly support the Amendment. In many instances, competing political forces, when elections are held, have always traded accusation of numerous election malpractice, such as rigging, biased application of regulations and even intimidations during campaigns. Now, as a result, we all know that most of the elections these days are held in the presence of what is called international election observers or even the local election observers. Now, if we can do anything to create credibility to build confidence in our election processes, I think we are going a long way in establishing good governance in our country. The setting up of an independent Electoral Commission is a very important foundation for democratic system. The most important players in any election, of course are the groups, whether you call them Political Parties or you call them Movement systems. They are the most important and I really believe that any President in Africa today who wants to run a democratic system, will not find it out of place to consult leaders of major parties for major political appointment and I think in this case, personally, I believe, that whether we entrench this Clause in our Constitution or not, I think consultations will still be a normal procedure for most of our election processes.

Madam Chairman, I would like to end by saying that we as future or current political leaders should not be limited by our own interpretation of democracies today in order to compromise the future ability of our citizens to formulate strong and respectable democratic systems. I thank you Madam Chairman, I support the Motion very strongly. Thank you.

MR. OBIGA KANIA (Terego County): Thank you, Madam Chairman. Madam Chairman, from the beginning, I want to state that I agree with the principle of consultation in governance because it is necessary for harmony. But my problem is, how far should that consultation be taken and whether it should really be constitutionalised. Is it more a matter of practice rather than a constitutional issue that the President must always consult because once we put it as a constitutional issue, then we have a problem. Suppose we have so many Parties, and in the judgement of the President, the Parliament as a body, the view is that so and so is fit but maybe a majority of those individual Parties would say we do not accept to the appointment of so and so, what happens? The Parties in their individual capacities may differ with the joint approval given by Parliament and the President, who is more supreme? Now, in my view here, we have a situation where we have built a Parliament in which we should have confidence and this Parliament, having the majority view as represented by the various Parties, and especially more so under a multi-party system, in my view, is adequate enough to influence the consultation process.

Therefore, I would think that giving sanctity to Parliament and at the same time creating a constitutional provision that there must be consultation with the parties is actually taking away part of the sanctity of the Parliament and giving it to the individual parties who have in a way failed to get access to the Parliament. Thirdly, Madam Chairman, my view is that when a President is elected, he is no longer a President of a Party, he is no longer a President of a political organisation, but he is a President of the country and as such, the Constitution and the people should be able to have confidence in that President when he consults in total with Parliament. And whether he consults with the other Parties and the other organisations outside, in my view, is an administrative matter and does not need to be constitutionalised.

Lastly, when you say that there must be consultation with political parties, you can no longer run away from the fact that you want political interests to be represented in the appointment of the Electoral Commission, you can no longer run from that fact, because what you are saying is, the President is unable to represent the interests of the parties in his consultation with Parliament and therefore, Parties must, per se, as individual organisations, be consulted and that in my view, comprises the independence of the Electoral Commission that we want to set up because what we are now having is a compromised position represented by various Political Parties and not an independent Electoral Commission which can perform its functions independently. So, in that respect, I must say I reluctantly and very strongly oppose this amendment and ask us to give the sanctity and maintain the sanctity of Parliament to which we have given so many powers over the performance of the Presidential powers. I thank you, Madam Chairman.

MR. LIIGA (Buvuma Islands): Thank you, Madam Chairman. Madam Chairman, I have considered this amendment as against the proposition in the Draft Constitution and also the formulation of Committee Five and I am for the considered view that the proposed amendment is going to bring us into untold problems, Madam Chairman.

Madam Chairman, we have seen the fiasco of consulting Political Parties in the past. In fact, the most clear example was the provision in the Constituent Assembly Statute that Political Parties should send representatives to the CA. What happened was, one Political Party completely refused to send any one, another one - Cecilia is here in her capacity as a representative of Lira Municipality and she has been stuck - (*Interruption*)-

MR. RINGWEGI: Point of information! Thank you, Madam Chairman, and I thank Hon. Liiga for giving way. I wanted to inform Hon. Liiga that only one known Political Party refused to send the two representatives to the Assembly, but there were two existing Political Parties, those are UPC and UPM.

MR. LIIGA: I was coming to that, Madam Chairman, and I very well know that UPM resolved themselves - the Party dissolved itself before - we came to the Constituent Assembly. Madam Chairman, that little example gives you - I will not take any more information now, let us finish with my

argument. Madam Chairman, fellow delegates, this shows - the two little examples show clearly what problems the President we shall choose for the day will face if he has got to consult Political Parties in order to choose or to get the Electoral Commission to set in place. One Political Party may simply say, I am not giving you any nomination and the President gets stuck with it.

Madam Chairman, one other matter we should consider is that Parliament, as proposed to be consulted, will not be partisan as one Hon. Delegate tried to convince us. The Parliament that will be chosen will be consisting of directly elected persons trusted by the people - *(Applause)* - just like the President will have to be directly elected, no matter to what political affiliation he falls. In those circumstances, Madam Chairman, we cannot be here and be deceived and keep our minds meandering all over the place that if the Electoral Commission is elected on the advice of Parliament, these people will not perform their duties properly. In fact, if these people are appointed on the advice of these Political Parties, that will clearly undermine their independence as we shall be setting out later because the one who appoints you should be the one to sack you. "He who calls or pays the piper, calls the tune." How will this Electoral Commission, elected on the advice of these political parties not be influenced, because what I am sure of is that each Political Party will want their own person there and that is going to be a problem itself. Fellow delegates - *(Interruption)*

MR. BEN WACHA : Point of clarification! Madam, I want Liiga to clarify to me what he means by the word "consultation", whether to him, consultation is the same as appointment.

MR. LIIGA: Thank you, Madam Chairman, I think before you can appoint, you must consult and I think Hon. Ben Wacha is very conversant with that situation. So, that clarification I think it was only some attempt to contribute a little. Thank you, Madam Chairman.

Madam Chairman, to conclude my remarks on this, I pray to fellow delegates not to bring the Ebola virus into our Constitution by putting in hidden little intentions which will undermine the future of this Constitution. But fellow delegates, I strongly oppose the amendment on the Floor and I pray that we throw it out and revert to the situation as it is in the Draft Constitution. Thank you, Madam Chairman.

MR. WASSWALULE (Rubaga Division North): Thank you, Madam Chairman. I rise to support the Motion. As you are all aware, most people tend to have political leanings, I think it is a fact that we should not pretend that it exists, it is better to recognise it and then to put in the checks and balances that ensure that we do not have dictatorships or a monopoly of power by some individual groups. In fact, the amendment is very mild in that it only seeks a consultation. The Amendment could have gone further to say that the Political Parties should also have their nominees as Commissioners as a form of balance of power, but all that it is saying is that, in consultation and it is as mild as it could be, but it is a check in that at least there is wider consultation and representation of vested interest and at the end of the day, if you consult these individuals and take their ideas into consideration, on conclusion of the elections as you all know, it is often the case that the opposing Parties tend to question the outcome of the result. This is less likely to be so if they were consulted in the process of setting up the Electoral Commission and they could contribute to setting up those checks and balances.

Madam Chairman, I think this amendment goes some way, but only just some way, not far enough in ensuring that we do not have dictatorships in Uganda. With those few words, I beg to support the Motion.

THE DEPUTY CHAIRMAN: Yes, Hon. Gyagenda.

MAJ. GYAGENDA KIBIRANGO (NRA Delegate): Madame Chairperson, while I sympathise with the previous contributor, Hon. Wasswa Lule, I wish to be clarified on the form this consultation is going to take. I am imagining Uganda with some twenty Political Parties - Parties like DP, UPC and the National Liberal Party, KY, I may have a party also with two individuals. What form is this consultation going to take?

THE DEPUTY CHAIRMAN: Hon. Lule can you respond?

MR. WASSWA LULE (Rubaga North): Hon. Kibirango raises a very pertinent question. The very life of Political Parties is in the balance and we are going to decide it later in this Chapter. So, depending on the rules that we set for the existence

of Political Parties and some are inclined to say that Political Parties should not exist but God Forbid. However, assuming that we pass that huddle, then we can set the parameters as to what recognized political parties are, the sort of complexion that they should have in this constitution, in this very Chapter. We have yet to reach them. If they survive, then we shall say these parties - and I hope you will support me Hon. Kibirango on that point to make sure that they do survive. Then, we can work out that detail and constitutionalise it as well.

THE DEPUTY CHAIRMAN: Hon. Kalema.

MRS. KALEMA (Kiboga East): Thank you, Madame Chairman. I am a member of Committee Five and I remember this amendment came to the Committee and it was defeated as the Chairman said. I oppose this amendment not because I am opposing Political Parties but I am opposing it on the principle of democracy of the citizens of Uganda. I would like to remind the Mover, Hon. Mwendha who used to be my neighbour during the Committee meetings, of Article (1) which puts the power in the hands of the people. I would like to read it once more in this Assembly to remind us as we go on to debate for and against this Motion. Article (1) of the first chapter. This is the most important article in this Constitution. It says this: "*All power belongs to the people who shall exercise their sovereignty through the democratic institutions of the State in accordance with this Constitution.*" Even if it was amended - I did not bring that chapter with me but it is in similar terms. The power still belongs to the people Madame Chairperson. Now, from what we know, Parliament shall be elected on adult suffrage which shall include the voices of all Ugandans. Therefore, Madame Chairman, if the presidential nominees for the electoral Commission are to be approved by the Parliament as it is put here, what can be more fair and just than this? It seems to me that the amendment is trying to remove the power of the people and give it to the top political party leaders. This is something we have been trying to fight, to get the voice of the people from a few top political leaders to the people. Now, we shall be conflicting ourselves, Madame Chairman.

Secondly, we have already passed a number of clauses where the President shall nominate chairpersons and teams and members of the committees and commissions. Important people like the Inspector General of Police, let alone the Vice Presi-

dent, the Ministers, the Chief Justice, the Inspectorate of Government, Public Service Commission chairman and the rest and all these are to be approved by Parliament. Now, I want to ask the Mover of this amendment - what is more important that he sees in this - the Chairman and his team of the Electoral Commission? Is it because he remembers the elections of 1980 where the caretaker government rigged elections and it made it very difficult for the others to be able to function, that *it rigged* it, even the victory of the Party that was known to have won elections.

Madame Chairman, I think it is really wasting our time to continue debating this. But I still have another point which I would like to mention and also to remind the Hon. Mover and that is in Article 84 (1) and (2) which we passed yesterday. This article emphasises the importance of the duty of the citizens of this country to register as voters. You remember only yesterday, that it took a long time for Article 84, Clause (2) to go through. It faced a hot debate. I was surprised to see that almost the same Members with the same idea who are supporting this amendment wanted the citizens of this country to have the liberty to choose their government or not to choose their government. Now, if they were trying to let the people have the liberty not to register - to choose to register or not to register, then what is important if they are not represented? You would not care for them to register in order to vote and the constitution says and our Committee said the Draft puts it a duty to them that is to all citizens to register and to vote for the elections in order for them to have government or to reject a government and now it is becoming very important for the Electoral Commission to be censored or rather to be consulted about consultations by the President with the Political Parties. This confuses me Madam Chairman, and I would like the Mover, when he is concluding to clarify on this matter. So, I oppose the amendment and I hope, Madame Chairman, I would like to propose that we put the question.

THE DEPUTY CHAIRMAN: Hon. Omara Atubo.

MR. OMARA ATUBO (Otuke County): Thank you very much, Madame Chairman. Sometimes when we are speaking from a preconceived position, or even having compartmentalised views, we tend to lose the real issue behind us, the real issue

which is for the debate. Madame Chairperson, I think that in order to appreciate the importance of this Motion, one has to understand what we mean by consultation first and secondly, why we are involving parties. However distasteful the idea of parties maybe to some people in this House Madame Chairperson, the idea of consultation does not impose upon the President the obligation to consent to the views expressed by Political Parties. Neither does that consultation impose upon the President the names which may be suggested to him by political parties. We have, in our debate, Madame Chairperson, mixed three or four things - *(Interjections)*

THE DEPUTY CHAIRMAN: Hon. Atubo does not want information.

MR. ATUBO: We have, Madame Chairperson, mixed two or three concepts together. One, the concept of "approval", the concept of "on the advice of", the concept of "with the consent of" and the concept of "in consultation with". Madame Chairperson, in all these ideas of approval, consent and advice, consultation is the lightest, is the easiest and the obligation that provision is imposing upon the President is simply - *(Interruption)* -

THE DEPUTY CHAIRMAN: Hon. Atubo says he does not want to be clarified.

MR. ATUBO: Madame Chairperson, the obligation of consultation imposed upon the president is to recognise the views that Political Parties may have and even these Political Parties may be 20 or 30. All that the President has to do is to call them individually or collectively and to say that there is a constitutional provision which demands that I consult you on this matter and the President would say I intend to appoint members of the Electoral Commission - four or five and that these are some of the names, do you have some contribution to make? Once this consultation is made, the President does not even have to commit himself to these Political Parties. After hearing their views, the next step is for the president to move to parliament and this is the most important and I think this is where really those who are opposing the Motion have the best arguments. If there is any argument they have, this is possibly where the best argument is - that in Parliament now, the President will come with names he suggested - nominees. The President cannot go to the nation and announce these names

without their approval. The word "approval" is obligatory there. That means that the names are brought to Parliament and Parliament approves and the President nominates but the other obligation is a sort of courtesy although it is a constitutional courtesy that he must recognise the role of the political parties in this matter.

The argument I have is that the Political Parties, when it comes to elections, are the most directly interested parties. Of course, the whole country is interested but what is an elections for? An election is basically to get a group of people to power, to assume positions in government and you are not going to have a disorganised seventeen, eighteen million people playing roles but you have people who are organised in the form of political parties, having manifestos, policies, leaders, constitutions and so on and it is these people, Madame Chairperson, who, to me, are directly interested parties in any election and what would be better for a President and for a constitution to provide that these directly interested people should somehow be given an opportunity to give their views on the question of an Electoral Commission? Madam Chairperson, an Electoral Commission is a very important institution and no election is going to be respected unless the Electoral Commission is respected. The basis of respectability and acceptability of an election is going to emerge from the institution of an Electoral Commission. If the Electoral Commission is rejected, if it is discredited, if somehow the Parties who are participating in an election have any suspicion however remote, that the Electoral Commission is not going to do justice to their case, that election is likely not to be accepted and respected by the people and the consequences of a discredited election is well known to us in Uganda and consequences can be too painful.

So, I believe that the importance of this Motion is to give parties a role to play. Is to give credibility to the elections. It is to ensure independence and impartiality of the Commission. After all, Madam Chairperson, elections and political systems are intertwined and they go together. In a way, the nature of the electoral system namely: who votes, the demarcation of the constituencies, how the winners are declared, affects deeply the structure and behavior of the parties in the contention. At the same time, it is the governing party that makes decisions on election and Electoral Law and clearly those decisions are likely to be based, at least in part,

on calculations of party advantage if the party in government is to have an advantage through its president to appoint an Electoral Commission which is for their advantage and for the other parties to reject it, then Madame Chairperson, that election is going to be a great tragedy for the country.

Finally, Madame Chairperson, I would like to advise that there is nowhere in the Constitution, even in the Draft Constitution and I believe in the objective minds of the Members of the Movement that Parties are not going to be allowed in this country. The extreme position I am aware of even in the Draft Constitution is that Parties will be allowed but restricted at a certain level. Now, if we go by this proposition that even at that level when Parties are restricted to their headquarters, their publications and seminars, then, they still have a role to play and that role should start with the appointment of the Electoral Commission. I thank you, Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Karusoke.

MR. KARUSOKE (Ntoroko County): Thank you, Madame Chairperson. I oppose this amendment. The most important thing we have to know and observe is that the Commission for elections is supposed to carry maximum integrity. It must be a body of maximum integrity and to ensure that integrity, we have to make sure that members of the Commission have certain qualifications which are very specifically well spelt out and these qualifications, Madame Chairperson, must be the basis upon which appointment of members is based. We should base appointment of members of the Commission on any other considerations other than qualifications which are part of integrity. But Madame Chairperson, if we are going to subject members of the Commission to certain other political considerations then, we shall be diluting and undermining the integrity of the Commission which we are all committed to. We shall be creating the Commission with one hand and destroying it with another one and if we want to judge the Commission's performance in fairness, we should not look at it from the point of view of political parties because if political party "X" fielded Mr. Y to the Commission, that man is not going to make a mistake as far as that Party is concerned and even if he makes mistakes, those mistakes will not matter because he is there to defend and protect the interests of that particular party. The people of Uganda want

fairness in the game and how do we achieve this fairness? By setting very precise qualifications for members of the Commission and it is on the basis of these qualifications that they get appointed and after they have been appointed, then it remains our duty to see that they perform to our expectations. When they fall short of this, we must retain the authority and the independence and the power to question them but if we are going to keep quiet because they are our favourites because we are the ones who fielded them, then we shall have failed in the whole responsibility. I am very much aware of the importance of having free and fair elections and free and fair election cannot come about unless we have a very responsible commission. I am very much aware of that - *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Karusoke address the Chair. I can see somebody tickling you there. - *(Laughter)*

MR. KARUSOKE: Madame Chairperson, I am trying as much as possible to resist any tickling on my side. Madame Chairperson, one important thing we have to know is that Political Parties under normal circumstances are supposed to be represented in Parliament and any Political Party which has no representation in Parliament, surely should not really deserve the name. Now, since we are saying that it will be Parliament to approve the appointment of the Commission, and since Parliament will be representing all political shades, I do not see - except those Parties which will have failed to have anybody in Parliament, I do not see why we should again ask the appointing authority to consult with these same Parties which are represented in Parliament about fielding candidates for appointment after which the same candidates must be subject to parliament's approval. It defeats my understanding.

So, let us do things step by step and logically with the ultimate goal of arriving at free and fair elections. We set very vivid and precise qualifications for members of the Commission as step Number one. Step number two, whichever appointing authority is in place has to base its appointment on these qualifications and after names have been fielded, Parliament which is a representative of all Political Parties and of all people of Uganda, approves the appointment and after that, we leave the Commission to do its work and we sit in the background to look at its performance. Madame

Chairperson, because of this, I definitely oppose this amendment. Thank you.

THE DEPUTY CHAIRMAN: Hon. Kasangaki.

MR. KASANGAKI (Buruuli County): Thank you Madame Chairperson. I just wanted to point out that first of all I oppose the Motion and wish to point out to Hon. Delegates that we have to stick to consistency. In the past, we have so far adopted or passed so many commissions like the Human Rights Commission, Public Service Commission, Judicial and so on. Nowhere in these commissions have we ever brought in the question of Parties or referring to Parties. So, it will be out of order when we are considering the Electoral Commission to bring in all sorts of shades. As the Hon. Members have already indicated. The most important to consult would be the people in the village or lower level as we did for the constitution *-(Interruption)-*

THE DEPUTY CHAIRMAN: Hon. Kasangaki, are you welcoming clarification? Hon. Wanendeya.

MR. WANENDEYA: Thank you very much, Madame Chairperson and I thank my brother Hon. Kasangaki to give way in my wanting him to clarify something to me. Madame Chairperson, I think we are all religious people as far as humanity is concerned. Now, the point I am trying to put forward is this, our creator allowed many religions in this world, why did he not, as an omnipotent and immortal person, allow only one religion to be in the world but allowed all these other religions to be there? Why? Can he clarify to me that point Madame Chairperson? Even other people who do not want parties, could they say why there should be many religions and in the so called democratic countries, you have many different parties? I thank you, Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Kasangaki, you can continue.

MR. KASANGAKI: Thank you very much. But there was nobody who consulted the leaders. If for example we allow this sort of consultations, we have already learnt a very bad lesson during 1994 when the C.A elections were being proposed. All the Parties were given the chance to give candidate delegates and one of the Parties which were supposed to show exemplary behavior refused and yet some of those people came in in their own right.

That shows that Parties are likely to delay us in trying to put this constitution in order. *(Interruption)*

THE DEPUTY CHAIRMAN: There is information from Hon. Atamvaku.

MR. ATAMVAKU (Arua Municipality): Thank you very much for making way. Madame Chairperson, the information I would like to give the Hon. Member is this that what we are saying here is that political parties should be consulted when the commission is going to be appointed but in the case of the Constituent Assembly, political parties were not consulted when the decisions were being made in the NRC to the effect that they could send delegates to the Constituent Assembly. So, what we are saying is that, there must be a consultation in such important processes.

MR. KASANGAKI: Thank you very much for your information but I think it did not help me much. Does it mean that the C.A. was impartial when it was being elected? I think not. Madame Chairperson, the most important people whom we should consult, I think would be the people to whom we have already given the powers as in Chapter One that all powers belong to the people who exercise their sovereignty in accordance with this constitution. If the people have been elected through a fair election, that would imply that if the Commission is appointed out of those people in Parliament, then all the people or parties concerned, are represented. In view of that, Madame Chairperson, I wish to oppose the amendment and request that we go ahead to finish up this clause.

Lastly, I think what matters most is to choose a person or the commission of the people of a high integrity, of reasonable experience in public affairs as it is provided for in Clause (2) of 85 to which I refer members to read that before we continue. I thank you, Madam Chairperson.

MR. OWOR (Aswa County): Thank you very much Madame Chairperson. I would like Hon. Delegates to reflect on a few realities within which we are functioning as a political entity. One of the realities that we must admit is that Uganda was already a political entity before 1986 and as a reality we must accept that there has been political play before the NRM came to government or before we started the Movement system and there has been

political interest blocks within this country that the current system inherited a system of government from, and a lot of people who were involved in that are still alive and still interested and still have a contribution to make. Madam Chairperson, I would like us to realise that when we consider ourselves as a body politic, we should aim at having the fullest participation of everybody. We should discourage the idea of political hosts and political guests or players and spectators. We should have a kind of political organisation where everything is done with the full knowledge, with the full contribution of everybody concerned. Now, it is within that kind of background that I would like to make my contribution on the concept of free and fair elections.

Now this is a concept that has eluded many African countries and indeed, has eluded Uganda for a long time and I would dare say even now we are still looking for a time when we will really have an election which you call free and fair because there have been elections before. Some people have declared it free and fair. Others have said no. There have been situations where we can point fingers at things which have gone wrong. I would like to pose it that in my opinion, free and fair elections will really come when we observe three aspects. The aspect of the activities that come before the election day and this is where I think this amendment is concerned. The kind of people who run the administration of election, the kind of activities that will be put in place, the kind of access that those who want to stand and those who want to vote have for making their views heard. Madam Chairperson, the other aspect of free and fair election, is what takes place on the election day. This also depends on the type of people who are running the activities of the elections and the kind of rules that are set in place and then certainly what takes place after the Election Day. Whether what has come out as a decision of the people will be honoured and all these depend on who is there.

Now, as soon as you lose the confidence of the people that the election has not been fair in any one of these three aspects, there is no way you can have full democracy and this is where I would like to say we have run about for nine years on a system that is called the Movement where it is a no party system and yet the Movement boasts of engulfing everybody; engulfing the DPs, engulfing the CPs and UPCs and I have not yet heard that the National Liberal Party is in the Movement. I have not yet

heard, it could be, but I have not yet heard. Now, Madam Chairperson, according to the Movement, all these people are there representing the fact that these parties are involved in the Movement. If indeed they are involved in the Movement, then, they must be party to every decision that takes place at the NRM Secretariat. They should be but if they are playing the game which I have just said of political host as opposed to political guest, then we have a problem.

When we are therefore, talking of an election that is going to come, we must guard against these things. Are we going to have an Electoral Commission that is appointed by the President and approved by a Parliament which basically supports the President? I am posing a situation where you have a Parliament that basically supports the President and you have a substantial political interest group that is marginalised from full participation in the Electoral Commission. Madam Chairperson, I would like to say that we must recognise that today we have political parties and everybody, even those who refuse when pressed will admit that political parties will one day come to operate - *(Interruption)* -

THE DEPUTY CHAIRMAN: Let him make his point. You made yours. Continue.

MR. OWOR: Everybody when pressed will admit that political parties will one day come to operate. If that is the case, what is that fear about these people being consulted so that they will have their views on the type of people who must participate on the Electoral Commission? Some people have talked about how about parties that will be formed later? This provision in no way contradicts that view. What we are saying or what this provision is saying is that any political party that is recognised as a political party - of course, there will be laws that will register political parties - they must prescribe to certain standards, to certain regulations. If they have satisfied those requirements and they have registered as political parties, then, they also qualify to be consulted. Madam Chairperson, my knowledge of what has happened in the South is what has brought some form of sanity. This element of consultation among the parties so that no one person goes ahead and sits in his own clique and they make decisions and take it to Parliament, it is approved without consulting the existing political interest blocks. This, if it will not do anything, will

act as a symbol of consensus and in my opinion, political consensus dwells more on symbolism than reality. If you can demonstrate that there is some form of consensus, you respect the fact that somebody exists, the worst thing you can do to a human being or to any person is to imply that he does not exist. This is one way of admitting that there are opinions that exist other than yours and you respect and you ask their opinion and then you make your decisions. - (*Interruption*)

THE DEPUTY CHAIRMAN: Yes, Hon. Karuhanga.

MR. KARURANGA (Nyabushozi County): Thank you, Madame Chairperson and I am grateful to Hon. Charles Owor for giving way. Now, Hon. Charles Owor is also a lawyer and he knows very well that the Electoral Commission is a quasi-judicial organisation in as far as its impartiality is impeccable and that they aim at establishing a fair and free election and that in most of their cases, they go almost as if they were a jury or a judicial organisation. How come that when we were selecting or passing the clauses on the Judiciary which also determines the cases of multi-parties, they had never raised the issue that the President and Parliament should consult multi-parties in order to appoint judges who are going to hear the cases of an electoral nature? How come?

Secondly, if we are to consult as the amendment reads that "*Members appointed by the President in consultation with political parties*", what about the other interest groups like the religious leaders, the youth, women, the disabled, the legal society, members of the army? What is it now that we should - how come now the members of the political parties are ignoring the other interest groups and concentrating on one and why do they want to limit the choice to the President in consulting only the parties? Why should the President only be limited to or to consult parties only? Why can the President not consult other interest groups in appointing such Members? Can he tell me really as a learned brother and a lawyer! How fairness is being established in a case where you are only limiting the consultation for an interested group which wants to appoint the judges in the interested case? What type of justice would that be?

MR. OWOR: Madame Chairperson, I am certainly extremely surprised by my Learned Friend

and dear colleague Elly Karuhanga. He knows fully well that when we talk of political parties, they are institutions that exist for the purpose of seeking election or public mandate in order to govern the executive. When he talks of religious leaders, I really begin to wonder whether sanity still exists on the face of the earth because these are institutions that are completely concerned about a different aspect, in fact metaphysical issues and the judiciary certainly has got a different mandate. It has to arbitrate between political parties, it has to arbitrate between different individuals. It has a completely different arena. I would strongly want to believe that Hon. Karuhanga basically just wanted to make his own contribution other than a substantive point on what I had been saying.

THE DEPUTY CHAIRMAN: But can you be brief. You have really taken nearly 30 minutes.

MR. OWOR: Madam Chairperson, I am winding up. I would also like to conclude by saying when the government wanted the CA to look presentable, to look legitimate, to look acceptable to the public, it had to go to the political parties and invite them to participate. What is more important than the elections that we are going to have - the Electoral Commission which is going to hold the key of our success or failure after making this constitution? Why do we not also make sure that these political parties that we have recognised as a legitimising institution in this CA - why do we not also make sure that they are represented or their views or their participation is taken into account in the appointment of the Electoral Commission? I, therefore, Madame Chairperson, would like to strongly support this Motion.

THE DEPUTY CHAIRMAN: Hon. Byanyima.

MISS BYANYIMA (Mbarara Municipality): Thank you, Madame Chairperson. My vision of the Electoral Commission is that it should be neutral, non partisan in carrying out its mandate and I would like that it is appointed without compromising this neutrality. If we were to pass this Motion, what would happen would be that when the President is going to appoint the Electoral Commission, people who are interested in serving the Commission would go to the political parties and start lobbying them to be the candidate of the political parties on the Electoral Commission. I am opposed to that. I would like a commission that is not staffed by

politicians. I would like a commission of technocrats, of administrators, of people well versed with the law, people who - Hon. Wasswa talked about people having political leniency, that is true. People may sympathise with this party or with that party but that does not make them a politician. What I object to is having politicians on the Electoral Commission. Civil Servants can have their leniency. We know them to have their leniency but they serve, they do their job in the civil service with impartiality and that is what we are looking for. We are not looking for people sponsored by political parties to go to do a political job on the Electoral Commission. Madame Chairperson, in Parliament there will be a committee - *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Byanyima, the Hon. Member has information. Can you take it?

MR ONYOK-ETUKU (Moroto County): The information I want to give to Hon. Byanyima is on the word "consult". It is a verb. When you go to *Collins Dictionary*, it defines "consult" to say, "go to for information or advise." The information can be taken or rejected. The advise can be heeded to or not. Thank you Mr. Chairman.

MISS BYANYIMA: I appreciate that information. I was going on to say that Parliament is sufficient for such consultations. I was going to say that Parliament should have within it the representatives of any political party that has any significant support in the country. A party which has no significant support, which fails to come to Parliament, to me that party does not have to be consulted on the matter of the Electoral Commission. Do not forget that for example, women who have interests that cut across all party lines, who have got mass organizations that are interested in their effective representation are not even being consulted. Why should then a party which has failed even to send one person to Parliament be consulted? Why? I would like an answer.

Madame Chairperson, I think that if Parliament has an appointments' committee and if this appointments committee - if we can depend on the wisdom of Parliament, this appointments Committee will have the political forces well represented on it. It would be a result of consensus of Parliament. This committee can be lobbied by these Political parties because they will have their representatives in Parliament, they will have their representation on th

appointments' committee, they should be able to lobby this committee from outside Parliament just the same way that we women, who have an interest in the Electoral Commission will lobby that same committee through our representatives on that committee. Madame Chairperson, I stood in an election against six men and I can tell you that I was always appealing to the Electoral Commission to come to sort problems that were created during the election by the system, shall I say. I felt that as woman, I was vulnerable. The rules were not completely neutral and I think women have a real interest in the Electoral Commission. We are not fighting here that we should be consulted because we know that we are going to be there in Parliament; because we know that we shall be on that appointments' committee.

So, I do not see why the political parties are making a special case of themselves. We all have an interest, we all have a stake and let us not forget that we have arrived here through a revolution. This revolution - *(Interjections)* - Yes, it took a revolution to reorganise this whole thing and get us here to the C.A. and this revolution has swept many stake holders into decision making. It is not only political parties now that are stake holders. There are the disabled, there are workers, there are the youth. They have political interests that cut across your political party lines. Therefore, if we accept that we are now in a new political context with new stake holders, with new people with new interests, we have rights, political parties should be humble and not demand a privilege that other groups have not demanded.

Madame Chairperson, Hon. Owor made a case that there are what he called political parties as concrete interest blocks. My main argument now is that most of us do not even belong to these blocks he called concrete interest blocks. We belong to other blocks. We belong - *(Interjections)* - which ones? I just told you one, I am woman, that is a block. *(Applause)* That is a block too and therefore, political parties should stop seeing themselves as the only people with an interest in politics and therefore, in the Electoral Commission. Let us not politicize the Electoral Commission, let us ask Parliament to debate the neutrality of the people to be on the Electoral Commission. We do not want a situation where we will be bargaining for politicians on the Commission. We want a situation where Parliament will be debating the impartiality of these

people, the qualifications, the merits for these people to be there and be impartial. That is the situation which we all want.

So, I am not against political parties, I am born in a political party myself. I have no fear of political parties but I am saying that is not your place. The Electoral Commission is not the place where you should be. Political parties belong elsewhere out there mobilising and competing for power and allowing neutral people to be the arbiters. I thank you, Madam Chairperson. *(Applause)*

THE DEPUTY CHAIRMAN: Hon. Bidandi Sali.

MR. BIDANDI SSALI (Nakawa Division): Madam Chairperson, first of all, I would like to congratulate Hon. Byanyima because she has brought out most of the points I wanted to bring out very ably but I wanted to add and I do hope that Hon. Semwogerere is in the House, Hon. Mayanja Nkangi is in the House - *(Interjections)* - Oh! Hon. Katenta Apuuli said he is here. Some of them are - I am not marginalising sure, I am only saying that he was not party to what I am going to say. Madame Chairperson, Hon. Owor has said that we should recognise political realities in our country and I would like to remind him that one of the realities this country has experienced was the consultation with political parties by the Chairman of the Military Commission in 1980 in the presence of the Commonwealth Parliamentary Observers' Group where we were called as political organizations to discuss how best the elections will be conducted and it was in a very good environment, we gave very good proposals made better even by some of the members of the Commonwealth Parliamentary Group and the Chairman went to the mass media and said we have agreed - consulted and we have agreed and the elections are going to be held in this manner. The opposite exactly happened. None of us could be able to go the mass media to say that no, this is not what we agreed. They came and said it was a matter of agreeing. It was a matter of consulting you, I consulted you, can you refuse a fact that we met in Speke Hotel on such and such a day? Of course, we could not!

My submission, Madame Chairperson, on this matter is that, if we are protecting free and fair elections, let us not entrench and implement an instrument of rigging the elections because if for

example the fear is that the President will be biased and maybe Parliament will be biased, which Parliament as Hon. Byanyima has said will definitely be having parties present, if the President wants a particular group of people and his aim is focused on rigging, he will definitely consult with every person; either collectively or individually. The parties will not deny that they have been consulted and the supporters of this very Motion here have said the President is not bound to accept what the parties will have given, that is the views. Now, what is the fun now, what is the fun in saying we constitutionalise a situation where the President may say no if his intention is to rig elections? The President will only say according to the constitution, did I not consult you? Was I obliged to take your view? So, let us not put in the constitution a means of enabling a President to rig elections. It is a very important as far as I am concerned and on the basis of the experience which Hon. Owor said is part of our history - I am not a legal person but also when it comes to interpretation in the courts of law, how are you going to contest the President whether his consultation was made or not? He writes to the political parties and have the letters maybe delivered after. Supposing he consults, he does not take any of the advice and then, a commission is announced and then one or two political parties say we disassociate because he consulted us, we gave him advise, he refused we disassociate and then we are landed back into chaos again.

I think the supporters of this particular Motion should reconsider. They should not focus on the present situation. They should not focus on Museveni or the President of today. Mr. Chairman, there has been a tendency in this particular House of suspecting the presidency subjectively all along, that is why we have subjected so many decisions of the presidency to the approval of Parliament. Now, we are going a little bit further to try and also suspect Parliament, the supreme body of any democratic society to say no, we have suspicions, the Parliament maybe supporting the President. Are we creating a situation where the Parliament should never support the President? Is that what we want? And if the Parliament is elected by the people, and each of the Parliamentarians support the President, is that undemocratic? So, the argument that the Parliament maybe supporting the President, I think should really not be raised in this exercise of forming a foundation for our tomorrow.

Lastly, Madam Chairman, Hon. Byanyima has put it very clearly that it is no longer now the political parties alone; it is now the interested groups whom we have by Constitution recognised to be Members of Parliament. Now, this should also imply that they should have a right to be consulted according to this particular one including independents because if I am to be an independent, I am an interested party in being elected to Parliament and if interest for election is the qualification for consultation, then as an independent, I must be consulted. So, Madam Chairperson, whereas my Brother Elyau talked in terms of being a basis for compromise, there is a reasonable limit within which compromise must be made. We should not compromise for the sake of compromise to entrench a problem in the Constitution simply because we are compromising in order to move ahead. So Madam Chairman, I am appealing to my Colleagues especially Hon. Mwendha here to remember part of the past and avoid putting his seed in our Constitution for a repeat this time by another actor. Thank you.

MR. WANENDEYA: Madam Chairman, my appeal to Hon. Delegates is that we need the culture of honesty in our country or else everything we are doing may still be repeating itself in the future. Madam Chairman, the reason why I say that is that we sometimes compromise issues where principles are involved. Madam Chairman, my point in this connection is that if our creator himself allows so many different religions in the world, why does he not outlaw them? It is because he has a purpose. Madam Chairman, the only way to get to solve some of these problems of ours is to minimise complaints in our country and the only way to minimise some of these problems especially complaints is to have something in the Constitution. Madam Chairman, even if Hon. Bidandi Ssali has talked very well, but I would say this that we, as NRM, while they were still in the bush, they agreed that when they get political power in Uganda, we will only be there for only four years and four years have continued to go on and are being extended. So, we are not as honest as we are trying to seem. Indeed political parties were consulted; the DPs, UPCs, and were given even an opportunity to nominate some people to be in the Government. But now we are allowing things to continue being extended. Madam Chairman and Hon. Delegates -
(Interruption)

THE DEPUTY CHAIRMAN: Hon. Wanendeya, Hon. Sserwanga Lwanga wants information or he has information for you. Are you taking it?

MR. WANENDEYA: I will allow him at a later point but let me develop some of these things. Madam Chairman, I want to tell Hon. Delegates that there are five feelers of State and only three are known. The Legislature, Executive, Judiciary are the three feelers which are known of the State. To that you add on the Press and the fifth one is Democracy. So whatever we do we must bear that in mind.

LT. COL. SERWANGA LWANGA: Madam Chairman, I just wanted to correct him on the facts when he says that when we were in the bush we agreed that we, NRM shall be there for four years. Maybe he is talking of another bush but this bush I know where I was also in Luwero, that issue of four years was never, never discussed. In fact the issue of four years came when we were here. We had already captured power in Lubiri, Kampala. But we had also consulted with these other Parties - I remember those Meetings with Paul Mwangi, Hon. Kawanga Semwogerere and the rest. We said, okay, four years we think things will be okay and then we push ahead. It was not part of a programme of the bush. In fact we did not even know that some of us will make it.

MR. WANENDEYA: One of the reasons why NRM went to the bush is because the elections were rigged and Hon. Sserwanga should be aware of that. If the elections were rigged and they got into power, certainly the logical thing that should have been done is to hand power to my Brother Semwogerere so that we would know that we are democrats rather than talking for the sake of talking because Madam Chairman and Hon. Delegates, that is when we should have known that we are here to do right things. But if we are continuing, then what culture are we trying to give to the people of Uganda? We want power for the sake of power.

MR. BIDANDI SSALI: Madam Chairman, Hon. Wanendeya has stated that the NRM went to the bush because the elections were rigged and when they came to the power they did not hand over the power to DP. I would like to inform Hon. Wanendeya that UPM then was one of the organizations that participated in the elections and because the elections were rigged, that is why we did not win. UPM

had expected to be handed power after the NRM won.

MR. WANENDEYA: Madam Chairman, may I inform my Brother Hon. Bidandi Ssali that if UPM had any big following, and I was also UPM then, why did he refuse recently or last year or before the CA elections, that UPM should not be a political party? UPM does not have its good following in Uganda. So, let us call facts facts and we avoid this business of telling stories or tales.

Madam Chairman, the challenge therefore, is that if UPM or even NRM is a party recognised by Ugandans, let us go to the polls and they will be elected. So, let us not fool ourselves around, Madam Chairman and Hon. Delegates. Madam Chairman, if there are many parties, certainly the parties can get together just like they did in 1980, and they select who should be on the electoral Commission. The point is to minimise complaints because if everybody is on the Electoral Commission, then certainly you will find that complaints will be minimised although I am very well aware that in the world, wherever you have human beings and even if you have twins - (*Interruption*)

MR. BYAKIKA: Madam Chairman, to prove the fact that UPM lost elections not because they were rigged, in the whole of the Eastern Region, UPM managed to put only three candidates and those were Hon. Wanendeya, Chango Machyo and one other person. Which means that they had no support at all and therefore, elections could not have been rigged against their favour because they were not known.

MR. WANENDEYA: What I am saying is that Parties can get together and get their own people who they should recommend to be on the Electoral Commission. Madam Chairman, when it comes to Hon. Rhoda Kalema saying that power belongs to the people as we have already passed, Madam Chairman, again it is a question of honesty of culture. In the whole of Africa, you find that people say that power belongs to the people and elect Presidents and Members of Parliament. But this turns out in some cases to be anti-people in the way with their actions. Therefore, Madam Chairman, if the matter is put in the Constitution, then the word, "Consultation" should not be feared by anybody because Governments come and go. As far as I am concerned, even in the United State, everybody

belongs to either party. But you find that even judges of the Supreme Court, if they are appointed by the President, they come before the House of Representatives or even in the Senate and then later on you find that those judges become non-partisan. Madam Chairman, you find that if you want to do things the proper way, proportional representation, as it is done in some parts of Europe in their Parliament, that would be almost similar to consulting parties and the whole issue and philosophy is to minimise complaints.

Madam Chairman, Hon. Byanyima talked of a Committee. There is no Committee of Parliament especially NRC as I know it here, which can vet the candidates. I saw during the CA Bill when we were discussing it. You find that you have all these people to be consulted. But in the end and especially Ladies and whatever group, they can belong to political parties. Nobody says that women should not belong to political parties. They can also form their own political party and be consulted if they so wish. Therefore, Madam Chairman, we should support this Motion and if it is not supported, Madam Chairman, if it is a question of political parties which is being rejected by Parliament, I have got a counter proposal which says there should be an electoral commission which shall consist of a Chairman, a Deputy Chairman and not more than five other Members nominated by organised groups with a membership of not less than 10 per cent of registered voters and appointed by the President with the approval of Parliament. Madam Chairman, if Members are agreeable this Motion is here and we can debate it at a later stage. I thank you, Madam Chairman.

MR. MULINDWA BIRIMUMASO (Bukoto West): Madam Chairman, this Motion on the Floor, I think is a very genuine Motion. It has brought up the feelings, the emotions and the experiences of Members here. We are making this Constitution from a reflection of our history, a vision of our future and what we have now in the present.

Madam Chairman, when I look at the cross sections of Members who have really contributed in support of this Motion, they are genuine in the sense that our history either positively or negatively had something to be afraid of. If you were a judge at that time and probably never consulted the parties, there is genuine fear that you - if you turned to be on their

side, something similar may happen to you. I just appeal to Members that in this modern times when we are serving food, we follow table manners but not your eating habits. So, let us look at the Motion with the sincerity it deserves.

Members insisting on the word "Consultation", actually this is a very weak word to spend all this time to put it in the Constitution, I think it is time wasting. Consultation is not binding. I can consult you but your advice or whatever is not binding to me. So, to waste all this time to try to put this word in the Constitution, if Members were serious, we would remove Parliament and put with the consent of political parties but then how many political parties do we have? I see Members, especially the senior Members of political parties, they think they are going to be in the monopoly of these parties. Some of us have not belonged to parties. So, Madam Chairman, I request for the Members to be - those who have not been a bit sober to sober down and we look at this thing. Thank you. Madam Chairman.

THE DEPUTY CHAIRMAN: Hon. Delegates, really we have gone round. What we are having is yes or no. I have tried to see that at least all interests are represented. So, I put the question. Now, Hon. Patrick Mwendha's Motion is that we add a provision "*in consultation with political parties,*" I put the Question.

(Question put and negated)

THE DEPUTY CHAIRMAN: Hon. Delegates I think this is a good breaking point but before I do so, I suggest that we pronounce ourselves on (1) so that we go when it is cleared. Now, I put the Question on (1) - *(Interruption)*

MR. RINGWEGI: Madam Chairman, I am not trying to challenge the decision of the Chair but I want to state very clearly that I am very much aggrieved by the decision you took to put this matter to vote before you gave some of us the opportunity to talk. Madam Chairman, I agree that it is in your discretion to determine whether or not the contributions that are being made are not adding anything new or subtracting anything but when some Members insist that they have something to say, I think it is their right as Delegates to be given the opportunity to say it. I definitely feel very strongly, Madam Chairman, that I was denied the opportunity to put forward the views that I have

about this matter. I think Madam Chairman, in the spirit of trying to make a lasting Constitution for this country, we should not be denied this opportunity.

THE DEPUTY CHAIRMAN: Hon. Delegates let us be sober. We have our rules. Usually after the vote, people would have stood up to protest. But nobody stood up, so I assumed that there was no protest. How do you expect me to read the minds of Delegates who are yards away? So, Hon. Delegates let us regain our senses and adhere the rules.

MR. NEKYON: Madam Chairman, I will not follow the route taken by Hon. Ringwegi although I could have followed because I had seconded the Motion, but I was not allowed to speak. All the same I would like to move an amendment to what already has been passed with your permission.

THE DEPUTY CHAIRMAN: Okay proceed, then we shall adjourn when we have something in mind.

MR. NEKYON: Madam Chairman, I would like to move that the text be amend to read as follows: "*There shall be an Electoral Commission which shall consist of the Chairman, a Deputy Chairman, and five other Members appointed by the President with the approval of Parliament.*"

MR. SAM KUTESA: The Committee has no problem in accepting his amendment.

THE DEPUTY CHAIRMAN: If that is the case, now I put the Question.

(Question put and agreed to)

MR. SAM KUTESA: Madam Chairman, in Clause (2) of Article 85, the Committee recommends that Clauses (2) and (3) of Article 85 of the Draft Constitution be deleted and they be replaced by new Clause (2) which should read as follows: "*The Chairman, Deputy Chairman and Members of the Electoral Commission shall be persons of high moral character, proven integrity and who possess considerable experience and demonstrated competence in the conduct of public affairs.*"

Madam Chairman, this is a completely new formulation from the one we earlier had in the main Draft which sought to have the Chairman of the Commission as a Justice of the Supreme Court and Mem-

bers of the Commission were only the ones of the high moral character. The Committee felt, Madam Chairman, that although the Commission sometimes does carry out some judicial work, like settling disputes before polls are carried out, the construction in the Draft Constitution was limiting the number of people that could be considered to be Members of the Commission. You have to be a Judge or someone qualified to be a Judge. It was felt by the Committee that there are many other people in different disciplines other than the legal discipline that can carry out these functions provided they are of high moral standing and they have integrity and experience and demonstrate that they can conduct public affairs properly. So, Madam Chairman, as a result of these considerations, the Committee recommended the deletion of (2) and (3) and joining the two in the new proposal put forward. Madam Chairman, I beg to move.

THE DEPUTY CHAIRMAN: There do not seem to be any dissatisfaction. Can you proceed.

MR. SAM KUTESA: Madam Chairman, the Committee recommends that the new Clause (3), former Clause (4) of Article 85 remains as it appears in the Draft Constitution and it should read, "*The Members of the Commission shall hold office for seven years and their appointment may be renewable for one more term only.*" Not "*shall*" as it appears here.

MR. MULENGA: Madam Chairman, it is just terminology. Having changed from "*shall be renewable*," would it be I think not more appropriate to say, may be renewed?

MR. KUTESA SAM: Madam Chairman, I have no particular objection. I do not know which one is better English, but if the Committee finds that "renew" is better than "renewable", we have no objection at all.

THE DEPUTY CHAIRMAN: I think we shall ask the Technical Committee to look at it and see the better language.

MR. SAM KUTESA: This is Clause (4) which was former (5), the Committee recommends that new Clause (4) former Clause (5) be retained to read: "*If the appointment of a Member of the Commission is being renewed, the renewal shall be done at least months before the expiry of the first term.*"

THE DEPUTY CHAIRMAN: There do not seem to be any problem.

MR. SAM KUTESA: Madam Chairman, Clause (5). The Committee recommends that Clause (5), former Clause (6) of the Article 85, be retained as it stands in the Draft Constitution to read: "*Members of the Commission shall not hold any other public office.*" Madam Chairman, I have a personal problem that I discovered after the Committee had sat and gone through this report. While this does help us to stop a Member of the Commission holding another post, in other words, he will not be remunerated for holding two jobs, it does not go into covering areas where he could be compromised. For example, could a Member of Parliament be a Member of the Electoral Commission? Could a Member of a District Council be a Member of the Electoral Commission? Could a Member of an Executive Committee of a Political Party be a Member of the Electoral Commission? So, I would urge, Madam Chairman that having done that, we should include the following: "*A person shall not be qualified to be a Member of the Electoral Commission if he or she is a Member of Parliament or a Member of District Council or a Member of an Executive of a political party or any other Council of Local Government.*"

THE DEPUTY CHAIRMAN: I have been alerted by the Clerk that that may be covered in Article 133 spelling out of the qualifications and disqualifications of a Member of Parliament.

MR. SAM KUTESA: Madam Chairman, what I am seeking to introduce at this stage is to ensure that one does not get remunerated for two jobs or by holding two jobs but more importantly, that we do not get people whose background is compromising to man the Electoral Commission. Whether it is done under 132, describing what a Member of Parliament cannot be, I think it is also equally important that we determine what a Member of the Commission cannot be. So, I do not know whether I shall be allowed to move it as a CA Delegate so that it becomes part of the Draft Constitution if Members feel that we need to put in place this kind of disqualification.

DR. KEZIMBIRA MUYINGO (Bukoto Mid-West): Madam Chairman, I just wanted to make it a little bit simple by just adding: "*or any other public office which may compromise his position.*"

MR. SAMKUTESA: But Madam Chairman, just to clarify on that, “public office” is defined in the Draft Constitution and it does not include a Member of Parliament. So, if you leave it as “public office”, it is not sufficient to cover all categories of people that you would rather not have on an Electoral Commission.

DR. KEZIMBIRA MUYINGO: Can we say that: “*Members of the Commission shall not hold a public office or any other political office that may compromise his office of duty*”, if the Chair can accept.

MRSRWABYOMERE (Presidential Nominee): Madam Chairman, the observation that has been made by the Chairman of Committee Five is very pertinent and if he is moving a Motion to have that as an addition, the formulation that he has proposed is very ideal. I would like to second his Motion and would like to urge Hon. Delegates to support it so that it is adopted as part of Clause (5).

MR. MULENGA (Democratic Party): Thank you, Madam Chairman. The proposal by Hon. Kutesa is understandable, but the way he has framed it is something we have debated in the past and I think resolved against namely; to disqualify a person for consideration or appointment because of what he has called “background”. In other words, because you have been an MP, you cannot be a Member of the Electoral Commission. I thought we resolved this when dealing with Article 133 (4) which deals with a Member of Parliament. We said: “*a person elected to Parliament when he or she is a Member of a local government Council or holds a public office shall resign the first office of Member of Parliament.*” I would therefore, Madam Chairman, propose that Hon. Kutesa phrases his amendment or insertion on similar lines rather than this one which disqualifies a person who is a Member of Parliament or has been a Member of Parliament from being appointed as a Commissioner on this Electoral Commission. A lot of arguments were advanced and we came to this formulation after satisfying ourselves.

MR. KATONGOLE: Madam Chairman, I would suggest that it is the executive of the political party who is not on the Commission simply because he cannot relinquish his support of the Party. But other RC members or Member of Parliament should be appointed on this Commission. Thank you.

MR. KARUHANGA: Madam Chairman, I wish to reiterate considerations expressed by Hon. Mulenga. It would be wrong for us to use the negative formulation as proposed by the Chairman of Committee Five because then it becomes difficult to appoint good people if they are already doing something in public affairs at the District Council level or at National level in the Parties or in the Movement. I think the wording should be the one you used. I do not have the formulation with me, but I think it is a straight foreword matter and should not delay the business of the House. All we have to do is to ask the Technical Committee to streamline for purposes of consistency. That wording of the Land Commission and the one that has been pointed out in Article 133, (4) so that we can synchronise and have the proper sequence.

Secondly, the word, “political party”, we had already urged that it should be struck out and we use political organisation so that even members of the Movement who are at the high level of the secretariat do not also qualify to be Members and we had passed that amendment as well. So, I would like to synchronise the Constitution and be consistent.

MR. BAGENA (Bufumbira East): Madam Chairman, I was seeking clarification from the Chairman Committee Five because of the offices enumerated. To me, it sounded like they were all political offices. If that is what he wants really to make sure goes into the Constitution, I would wonder whether if he added any other public or political office, it would not cover the idea he wants to put in.

MR. KWERONDA RUHEMBA (Kajara): Madam Chairman, I think the concern of the Chairman and those very close to him was that this Clause Five, the way it reads now, would leave a number of other people holding two jobs and having them compromise because of the nature of the office that they may be holding. For instance, when you talk about “public office”, this has been defined in this Constitution, and “public office” does not include being a Member of Parliament, it does not include being a Member of the Executive of a political party. So, if you are talking about somebody holding two offices, a Deputy Secretary General of a Party could be appointed a Commissioner and at the same time, he would keep his office. There is nothing that stops him from holding onto his office as a Deputy Secretary General of a political Party because that political party is not a “public office” according to our definition.

Secondly, if you are an MP and you are appointed the Commissioner, there is nothing that stops you from continuing to hold on your seat as a Member of Parliament because the definition of "public office" does not affect you in this case, and yet we know that if you are a Member of Parliament and you belong to a certain political leaning, you may be compromised and yet we also know that if you are holding a position as a Deputy Secretary General of a certain political party, that again you may be compromised in your decision making process and judgement. So, that is why I think - particularly the amendment that was brought forward, was intended to bring these would be appointees in those people that should be eliminated or those people that should be forced out of their other offices. So, I agree with those who are saying that maybe having established and agreed on that principle, that we pass it onto to the Technical Committee to see how it can be addressed. So, I do not think even the Chairman may have an objection to that respect. Thank you.

MR. NGOBI(Presidential Nominee): Madam Chairman, I think that has been stated by Hon. Mulenga and Elly Karuhanga makes sense. We have already applied ourselves to this particular point and agreed that it would be sufficient for someone to resign so that he should not be disqualified. If he is appointed, then he can resign. The reason is that in most places - most areas in Uganda, these people who are either elected to District Councils or who are Members of Parliament, these are opinion leaders. If somebody is found to be very useful and he can serve properly all the things being equal, that he is a man of integrity, then obviously the only thing that will be required of him is to resign from the particular office. I think it is proper that the Chairman of Committee Five agrees so that we can include those encumbrances provided we say that they should not just disqualify somebody. But if somebody has been found fit to be appointed, he can resign. That is it.

THE DEPUTY CHAIRMAN: Hon. Ngobi, actually the problem I think which was aired by the Chair was that Parliamentarians and political party officials are not public servants.

MR. NGOBI: Thank you very much. I do recall what Hon. Elly Karuhanga has said. We did actually exclude politicians as such. I will not object to them being excluded. It will be only in that

line that they would be disqualified because they are active politicians. Thank you.

LT COL. KIIZA BESIGYE(NRA Delegate):

Madam Chairman, I do not find that there is any opposition to the inclusion of those other offices which we seek to add on to public officer; the Member of Parliament, the Council Members of Local Governments or Executives of the Political Parties. But I think in the formulation, the point which was made by Hon. Mulenga and which is being echoed by Hon. Ngobi is that we should not deprive any person in Uganda from the opportunity of being appointed. Every person should be eligible. But once you are appointed while holding a certain office, then you resign before you assume this new office. That is what we did for all the other Commissions. I find that it is a principle which can be reduced by the Chairman or whoever into a provision that can be passed. The essence would be to say that a person appointed as a Commissioner while holding the office of an MP or of a District Council or Local Government or the Executive of a Political Party, or a public officer, shall resign his or her post before assuming the office of Commissioner. That is my opinion.

DR. KAWANGA SEMWOGERERE(Busiro South):

Madam Chairman, I would like to assure every colleague that anybody once appointed and resigns, he can forget all about the other loyalties. We have had political parties appointed on the Makerere Council like Hon. Ngobi. I have not seen him really working in a biased way. So, I think the most important thing is that once you are appointed, you relinquish the other post that you may have. Thank you.

MR. SAM KUTESA: Madam Chairman, I have no objection at all. The only thing I was pointing out is that public office did not cover all the other categories and if there is a formulation which this Assembly has already passed that would adequately cater for other people, and it is in the possession of a Technical Committee, I think it is better that we pass it onto them and we use a similar formulation for consistence's sake.

THE DEPUTY CHAIRMAN: We are saying that we add Clause (6) after (5) to be similar to other provisions we have passed. Five Members of the Commission shall not hold any other public office. Is it substituted?

MR. SAM KUTESA: No, it is additional. Now, I think this will be Clause (6) or whatever. The numbering will come out. The Committee recommends that Clause (6) former (7) remains as it appears in the Draft Constitution.

THE DEPUTY CHAIRMAN: I now put the question that the new provision as brought in by Hon. Kutesa do stand part of the Draft Constitution.

(Question put and agreed to)

MR. SAM KUTESA: Madam Chairman, the next is Article (6). The Committee recommends that Clause (6) which is former Clause (7) remains as it appears in the Draft Constitution and should read: *"The Members of the Commission shall be paid such emoluments as Parliament may determine"*.

MR. CHEBET MAIKUT (Kween): Madam Chairman, I have a bit of a problem with Clause (6) as it is in this Report. First of all, I feel that the Electoral Commission being responsible for that important task of ensuring democratic governance in our country, I strongly feel that its operations and welfare of its Members - Members of the Commission - should be a question of charging all their expenditure in to the Consolidated Fund because Madam Chairman, if it can be recalled, in government we have a bureaucracy. The Financial Year of a government normally ends on 30th of June and therefore, if we are saying that the conditions of service - the terms and conditions of service of Members of the Commission will be prescribed by Parliament, what happens for example, if there is going to be an election, say in August, and you all know that by August maybe Parliament will now have sat down to approve the Budget and maybe submitted by the Minister for Constitutional Affairs for the purpose of making operations and allowances of Members of the Commission to run smoothly? So, in that respect I would like to suggest, if it is acceptable to the Committee Chairman - *(Interruption)*

MR. MULENGA: Madam Chairman, I think the Hon. Delegate on the Floor is debating something different. What is proposed here is that Parliament shall determine how much the Commissioners will earn but where the money is to come from is another matter. Charging it on the Consolidated Fund would have to be a different provision, that the Parliament would determine, rather than the Constitution, how much they should be given.

MR. BEN WACHA: Thank you, Madam Chairperson. Madam Chairperson, if the Hon. Member looked at page 20, he would find what he is looking for, suggested and recommended by the Committee.

THE DEPUTY CHAIRMAN: I think you are comfortable Hon. Maikut Chebet.

MR. CHABET MAIKUT: I think I am satisfied, my fears have been addressed under that article. Thank you.

THE DEPUTY CHAIRMAN: I do not seem to see any other problem, so (6) remains as it is and the numbering will be taken care of.

MR. SAM KUTESA: Madam Chairperson, the slight amendments in Clauses (7) and (8) are really consequential amendments resulting from the decision of this assembly to replace the words, *"National Council of State"* by the word *"Parliament"* where it appears.

THE DEPUTY CHAIRMAN: So (7) and (8) are consequentially amended.

MR. SAM KUTESA: And that goes through to (9) the -

THE DEPUTY CHAIRMAN: Now I put the question on article 85 as amended that it stands part of this Constitution.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: 85 as amended stands part of this Constitution.

MR. SAM KUTESA: Madam Chairperson, the Committee recommends that paragraphs (a), (b) and (c) of Article 86 be retained as it appears in the Draft Constitution to read: *"The electoral Commission shall have the following functions;*
(a) to ensure that regular free and fair elections are held
(b) to organize, conduct and supervise regular, free and fair elections and referenda
(c) to demarcate constituencies in accordance with the provisions of this Constitution."

MR. ERESU (Kaberamaido): Madam Chairperson, I would like the Chairman of the Committee to clarify to me whether part (b) of the function of the

Electoral Commission which reads; "*The electoral commission shall have the following functions; (b) to organize, conduct and supervise regular free and fair elections and referenda.*" I would like to be clarified whether this supervision includes the power to appoint other subordinate electoral officers like supervisors and so on in that order to ensure that elections will be organized and will be conducted.

MR. RWOMUSHANA (Rujumbura): Madam Chairperson, my problem is on (1) (c), "*to demarcate constituencies in accordance with the provisions of this Constitution.*" Apparently, Parliament is also debating a Bill, or has already passed a Bill, if I am correct, concerning demarcating constituencies. So, would it be harmful to say to demarcate constituencies in accordance with the provisions in this Constitution and any other law?

DR. BYARUHANGA (Kitagwenda): Madam Chairperson, my clarification is on (a). When we say "*to ensure that regular free and fair elections are held*", aren't we implying that the Electoral Commission has powers to call elections? Because I don't think the Electoral Commission has the powers to call elections.

PROF. SENTEZA KAJUBI (Kyadondo): Madam Chairperson, with regard to (b), "*to organize, conduct and supervise regular free and fair elections and referenda*", do we mean that the Commission will organize conduct and supervise free and fair referenda or referenda will be regular, or will they be conducted as and when necessary?

MR. OKALEBO (Bukedea): Madam Chairperson, I would like to be clarified by Chairman Committee (4) on (c). When he says the Commission will have to demarcate constituencies in accordance with the provisions of this Constitution, may he kindly show me where the accordance is in this Constitution.

MR. AGGREY AWORI (Samia Bugwe): Point of clarification! Madam Chairperson, I am seeking clarification from the Chairman of Committee (5) on Article 86 (a) the word "ensure." I am very doubtful that a Commission which has been appointed by the President has the capacity to ensure that he can call regular, fair and free elections.

DR. ODUR (Dokolo): Madam Chairperson, I would like to be assured by the Chairman of Committee Five whether (c) which is to demarcate

constituencies in accordance with the provisions of this constitution would also include the review of demarcations.

BRIG. KYALIGONZA (Buhaguzi): I am just only calling the attention of the Chairman of the Committee whether in his view he would feel uncomfortable if I propose to him to delete these repetitive words of "*free and fair*" because in Clause (a), we have already mentioned that to ensure that free and fair elections are held and in (b), I would propose that we delete these words "*free and fair*" and maintain "*to organize, conduct and supervise regular elections and referenda.*"

DR. KIYONGA (Bukonzo West): Madam Chairperson, two points on which I would like to be clarified. In the interest of being brief and not losing points, it would appear to me that (a) and (b) could have been combined because in (b) you are talking about the elections being regular and also being free and fair as Hon. Kyaligonza was saying. The only new point in (b) is that you have introduced the term referenda, and in (a) as Hon. Byaruhanga has already said and other Members, this usage of the word "ensure", has no consequence in my view and should not be there.

MR. S. KUTESA: I will start with the last question and requirement for clarification. Because indeed it is the same as the one of Hon. Byaruhanga. The word "ensure" here is capable of two interpretations. One, that if election time is due, the Commission could call an election. The other is that once an election has been called, the Commission will ensure that it is free and fair. Now I quite agree, Madam Chairperson, that I do not see how the Commission can call an election. There are provisions for the dissolution of Parliament, and time when elections and referenda can be called. I think really the term here has been used largely because it is the term we found in the Draft Constitution and the term "ensure" has been carried on as if to mean that when elections are due, the Commission shall ensure that they are carried out and in a free and fair manner. Now with regard to question number one which was raised by Hon. Eresu, whether this Clause empowers the Electoral Commission to have staff to organize elections at all levels including supervision, yes indeed it is envisaged that the Electoral Commission will recruit staff and that in the exercise of supervising free and fair elections, it will appoint officers like presiding officers and election supervisors.

Hon. Senteza Kajubi wanted to know whether referenda is regular. From what we have in the Draft and in the provisions which we have not discussed that relate to referenda, there is a possibility that referenda may be regular, but there is also a possibility that he may have a referendum once and for all. So I think here it appears as regular because what is contained in this report suggests that there will be regular referenda. But if for any reason in future we say there is only one referendum or no referendum, then I think this will have to be adjusted accordingly. Now Hon. Okalebo wanted to know - with reference to (c), that demarcation of constituencies in accordance with the provision of this constitution - he wanted to know which provisions of the constitution this refers to. If you look on page 14, Article 88 Clause (1), that is one instance of the provisions of this Constitution.

Hon. Aggrey Awori questioned whether this clause is consistent with - whether a commissioner appointed by the President would carry out such elections as being free and fair. Yes, indeed because I think with Presidential appointment being approved by Parliament, whoever is appointed shall be able to carry out his duties. Indeed that is the method we use to appoint a Chief Justice. I do not think that Aggrey Awori will not trust the courts of Uganda because the Chief Justice has been appointed by the President. And I do hope that the qualifications that we had put in place for one becoming a Chief Justice or becoming a Chairman of this kind of commission, they themselves will speak loud enough that the man will carry out his duties and functions properly.

With regard to Hon. Kyaligonza's requirement that we are over repeating the words "free and fair", I have no objection to removing them on the second line, but he can see that there we refer to free and fair referenda, while in the other one we referring to free and fair elections. So it may be necessary to keep them separate. Because even referenda needs to be organized in a free and fair manner. Hon. Dick Odur wanted to know whether demarcation of constituencies does include review of these demarcations, it does and it will be found in the body of this report as we go on. Thank you, Madam chairperson.

MR. GEORGE ZZIWA (Kawempe North): Madam Chairperson, I note a very very important function that has to be carried out by the Commis-

sion omitted and I thought I should draw the attention of the Chairman to it and this function is the function of declaring election results. Where is that? Who is supposed to declare the results of elections? That is a very important function which I think has been omitted and should be specifically spelt out.

MR. SAM KUTESA: Madam Chairperson, if you look at (g) - "perform such other functions as may be prescribed by law, which are Consistent with this Constitution", now this is because all functions of the Commission cannot be enumerated, and unless Members feel that that one is particularly important, particularly in light of our history, I myself would have no objection in including it but any other functions that have not been stipulated here will be covered by this omnibus Clause that empowers Parliament to specify functions for this Commission provided that law is consistent with this Constitution. So if Hon. Zziwa wants to bring in that kind of particular function or the Commission, I have no problem with it. He can formulate it and as we go along, he can bring it out because we have not finished the functions, we have so far dealt with only three, and I am continuing to report on the other functions. So if he could formulate it and then maybe towards the end before we use the omnibus clause that empowers Parliament to make out new functions for the Commission, we could entertain it.

MR. ZZIWA G: Madam Chairperson, I feel in light of our history that this is a very, very important function which must be spelt out clearly in the Constitution, and I am prepared to make a formulation and pass it on to the Chairman of the Committee. Thank you very much.

MR. SABIITI JACK: Madam Chairperson, I thought Hon. Zziwa's interest is catered for later in this chapter in Article 93 where they talk about the counting and declaring of result. I think it is catered for in Article 93, I was just giving information.

MR. ZZIWA G: Madam Chairperson, as you rightly said, these are the procedures but I am sure when the election results have to be given out, there must be certain formalities maybe a certificate signed by all members of the Commission, or the Chairman and two or three members of the Commission to sign to show the validity of the results and I do not think these other clauses I am being referred to really cater for this requirement.

MR. SAMKUTESA: Madam Chairperson, as has been pointed out by Colleagues, Article 93 (4) on page 24 if Hon. Zziwa could turn to that page, it reads; *"the presiding officer, the candidates or their representatives and, in the case of a referendum, the sides contesting or their agents, and the polling agents if any, shall sign a declaration stating ; (a) the pooling station, and (b) the number of votes cast in favour of each candidate, or question, and the presiding officer shall there and then announce the results of the voting at that polling station before communicating them to the returning officer."* Now, obviously at that polling station the results are declared, they are passed on to the returning officer and the returning officer - maybe what the Hon. Member is looking for is, who makes the radio announcement. I think that is probably what the Hon. Member is looking for, and I tend to agree with him because in 1980, all this elaborate policy, these elaborate provisions existed, but before the announcements on radio came, and in fact I think in part of Kampala some of them had started coming on radio then a decree was passed. So it appears Hon. Zziwa wants to say is that the final announcement of results shall be by the Electoral Commission so that we do not leave it to the presiding officer and the - *(Interruption)*

MR. MULENGA: Madam Chairperson, I wanted to inform both the Hon. Chairman of Committee Five and Hon. Zziwa that in Chapter Eight on the Legislature, the plenary has already approved a provision that the electoral Commission would announce the result within a prescribed period. I think Hon. Zziwa should have remembered the report of Select Committee Two.

DR. SSEMOGERERE KAWANGA (Busiro South): Madam Chairperson, it is an additional point. I am also a member of Committee Five and I have been comfortable with these recommendations here but I have looked at other electoral laws elsewhere and one of particular importance to me is that of Namibia. When I look at what has been going wrong many times in this country, much of that sometimes has been a result of other authorities operating simultaneously without a law of the Electoral Commission, and sometimes undermining the electoral process. I have in mind for instance, security agents, it could be Police, it could be Intelligence, it could be Chiefs, it could be even broadcasting, it is possible for somebody to be in charge of a broadcasting and it can cause a lot of

confusion. And I find that in the case of Namibia, they make it very clear that the Electoral Commission has exclusive responsibility of everything pertaining to the electoral process. Now I do not know whether it is taken care of here or in Article 87 as we have amended it where we say that; *"in the performance of its functions, the Electoral Commission shall not be subject to the direction or control of any person or authority."* In the report, we shall come to Article 87 where we are talking about the independence of the Commission and we say that; *"the Commission shall be independent and except as otherwise provided in this Constitution or in any other law."* *"In the performance of its functions, it shall not be subject to the direction or control of any person or authority."* This is good but I do not know whether it goes further enough to exclude other authorities from carrying out activities which may undermine even this authority. Because it may be necessary to really exclude other authorities at that time so that even if it is a military operation, if it is the Police, if it is the local authorities if it is announcement on radio and television, the authority to do so must be controlled by the Electoral Commission, and I witnessed this, Madam Chairperson, last year when I observed the elections in South Africa. I found that every person, every official who had anything to do with the elections, military, police, anybody was under the direct control and supervision of the Electoral Commission. I am just trying to find out if these two provisions really cater for that kind of situation.

MR. BATEGANYA: Madam Chairperson, in view of what Hon. Zziwa has brought to the attention of this Assembly, I would like to propose that a new (c) be inserted to read that one of the functions is to announce the results of elections and a referenda and we stop there.

THE DEPUTY CHAIRMAN: I think it should be (d).

MR. BATEGANYA: Okay, we could call it (d).

THE DEPUTY CHAIRMAN: Because we have (a), (b) and (c). Are you suggesting that (c) is replaced by what you have read?

MR. BATEGANYA: I wanted this one to be before the current (c) such that it comes directly after organizing, conducting and supervising then the next function is to announce the results of elections and referenda.

MR. KUTESA SAM: Madam Chairperson, I have no objection to that.

PROF. KANYEIHAMBA: Madam Chairperson, I think the idea of saying that this is a function for the Commission is a very good one, but I wanted to point out the information given by Hon. Mulenga that in Committee Two, we had already specified that it would be the exclusive duty of the Commission to announce the results in relation to Presidential and Parliamentary elections. But there we have gone much further and specified for example that these results would be published under the hand of the members of the Commission, that each of them will have to sign bearing in mind that - in fact in some neighbouring country, the results announced by the Chairman have been disputed by other members of the Commission. So it is not just enough to give that responsibility but we need to be much more specific so that there is no an doubt whatsoever, that the results which are being announced are authentic.

Having said that, Madam Chairperson, my own suggestion was that we accept this in principle but see whether we can relate to the information given to us by Hon. Mulenga the Chairman of select Committee Two, and it may be up to the Technical Committee to formulate this responsibility so that it does cover all the elections which are conducted under the supervision of the Electoral Commission. Thank you.

MR. NGOBI: Madam Chairperson, when the Committee comes to actually formulate, I think they should bear in mind the necessity to announce the results at the polling station. The reason I am saying that is that it is not only the neighbouring countries, I have said here repeatedly that even in this country, in 1980 the results were announced by the Presidential something - what was this - which were contrary to those at the polling station. It is better and I would agree that the final responsibility - will be that of the Commission, but I think supervision should provide for once the formalities are finished. That is to say, where the agents have signed all the results of the polling, the presiding officer should announce there and then the results then he can send the rest in order to avoid any confusion.

MR. MWONDHA PATRICK (Bukooli North): Madam Chairperson, I just want to emphasise Hon.

Ngobi's point. It is very important that we should be very clear that actually the results that matter are the ones announced at the polling station. The rest of the process is just computation. Just a question of adding up and getting the total. But the results that should matter are the ones that are announced at the polling station for various reasons; that is where the polling has taken place and that is where everybody can give the results - where everybody can get the results and even go with the results home. Even some of the voters will still be around and that is where the actual physical agent is. So, the only authentic results really are the ones that are announced at the polling station, and I think that point should come out very clearly. If we lose that objective, then you are inviting manipulation in the process of computation and in the process of giving again another authority the authentication. We should see that the results are at the polling station. Thank you.

MR. KABUGO (Nakaseke): Madam Chairperson, presiding officers are officers who are supposed to handle elections in a given electoral ward. Take for instance, for Nakaseke constituency I had 84 polling stations, and in this case, each presiding officer could care for the results as recorded and signed and witnessed by our agents. But for the announcement, though we had a returning officer at the district head office, the returning officer could not even tell us who went through until the Commissioner announced the results. But though we have the records, each candidate could have a record of what is polled in his polling station, but the responsibility to take care of the results remained in the hands of the Commissioner.

THE DEPUTY CHAIRMAN: So what is your view on this issue?

MR. KABUGO: So it is the commissioner himself to declare the results, and I should like to oppose this subclause (e) because this specifies "*to compile, maintain revise and update the voters register.*" Then (e): "to declare the results and the present (e) becomes (f) because here - "*and determine election complaints that comes afterwards.*"

MAJ. TUMUKUNDE (Rubabo): Madam Chairperson, I would want to share my experience with this House in case it would help us determine whether we should include this very Clause in this very part of the constitution. I passed in all the

polling stations, and the results were reading that I was actually leading. By the time I got to the radio, I think at about 10 O'clock, the results were reading upside down. This brought very, very serious confusion in the constituencies. I think for purposes of clarity, Madam Chairperson, let this House consider that maybe we insert here an article specifically on announcing election results. If this was to happen in ten other constituencies, maybe we should have had a very, very bad election period.

MR. MED KAGGWA (Kawempe South): Madam Chairperson, I want to say that I think we are spending too much time on this issue, I thought Hon. Kanyeihamba had really put the position that since Hon. Mulenga had reminded us of a provision, and we all agreed in principle to who should announce although I personally prefer to have them announced at the spot so that between spot and the head office they do not change, we should leave this matter to the Technical Committee to synchronise these views and to find a home for this provision. So I move that we put the question and then we move. Thank you, Madam Chairperson.

THE DEPUTY CHAIRMAN. Okay, thank you very much. But also we had to get the views of the Members to see exactly what we want to be synchronised. At least the Technical Committee is around, and have heard the views of the delegates. That is the view of what we have already passed, we shall see how it tallies with what is being proposed that we introduce in Article 86 the aspect of announcing results - election results.

PROF. SENTEZA KAJUBI: Madam Chairperson, before we leave Article 86 now because I was not satisfied with the answer that was given to me by the Chairman of the Committee with regard to 86 (e), whereby he said that we ought to organize regular referenda because it was anticipated that regular referenda will be required in order to determine, I think on political system, I would like to propose that we remove referenda from that (b) and have referenda stand by itself so that functions of the Commission with regard to referenda would be to organize, conduct supervise referenda whenever necessary rather than regularly.

MR. SAM KUTESA: If indeed the House were to accept Hon. Prof. Kajubi's proposal, the way to go about it would not be to create a new subsection, it would be to delete the word "regular" from (b). That would be a lot easier, because we already talked about regular, free and fair elections in (a),

but that will depend - and my answer to his question was that, whether this referenda will be regular or not, it will be a subject of discussion in this chapter, and once it is determined that the referenda are not regular, then this terminology would have to fall by the way side. But if it is to be determined that every five years you are going to have a referendum, then this would stay. But my suggestion is that we leave it to the Technical Committee to remove the word "regular" if and when we have referenda. That will be a decision in (94). Alternatively, if the House is persuaded now, that we can say referenda will not be regular, then rather than remove the word "referenda" and create a new sub-section, I would remove the word "regular" in (b).

MISS BYANYIMA: Madam Chairperson, the proposal by Hon. Ssentenza Kajubi makes a lot of sense and I think we should take that advice of the Chairman of our Committee and delete the word regular because we should not prejudice what we are going to do when we get to the question of political system. The intention here is that, whether the referenda is regular, or whether it is only once, it should be organized, conducted and supervised by the electoral Commission. So by deleting "regular", we do not prejudice the future, we in fact provide for free and fair elections and for referenda whether regular or whether once and for all. So I would like to move that we remove-we delete the word "regular" in 86 (c). I beg to move.

PROF. KANYEIHAMBA: Madam Chairperson, I would like to go further with those who are saying we delete the word "regular", but in fact there is not even need to say "free and fair" because the Constitution has already determined the kind of elections we shall have which say they shall be regular, free and fair. If you compare those with Hon. Obiga Kania's amendment, everything is already in place. So, I would say we simply say "to organize, conduct and supervise elections and referenda in accordance with this Constitution."

THE DEPUTY CHAIRMAN: Okay, that seems to be a compromise formulation that we delete "regular, free and fair."

MR. NSAMBU NSUBUGA (Makindye West): Madam Chairperson, I do not agree with those who say the word regular should be removed. It appears they are giving it a single meaning, something which is more-or-less tabled that after so many

months, so many years, we shall be holding such and such elections. But the word "regular" is wider than the meaning being given to it. It includes even doing the job itself in a regular manner. So, to me I think that if we remove it, we will be leaving out an important supervisory word which would keep the work good and fair. Because it is this word "regular" which controls everything which we are

THE DEPUTY CHAIRMAN: We are saying in (a) it remains, and the assumption is that once we have it in (a) we do not have to repeat it in (b).

MR. NSAMBU NSUBUGA: I am saying that "regular" should remain.

THE DEPUTY CHAIRMAN: In (a) and (b)?

MR. NSAMBU NSUBUGA: In (b).

THE DEPUTY CHAIRMAN: Yeah! In (A) it is remaining then the amendment is on (b).

MR. NSAMBU NSUBUGA: This is what I am saying, I am saying that the amendment is on (b), it should remain either in (b) or in (a).

THE DEPUTY CHAIRMAN: Hon. delegates, we had actually agreed that (a) remains as it is, (b) is amended by removing "regular, free and fair, but we would retain the word "regular", (c) remains as it is then we go to (d).

MR. SAM KUTESA: Madam Chairperson, the Committee recommends that paragraph (d) of Article 86 be amended to read as follows: "*To compile, maintain, revise, and update the voters' register.*" The change here is the words "*and update.*" Number 3 paragraph (e) of Article 86, the Committee recommends that paragraph (e) of Article 86 be retained as it appears in the Draft Constitution to read: "*To hear and determine elections complaints arising before polling.*"

DR. KABAYO: Madam Chairperson, I have a problem with that formulation. Because I was not aware that the Electoral Commission has a jurisdiction of determining cases, election complaints. My proposal is that we leave the jurisdiction of determining such cases to the High Court which is described elsewhere in Articles 107 and 169 which we have passed and also, we should also recognize

that complaints will not be just before polling but there will also be complaints during polling and also after polling. My proposal, therefore, is that we should amend this clause to read; "*to hear and record election complaints arising from before, during and after polling.*" During polling, there could be problems of registration impeachment or problems of facilitation or other malpractice that could happen. But during polling also, there are problems - there could be problems of intimidation, tampering with the boxes or even locating the boxes or refusing people to vote and after polling, there could be problems connected with counting, invalidation or validation of votes, and declaration of results. I therefore think that the Clause as it was written, did not take into full consideration of these other aspects of polling, and I would recommend that we amend it as I proposed, Madam Chairperson. Thank you.

PROF. KABWEGYERE (Igara West): Madam Chairperson, I entirely agree with the ideas expressed by Hon. Kabayo, only that he has extended the Clause into an area which I think should be left to the court. I think if he ended by "during polling", I would really feel that it is covering the area that falls within the powers of the Electoral Commission so that it reads: "*To hear and determine election complaints arising before and during polling.*" Because after polling, then the matter is handled by the Courts. The moment the Electoral Commission is to get involved in legal matters, then there will be interference, I think, with the normal process. I think the Courts should take over after the elections have been completed.

MR. LUBULWA MIGADDE (Katikamu South): Madam Chairperson, my view on this one is that we should leave it as it is. Because when you talk about "during the elections", I think that should be already going to Courts, those are Court petitions. If something had gone wrong during the elections and even after the elections, that should be a matter to be referred to Courts and not to the Electoral Commission. I am therefore, of the view of Madam Chairperson, that we should leave the clause as it is recommended by the Committee.

THE DEPUTY CHAIRMAN: Hon. Migadde, how about when it comes to the provision we passed with regard to the disabled. What will that be? The disabled persons if they are not facilitated and they are complaining, will they go to Court? Would that be before polling?

MR. ZZIWA GEORGE (Kawempe North): Madam Chairperson, I would say that, that situation is before and as such, it should be handled by the Commission and not by the Court.

THE DEPUTY CHAIRMAN: But isn't it during voting? We are looking at a word during! He is saying it should not be there.

MR. KAGGWA MED: Madam Chairperson, I wanted to draw to the attention of the House to the fact that these are merely complaints, and if they are complaints, I think it is within the competence of the Commission to deal with any complaint "before and during". Because the word "complaint" is not a petition. So I think this is way within their jurisdiction and they should be competent enough to handle such matters.

MR. CHEBET MAIKUT (Kween): Madam Chairperson, I would also like to oppose the Motion moved forward that we should extend the jurisdiction of determining any complaint either before or during election process by the Commission. In my view, Article 89 on page 17 of the report stipulates that; "*Any person aggrieved by a decision of the Electoral Commission in respect of any of the complaints referred to in paragraph (e), of Article 86 of this Constitution may appeal to the High Court for determination.*" So in my view, I think it will be better that we leave the question of complaint to be handled purely by the Commission. Anything during the election process and thereafter, in my view is a subject which will be dealt with by the Courts of law. So I think it is purely an administrative issue it is a question of complaint which should be left to the Commission to handle. So I strongly oppose that Motion moved by Hon. Kabayo.

MR. ABALIWANO (Bugabula): Madam Chairperson, going back to your question about the disabled and so on, if they are to be facilitated, they have to be facilitated to vote properly. So whatever facilitation is done is done before polling, before somebody casts his or her vote, she or he must be assisted and that is where the complaint should come from and say, I am not being assisted or can I be assisted. In which case, even if it is just before polling, it will not be during polling. However, anything that comes during polling, and we have seen people who have gone round even talking to voters during the time when the polling was taking

place, this was common with the various CGRs in this country, telling people who they should vote for even during polling. Those kinds of complaints then will be part of any complaints that could be forwarded to the High Court as being reasons to give to the Courts that the election was not free and they were not fair and that somebody lost because of such and such reasons. I think to me that is the way perhaps I would interpret your question regarding the disabled and other people. Otherwise, I think by the look of it, I do not think one could improve on this particular (d), I think it should remain as it is. Thank you.

THE DEPUTY CHAIRMAN: Okay, I have some clarification here from the technocrats who could perhaps help us saying that the paragraph refers to complaints relating to candidates violating certain laws and procedures which they are supposed to observe such as campaigning outside the candidates' meetings, distributing salt before polling, hence what the Commission can do at the maximum is to disqualify a guilty candidate. Complaints about events during polling and after are subject to petitions before Courts of law. So I think that does not contradict where we had reached by the time I received this. Really, I think that one is quite clear that we leave it as it is. We leave to only conclude before and that is that.

MR. NGOBI: Madam Chairperson, my problem is only one, and I would like to be clarified on - we say that the complaints should not include those during polling. I assume that the Commission will be appointing officials that will supervise the polling, these officials will be acting in the name of the Commission. Now if you say that the Commission will not be concerned with the complaints during the polling, what is the use of the of the supervisors. Something goes wrong, and the presiding officer will be speaking on behalf of the Commission. Therefore, it is the duty of the Commission and its officers to deal with these problems before, during and if necessary after, and I would like that to be taken into account.

MR. KUTESA SAM: I think from what has gone and from experience, it is possible to entertain complaints arising before and during. Anything after must go to the Courts because if for example, before polling a register of voters is not displayed within the time prescribed, if you should be able to ring to the returning officer or to the Commission

and say, at this polling station, or this registration centre, there was no display of registers, and that is something that you correct and probably extend the period for that particular centre. Equally, if an incident were to happen at a polling station for example, if some one who is not registered in that area came to vote there and assuming the people of that area point it out, I think the supervisor or the presiding officer should be able to take action on that complaint. What he cannot do is anything after that or any complaints that indeed does not come to him before, during and after. There are certain instances where these may not come to his notice, whether they were before polling or during polling. All those can be a basis of a petition - an election petition - but I think it is reasonable to say that the Commission can handle complaints before polling and during polling and if we could agree on that, Madam Chairman, then we could only need to add the word "*and during*" to hear and determine election complaints arising before and during polling.

DR. KANYEIHAMBA: Madam Chairperson, I think that this clause is being made unnecessarily difficult by explanations. Even the explanation given by the Chairman of the Committee does not really take us very far. For example, where the assistants to the Returning Officer complain after the elections that they were asked to carry the polling boxes at night without light or torches, is that a complaint before or after elections? But that is a complaint that can be handled by the Electoral Commission. I think that the important point that we should bear in mind is the distinction which Hon. Kaggwa made between complaints and petitions. Anything which is of a nature that need to be decided by Court would go up as a petition and we cannot stop that but there will always be complaints before, during and after the elections. You cannot stop those coming about or as an administrative matter there will still be complaints.

So, Madam Chairperson, I was simply saying that we should simply say that they will hear and determine election complaints full stop, without saying "before", "during" or "after". If anything else is higher than that, then it will become a petition and we know it will be heard by the Court in accordance with what we have already established but if we try to say before or during or after or whatever, that is going to put us in problems. So, Madam Chairperson I would like to move that we

simply say: "*to hear and determine election complaints*", bearing in mind that these are of administrative nature, anything else would be a petition going to the Court. I beg to move, Madam Chairperson.

MR. MBURA MUHINDO (Busongora South): Thank you very much, Madam Chairperson. Madam Chairperson, having gone through a good number of elections, it is true that complaints will be there and some of these complaints, we cannot wait until they go to Court. There are issues where you may find as it has been mentioned, registers missing or somebody's name missing on the register. Now, do you have to wait until you make a petition for such a case which can be handled? In other places, you may find even on the election day no ballot boxes or wrong ballot boxes being mixed up or wrong registers. So we cannot wait for Court action. So I would support the formulation that has been put by Hon. Kanyeihamba that the actual gist of the matter should appear here and I support that we allow the Electoral Commission to handle some of these petty issues if we are going to have proper elections otherwise we shall be hiding our heads under the sand. I thank you.

THE DEPUTY CHAIRMAN: Hon. Delegates, does that not seem really to neutralise that we leave it open so that whether it is before, during or after, as long as it is a mere complaint, the Commission should handle that? Any contrary view?

MR. KWERONDA RUHEMBA: Madam Chairman, having gone through a number of elections, I would like to state that complaints start as soon as a candidate has been nominated because there are complaints concerning who is going to be a presiding officer. In our case where you have a multi party system or where you have disagreeing candidates, you may find that some candidate has influenced the officer who is going to be presiding, who is carrying out civic education and in whose favour there are names missing in the register and even during the election day, on the polling station, you will find a lot of complaints arising. Now, if you do not allow the returning officer and the presiding officer to look into these matters, then you are making it more expensive because there will be so many petitions which would not have come up, they are going to come up because of this oversight which has been pointed out. Even after elections, Madam Chairperson, in my case we found that

there were irregularities in counting and we had to ask the returning officer to look into some of the boxes which were being complained about and when he opened them, he actually found the complaint was genuine and the complaint was corrected in front of all the candidates who were there and that saved us from going to Court to petition. That was before the results were declared. In another case, Madam Chairperson, some boxes delayed, they could not come in time after counting at the polling stations and we had to go to complain to the returning officer to go and look for these boxes so that he can submit results otherwise our results were getting late to reach Kampala.

So, Madam Chairperson, I would like to state that this inclusion of "and during election" that it is important, that it can save the country lots of money and I think it is a good amendment, Madam Chairperson, we should pass it.

THE DEPUTY CHAIRMAN: Let us hear from Hon. Kutesa and then we resolve this.

MR. SAM KUTESA: Thank you, Madam Chairperson. With due respect, I disagree with the presentation made by Hon. Kanyeihamba, he has only misguided this House. The carrying of boxes on your head is not a complaint by anybody who is standing in an election or who is a voter. That is a method of transmission of boxes by the Commission itself. I do not think that when we talk about complaints, we are talking about complaints of the officers of the Commission. The example cited by Hon. Kanyeihamba is one by an officer of the Commission that he was not given transport. The problem we are talking about is complaints either by a candidate or voters and this can only happen before or during the polling. After that, you go to Court and therefore, I am persuaded to the view that we should add the words "*during or before*" so that it is "*before or during polling*". Thank you.

THE DEPUTY CHAIRMAN: Hon. Delegates, really I think we are wasting time. That issue definitely if it is of a contention, we shall get advice from the technocrats but what I think the explanation given is quite enough. So we are saying that we are amending (e) to include the word "*and during*". Thank you.

MR. SAM KUTESA: Madam Chairperson, in 4(f) of Article 86, the Committee recommends that

paragraph (f) of Article 86 be amended to read: "*To formulate and implement civic educational programmes for democratising the Ugandan society.*" Madam Chairperson, although this is a recommendation of the Committee, the words "*for democratising the Ugandan society*" have been drawn to my attention as being largely meaningless in this kind of amendment because the civic education that the Electoral Commission can carry out can only be for purposes of elections not necessarily for democratising the Ugandan society. And that role we have somewhere allocated it to the Human Rights Commission, that the Human Rights Commission, one of its duties is to carry out civic education for the purpose of democratising the Ugandan society. So, I would suggest, Madam Chairperson, if Members agree, that we say "*To formulate and implement civic education programmes to ensure a free and fair election*". (Interjection)

THE DEPUTY CHAIRMAN: Agreed?

HON. MEMBERS: Yes.

MR. SAM KUTESA: Madam Chairperson, paragraph (g) of Article 86 the Committee recommends that paragraph (g) be retained as it appears in the Draft Constitution to read: "*To perform such other functions as may be prescribed by law*".

DR. KANYEIHAMBA: Madam Chairperson, I have no quarrel with this formulation but I am a bit unhappy by simply providing "bye-law" because bye-laws could be made by local authorities. Is it law made by Parliament or if not, should it not be prescribed by Parliament?

MR. SAM KUTESA: Well, Madam Chairperson, I do not mind putting "Parliament". By law I do not mean bye-law but I think "Parliament" sounds better.

THE DEPUTY CHAIRMAN: Okay, we replace the word "law" with the word "Parliament". Now, we have here an amendment by Hon. Karuhanga whose positioning shall be determined when we agree in principle whether you accept it or not.

MR. KARUHANGA (Nyabushozi): Thank you very much, madam Chairperson. Madam Chairperson, fellow Delegates, I would like to make an addition to the duties of the Electoral Commission and the functions. In other countries these func-

tions have been enshrined in the Constitution although we have not yet decided whether we shall have political parties, I would like to make the following additional function: That is to enforce the observance of the Code of Conduct of political organizations as prescribed by Parliament and I am seconded by the number of people. Madam Chairperson, I never got a chance to circulate my amendment because the machines are not working. I am seconded by Hon. Joseph Mulenga, Hon. Kanyeihamba, Hon. Kan'yike, Hon. Kasajja, Hon. Rev. Batanyenda, Hon. Ruzindana, Hon. Semwogerere, Hon. Obua Otoa and Hon. Bidandi Ssali, for record. I read it again: "To enforce the observance of the Code of Conduct of political organizations as prescribed by Parliament". Madam Chairperson, if you accept, I will then speak to my Motion.

THE DEPUTY CHAIRMAN: Okay, let me dictate: "To enforce the observance of the Code of Conduct of political organizations as prescribed by Parliament". I think you are seconded.

MR. KARURANGA: It has been seconded by the names that I read, Madam Chairperson.

THE DEPUTY CHAIRMAN: Yes, I have them here, you can proceed to amplify on it.

MR. KARUHANGA: Thank you very much, Madam Chairperson, as you know, in our country we have a history of difficult politics and I am using the word "difficult" because I am avoiding using any other word that might sound negative but very difficult politics. In other countries, because by nature political organizations do compete for power, sometimes the methods they use in the competition towards achieving that objective are too Machiavellian and sometimes they ignore the set of civilised conduct. If we can establish that the Electoral Commission will be composed of people with impeccable impartiality, then this is the organisation that should supervise the code of conduct of political organizations. Madam Chairperson, in the United States this is one of the key functions of the Commission. They observe, they check the audited books, they receive money contributed to organizations of these organizations where the money comes from, whether it is for a good purpose or a good cause, the amount of money. For them they regulate even the amount spent in campaigns by politicians. In Germany, this

is one of the key jobs of the Electoral Commission. In Namibia, recently they have constitutionalised this. In fact for them in Namibia, they go further than my proposal. They are stronger because they use the words "to supervise" but I am being cautious because I do not want to sound like I want the Electoral Commission to go and live in the offices of political organizations so we say just to enforce the observance of the code of conduct and, of course, you can see that my amendment has had good scrutiny from people who are both not very strong Partyist and also strong Partyist and as a result, this wording has been well and carefully used in order to have a reasonable accommodation of all opinions in the House. Madam Chairperson, I beg to move.

MR. ABBEY MUKWAYA (Busiro East): Thank you very much, Madam Chairperson. Madam Chairperson I would like to say that I strongly support this new amendment of introducing a code of conduct which has to be a function and duty of the Electoral Commission. My only concern is in case the Code of Conduct is violated, will the Electoral Commission have the opportunity to take any action? Because my worry is in case the Code of Conduct is violated, are we giving the Electoral Commission enough teeth, strong enough to bite the violators of this Code of Conduct because we have been trying to avoid a situation where we put a provision in the Constitution which is not enforceable, which has no force of law? Is the Hon. Karuhanga? (Interruption)

MR. KINTU MUSOKE (Kalungu East): Information! Madam Chairman, I think the Hon. Member on the floor is trying to anticipate what we are coming to. I am sure when we come to the formulation of the Code of Conduct, we shall be putting there the sanctions in case somebody violates it. So we should not put it here but it will come when we actually formulate the Code of Conduct.

MR. MUKWAYA: I thank Hon. Kintu Musoke for that information. In the same breath, I want Hon. Karuhanga to assure me that whether he intends to add on a clause which would bring into play what Hon. Kintu Musoke is talking about because a process must start somewhere that in case a Code of Conduct is violated by any organisation, the Electoral Commission has the powers to do the following so that the other element Hon. Kintu Musoke is talking about can be initiated. Otherwise, the mere

putting of a Code of Conduct just to be observed by this Commission does not really satisfy my problem. Thank you very much, Madam Chairperson.

MR. BAGEYA (Kigulu county North): Thank you very much, Madam Chairperson. I have just observed that possibly Hon. Karuhanga has omitted one group. There are those who stand as independents, they are not in organizations. Are those supposed also to observe the Code of Conduct or not?

THE DEPUTY CHAIRMAN: I think he has taken note of it.

MR. LUBUULWA MIGADDE (Katikamu South): Thank you, Madam Chairperson. I just wanted to be clarified. Actually, the principle and the intentions are good for this proposed amendment but how does this amendment, for example, include the individuals, the candidates, because these ones also could misbehave. I wanted the Madam Chairperson to clarify to this one and if he has no immediate solution, I was proposing that the amendment, perhaps, could read that "To enforce the observance of the Code of Conduct as prescribed by Parliament" so that it covers both the political organizations, the voters and the candidates concerned. Thank you, Madam Chairperson.

MR. KARUHANGA (Nyabushozi County): Madam Chairperson, I did not get the name of the last person who spoke before. I could answer. (Interjection). Okay, Mr. Migadde.

Now, Madam Chairperson, Hon. Mukwaya asked the valid question as to what will happen to the violation? Is the Commission having enough teeth to effect the supervision and observance of this Code of Conduct? Yes, it should. What we are doing here is just to provide the functions, it is an enabling law and then Parliament will make the details. In fact, I did not come with my other constitutions which have got this type of prescription but I know that in the House I think with the permission of the Hon. Member, if he has no objection, one of us here has a Constitution for Namibia handy and I think if he does not mind my mentioning his name, Hon. Semwogerere, I think that one has also the Act of Parliament which then describes the teeth of this enabling law. So that will be done within the Act and hoping that Hon.

Mukwaya is satisfied, I would like to inform Hon. Bageya who raised a valid point on those who are independent. The independent Members, do they also observe or will they also be affected by this law? Yes! Starting from paragraph (a) to paragraph (g) where we also say that the Commission will perform such other functions as may be prescribed by Parliament, we mean that when they are stipulating the Code of Conduct, Parliament is enabled to write in that law, aspects that would affect independent members who decides to stand outside the party. In any case, throughout the election process, independent members will have to register, they would have to observe the law of the elections and, therefore, he too is within the realm of the Code of Conduct of the Party because he has to behave as expected by the Electoral Commission and should he do any untold things, he will be brought back in line either by law or by the registration.

Then Hon. Lubuulwa Migadde wanted to know along the same lines as Hon. Bageya whether this will affect individuals, individual candidates, and even leaders of political organizations. He stopped short of adding that. In my consultation with my fellow Movers, one group was interested in knowing whether the leaders do also need to observe a Code of Conduct - should they be covered under this and other persons. Yes, indeed, that will happen. Once we pass this, then Parliament will be empowered by the Constitution to make laws which will also, apart from conducting, observing or enforcing the Code of Conduct, the Code of Conduct inherently will have the law that affects leaders of these organizations as well. The intention is that these Parties will be inherently democratic that they are themselves democratic before they start fighting for democracy and should they fall out of line, there is an Electoral Commission to say you are not democratic, you have breached the Code of Conduct which is stipulated clearly by law, which is enacted and which is empowered by this Constitution, you are now registered or you pay a fine of so much or you meet certain charges as required and they will also add on other persons. So, Madam Chairperson, with that clarification, I would hope that Members will give this Motion the support that it deserves.

MR. KAYONDE (Gomba County): Madam Chairperson, thank you. While I support the principle of having an organisation that would

control the conduct of political organizations, I think there is a problem as to which organisation should do this role. In my view, it should not be the Electoral Commission because the Electoral Commission is supposed to be impartial and neutral and therefore, the success of the elections will depend on how this body is viewed by all the Parties participating in the election. Now, if we give this role to the Electoral Commission, it will bring this Electoral Commission into conflict with the Parties participating in the elections. Because should - let us say - the Electoral Commission pass a punitive or decide contrary to the wishes of one of the Parties or something which will not please one party in favour of the other, then that party or that organisation will look at the Electoral Commission as an enemy. So, in my view, I think the best body to play this function or to perform this function should be the one in charge of controlling the Leadership Code of Conduct because it is neutral and it is not concerned with the elections or the IGG should be the body to control the parties but not the Electoral Commission.

MR. KATUMBA (Kiboga County West): Thank you, Madam Chairperson. In most cases, it is the supporters of political parties who violates the Code of Conduct. Will the law cover them?

MR. MULENGA (Democratic Party): Thank you, Madam Chairperson. Madam Chairperson, I would like Hon. Kayonde to explain to me what he understands by an independent commission which should not offend any political party otherwise it is regarded as an enemy. When we go to Court for determination of disputes and the Court decides against us, do we call Courts an enemy? In this case it is already provided that where the Commission does any act that aggrieves the party, there is even an appeal. We have not yet, of course, seen the contents of the Code but to say that because the Commission would have to enforce it against the wrong doer, that it would be regarded as an enemy, I would like that explained.

MR. KAYONDE: Madam Chairperson, during the elections, the party or the political organizations would be competing and the umpire would be the Electoral Commission. Now in that process, if the Electoral Commission decided in favour of one party, then and by the way, the Code may be outside the matters concerned with the elections because here we should separate, there is a Code of Conduct

and then there is an election. Now, the Electoral Commission is organising an election but at the same time, one particular political organisation may contravene a conduct. If the Electoral Commission is the one which is supervising the elections and at the same time passing judgement as to the Code of the political organizations, in my view it will bring into conflict the Electoral Commission with the particular player in participating in the elections. I think for enforcing the Code of Conduct of the organizations, it should not be the Electoral Commission because the political organizations are participating in the elections which this body is supervising and this is my strong reason.

MR. KIRUNDA KIVEJJINJA (Bugweri): I would like may be to inform Hon. Mulenga that here we have got an Electoral Commission whose work is to ensure that everybody goes into the game and he plays according to the rules and if he is an umpire and he is also given another authority to decide what player should also play, then that is the highest form of rigging because all one has to do is to be able to position this Electoral Commission and it will make sure that Chango Machyo will not be able to stand because he has no English Language test and so the thing should be separated. They should only conduct and if there is a dispute, we should appeal to something outside. Thank you, Madam Chairperson.

MRS. MWONDHA (Women Representative - Jinja): Thank you very much, Madam Chairperson. Madam Chairperson, I am of the opinion that this amendment is misplaced. One of the reasons why I feel it is misplaced is that we are now debating or scrutinising the report of Select Committee Five which dealt with the representation of the people and among the sub-heads of that Chapter is political systems. Now, we have not decided on the fate of political organizations. When you begin talking about the Code of Conduct of political organizations, Madam Chairperson, I do not really understand it. Secondly, Madam Chairperson, as far as I understand, the Electoral Commission is mainly to ensure that there is always regular free and fair elections. Its mandate is not to be a watchdog on political organizations. So this amendment is highly misplaced. Thirdly, Madam Chairperson, I feel that the Electoral Commission in pursu... of its obligations of bringing about regular free and fair elections - *(Interjection)*

THE DEPUTY CHAIRMAN: Hon. Mwondha, Hon. Kanyeihamba seems to have some information.

MRS. MWONDHA: I do not need that information. Let me make up my case and then he will give it.

THE DEPUTY CHAIRMAN: He wants clarification from you.

MRS. MWONDHA: Let me finish, I think he will be clarified as I get on. Madam Chairperson, I was saying before I was interrupted by the Hon. Delegate, I am sorry because I could not allow the clarification, I think you can be clarified as I get on. The Electoral Commission in pursuance of its obligations of bringing about a regular free and fair elections, it will determine on the complaints that would have been drawn to its attention if it is pertaining to the failure to adhere to the Code of Conduct and in my view, I feel that Clause (e) which we have just passed caters for it instead of making it to be a watchdog on political organizations. Thank you very much, Madam Chairperson.

MR. MWESIGWA RUKUTANA (Rushenyi County): Thank you very much, Madam Chairperson. I wish only to add, in fact to what my neighbour here has just stated and to emphasize that this amendment would be irrelevant at this particular stage. The principle behind the Electoral Commission is to put in place a body to deal with elections. Its role relates only to elections. To imagine that it can be a permanent watchdog on the Code of Conduct of political parties would be to overstretch its abilities because there are so many things that are supposed to be contained in the political organizations code of conduct than mere elections. Are we going to say that the Electoral Commission should also be the body to watch over those other activities that do not relate to elections? The second reason why I do not support the amendment is that it speaks about - *(Interjection)* - well, I will take the information from my Chairman.

MR. SAM KUTESA: I just wanted to draw the attention of Hon. Rukutana holding the Floor to the Draft Constitution that we have, the Odoki Draft, and I wanted to draw his attention to Article 97 Clause (6). It would appear that from the contents of Article 97 Clause (6), the Odoki Commission envisaged a larger role for the Electoral Commission

than the speaker is ascribing to it. If you read through, it says that: "*For purposes of registration, a prospective political party shall furnish the Electoral Commission with a copy of its Constitution and the names and addresses of its national officers, and shall satisfy the Commission that there are ordinarily resident..., (b) that the party has branches in at least two thirds of the districts of Uganda; (c) the party's name, emblem, colour, motto or any other symbol has no ethnic, religious or other sectional connotations...*" So, while I may agree with him that it may be misplaced at this particular point in time where it is being housed, it does appear that even the Odoki Commission envisaged a larger role for the Commission than just supervision of the elections. That is the only information I wanted to give. Thank you.

MR. RUKUTANA: Thank you Hon. Delegate for the information but your information is actually self-defeating. Look at the opening of the paragraph you have just quoted. It says "for purposes of registration." Registration for elections and not any other purposes but I was submitting that there are many more things in the Code of Conduct of political organizations that do not necessarily have anything to do with elections. Madam Chairperson, I was continuing to say that the intended amendment talks about the Code of Conduct as prescribed by Parliament. I wish to point out, Madam Chairperson, that there may be some regulations which we could clearly term as a Code of Conduct which may not necessarily be prescribed by Parliament but which, as we shall see later in Article 96, may be made in this very Constitution. Now, are we saying that the Electoral Commission would still be a watchdog on these Constitutional provisions we may provide? I invite fellow Delegates to the proposed Article 96. It sets some regulations on political party activities during the period when the Movement is in governance and one would say that these constitute part of the Code of Conduct of political organizations. So if we pass this proposed amendment, we would be in a way defeating that proposal at this stage. It would be another way of preempting the proposal that this Constitution should embody set regulations for political organizations. So, on that ground, I would oppose the proposed amendment.

LT. COL. KIIZA BESIGYE (NRA Delegate): Madam Chairperson, first of all, I suspect that I will support this Motion and I think this House ought to

be grateful to Hon. Karuhanga and his colleagues for the initiative to talk about the enforcement of the Code of Conduct, but I observe that this is an important and rather new idea that has just surfaced. I appreciated his reason of not having circulated the amendment but I reckon that this is something which will need Members to study, get the benefit which he got of studying the German Constitution, the Namibian Constitution and so on, look at the other provisions and come up with a well understood and well thought out provision. I would like to move, Madam Chairperson, that we stand over this provision, go and study it with a view to coming back and passing it at a later stage. I wish to move, Madam Chairperson,

THE DEPUTY CHAIRMAN: What do you have to say Hon. Karuhanga? That we wait until we have visited all the other provisions and so I can't see it.

MR. KARURANGA: Madam Chairperson, I am very grateful to Hon. Kiiza Besigye because I heard some Members making contributions really completely outside the intention and the good meaning of this function and I think that if they had the benefit of sleeping over it, the following morning I am sure we will come up to realise the grave importance of this position and I am sure that there are some of those who had fears, for example, like Hon. Kayonde who was expressing some fears and Hon. Rukutana now, I felt they were speaking off the cuff and had not seen the real goodness in this Motion. It will be typed and circulated, I hope, by tomorrow. Our machines will be working and then Hon. Members will add and probably read and come with other Constitutions where this is rampantly clear in many democracies except our own.

THE DEPUTY CHAIRMAN: Okay, Hon. Delegates, we are saying that this one be deferred until tomorrow when we shall revisit it when Members have digested it. But in essence, we have cleared what was in the report and indeed, we have done some amendments. So I want to put the question on the provisions in the report which we have already passed; then Hon. Karuhanga's shall put the question on his provision when it is passed. So we had passed all up to (d) and we had some amendments in (b). So I am putting the question on 86 minus Hon. Karuhanga's Motion and as amended.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: All the other provisions are passed and we shall come to Hon. Karuhanga's, then we shall make an addendum to the already passed provisions.

At this juncture, the way I see things, when we open up another Article, we may leave this place at 8.00 p.m. so I propose that we adjourn, we only have ten minutes and then we convene tomorrow at 9.00 O'clock. So we stand adjourned.

(The Assembly rose and adjourned until Wednesday 24th May 1995 at 9.00 O'clock)