



THE REPUBLIC OF UGANDA

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

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**OFFICIAL REPORT**

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**CONTENTS**

TUESDAY, 28TH FEBRUARY 1995

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**MOTION:-**

Consideration of the Draft Constitution of the Republic of Uganda [Pg 3177]

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Tuesday 28th February, 1995

*(The Assembly met at 2.30 p.m. in the International Conference Centre).*

NATIONAL ANTHEM

P R A Y E R S

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

*(The Assembly was called to order)*

LAYING OF PAPERS ON THE TABLE

CONSIDERATION STAGE OF THE DRAFT  
CONSTITUTION OF THE REPUBLIC  
OF UGANDA

CHAPTER 12 - PUBLIC SERVICE

ARTICLE 193 - FUNCTIONS OF PUBLIC SERVICE COMMISSION

**THE DEPUTY CHAIRMAN:** Hon. Delegates, as you may recall, last Friday, we could not go very far because of our numbers. We were still on 193 Clause (a) and there was a motion by Hon. Chebet Maikut and there were still some problems. I do not know whether those problems have been clarified now.

**MR. CHEBET MAIKUT (Kween County):** Thank you very much Madam Chairperson. Madam Chairperson, after due consideration and basing on the submissions of the Hon. Delegates on Friday when I sought to provide for a linkage for some kind of delegation of certain functions of the Public Service Commission to District Service Commission. We did sit together and in light of that, I beg to withdraw that motion and go in for a motion which we sponsored together with my Colleagues Hon. Ongaria Stephen, Hon. Rhoda Kalema, Hon. Maliro Gaston and a number of other colleagues. Hon. Byaruhanga, Hon. Musene. So Madam Chairperson, I think we will be able to move that amendment. I think my colleague Hon. Ongaria can move that amendment.

**THE DEPUTY CHAIRMAN:** Can I have a copy of that motion because I am not aware of it. Hon. Maikut, I cannot see Hon. Ongaria on his seat.

**MR. MAIKUT:** Hon. Kalema I think is there. I think she can move the motion.

**MRS. RHODA KALEMA (Kiboga East County):** Thank you Madam Chairperson. Madam Chairperson, I support this amendment

**THE DEPUTY CHAIRMAN:** Hon. Chebet Maikut has withdrawn his motion and he was requesting either you or Hon. Ongaria to move the new motion in the place of the one withdrawn.

**MRS. RHODA KALEMA:** Thank you Madam Chairperson. Madam Chairperson, I would like to move the amendment on Article 193 to read - immediately after Clause 3(c) to add two new paragraphs (d) and (e) and this to read: " (d), to guide and coordinate District Service Commissions and (e) to serve as an appellate body for aggrieved persons appointed by the District Service Commissions." Madam Chairperson, I beg to move.

**DR. BYARUHANGA FABIUS (Kitagwenda County):** Point of procedure. Thank you Madam Chairperson. You will note that the amendment is coming to insert something after (c) and yet we have not handled (b) and (c) yet.

**THE DEPUTY CHAIRMAN:** Okay, therefore, can we be more systematic? We accept the withdrawal of Hon. Maikut's motion and we assume that (b) stands as it is in the draft. We said (a) would remain, I assume that if Hon. Maikut withdraws his motion, (d) also remains. Are we together?

*Question on (a) and (b) put and agreed to.*

**THE DEPUTY CHAIRMAN:** So (a) and (b) are taken in. Now we are going to (c), then after (c), Hon. Kalema will come in. (c), I see there is a motion by Hon. Kitariko.

**MR. KITARIKO ROBERT (Democratic Party):** Madam Chairperson, I thought I had spoken on the first day of this chapter and I had so moved a deletion at that time.

**THE DEPUTY CHAIRMAN:** It is Article 193 Clause one, paragraph (c) page 87, delete the whole paragraph by Hon. Robert Kitariko.

**MR. KITARIKO:** Thank you Madam Chairperson. I did submit on the first day that the functions in (c) are adequately and professionally catered for by the Ministry of Public Service and there was no need to give this to the Public Service Authority. The Ministry has five departments which are specialised in these areas. It will be unfortunate if we attribute this to the Authority which does not have the capacity, the professionalism to carry out these functions. I beg to move that, that should be deleted Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Is it seconded? Okay, Hon. Malinga has seconded

**MR. KARUHANGA ELLY (Nyabushozi County):** I overheard Hon. Kitariko saying or talking about the Public Service Authority. Is he making his amendment because of the Public Service Authority because we have thrown out the Authority? So I wanted clarification and also to get more reasons why he is moving what he is moving.

**MR. KITARIKO:** Madam Chairperson, I moved on the first day that the Authority should be deleted because those were not good reasons for creating it and it was carried.

**THE DEPUTY CHAIRMAN:** So that means you are withdrawing your motion?

**MR. KITARIKO:** No, Madam Chairperson. It is a procedural point Madam Chairperson. We moved in this room and agreed that the Public Service Authority should be deleted. So it is no longer relating to it. And I am saying that even the Public Service Commission has no capacity to carry out that function.

**DR. BYARUHANGA:** Thank you Madam chairperson. Last Friday, I raised an issue here. I was hoping that Members would take it up but unfortunately it was never taken up on that day. I observed that the Public Service Commission we are creating in this draft constitution - and actually we have already created it because since we have already accepted (b) and since we have already accepted (b), we have said that we are going to have an executive Public Service Commission which is totally different from the Commissions we have had in the past, because the Commission in the 1967 Constitution was an advisory Commission. In Article 101 of the 1967 Constitution, it is clearly put that the only job

of the Public Service Commission would be to advise the President in the execution of his powers to appoint, promote and bla, bla, bla. But now we have said that this Commission is going to appoint, it is going to promote, it is going to discipline. So this is an executive Commission which will have a technical arm, which will have other servicing ones. Therefore, I was even thinking that probably when it gets implemented, we may be able to do away with the Ministry of Public Service. According to this draft because I have been looking at it. We may be able to get rid of the Ministry of Public Service. In fact last week, I was telling my colleague here Hon. Byarugaba that I thought the personnel officers in Ministries would henceforth become employees of the Public Service Commission. That is what we are creating. Now if we are going to - that is what I wanted to know from Hon. Kitariko. If we are giving in (b) and then taking away in (c), we are not solving any problem. Do we want an executive Public Service Commission? If we want an executive Public Service Commission, then (b) and (c) are relevant. If we want an advisory Public Service Commission, then let us fall back to the 1967 way of doing things. That is what I had wanted to come out clearly last week but unfortunately the Members never took it up.

**MR. KITARIKO:** Madam Chairperson, currently the Public Service Commission is executive from U8 to U2 and the President appoints the U1 positions. Now if the committee wants all the positions to be filled by the Public Service Commission, it should say so. That would be the only difference that it should be executive in terms of appointing the whole staff from U8 to U1. So the only thing we would be seeking is that where the President has been appointing Permanent Secretaries, Under Secretaries, Chief Economists, that would go to the Commission and it would be executive in that respect. So that would be the only difference not taking over the functions of the Ministry of Public Service.

**MR. MALINGA IGNATIUS (Usuk County):** Madam Chairperson, the reasons for seconding the motion are the same as for the Hon. mover of the motion. So I have nothing useful to add. Thank, you.

**THE DEPUTY CHAIRMAN:** Okay, now I put the question on Hon. Kitariko's motion that we delete (c)

*(Question put and negatived).*

**THE DEPUTY CHAIRMAN:** So we assume that (c) remains. Now Hon. Rhoda Kalema, you can come in.

**MRS. RHODA KALEMA:** Thank you Madam Chairperson. Madam Chairperson, I would like to move an amendment, Article 193 Clause one immediately after paragraph three which we have just passed to add two new paragraphs (d) and (e). (d) would read: " *To guide and coordinate District Service Commissions and (e) to serve as an appellant body for aggrieved persons appointed by the District Service Commissions.*" Madam Chairperson this is very fair to give an opportunity to public officers and employees who will be appointed or who will apply to be appointed at the District Service level and to be considered for appointment and to be under the District Service Commission. The reason is, number one, most District Service Commissions lack experience. So the guidance will really be necessary. We all realise that the Public Service Commission will naturally have members who are with more experience and with higher education. They are definitely better equipped to know what is necessary when appointing public servants as at the district. There is also another problem. There is a problem of sectarianism or victimisation which cannot be so easy at the Public Service Commission level but it is very, very possible at the districts. Some of us have realised that it is already there. A number of district chairmen of the RC 5 have already victimised the workers in their districts. I have known of some RC 5 chairmen who have said to the heads of departments in their districts that unless you dance to our music, you will go and quite a number of officers who are not in favour of the DRC are already very much frightened and are being victimised. So there should be a body above the DRC.

**LT. COL. GUMA (Bukanga County):** Point of clarification. Madam Chairperson, I am not very sure. Is it procedurally correct to continue discussing a motion which has not been seconded?

**THE DEPUTY CHAIRMAN:** I thought you had this handout. It was seconded by Hon. Byaruhanga Fabius and Hon. Masalu Musene, and it was sponsored by four people.

**MRS. RHODA KALEMA:** I suppose I can go ahead?

**THE DEPUTY CHAIRMAN:** Please.

**MRS. RHODA KALEMA:** About the guidance. Guidance is necessary to see that justice and fairness is done to all the people who will be applying for jobs in the districts to work there so that they do not get victimised. And the need for co-ordination is also very obvious Madam Chairperson, because if the Public Service Commission as we know, is going to appoint officers of the highest ranks in the country and if the District Service Commissions do not know the criteria used and what the Public Service Commission is doing, they may want to take the powers of the Public Service Commission. So this will help to clarify and to demarcate the powers of the District Service Commission and those of the Public Service Commission. Powers shall be clearly steamed so that there is that coordination. And for (e), this is also another very important matter. Members who are appointed and those who are applying to be appointed often get a bad deal simply because people in the appointing authority or the supervising authority are not in favour of certain so and so because of petty reasons, because of reason one, two, three. It could be religious basis, it could be on tribal basis and altogether, the sectarianism is going to be with us in my opinion for a long time. So this will also help to safeguard and to protect all those people who will be applying for jobs. They should have a body where those at the district level can appeal and a few members of the Public Service Commission will not be able to know so and so all over the district personally. So they will be in a better position to protect those people who appeal to the Public Service Commission and this should be able to assist a lot and the District Service Commission should know that they are not the final body in this respect. So I believe complete independence of District Service Commission should be curtailed and supervised by the Public Service Commission.

I beg to move.

**MR. GASTON MALIRO (Mwenge North County):** Thank you Madam Chairperson. Madam Chairperson, I support this amendment wholeheartedly. Madam Chairperson, I think you will allow me to take delegates a bit ahead. I belong to committee four and we have dealt with the District Service Commission. The District Service Commission, the way it is established, is independent. It is independent in all its activities. It is independent in the way it appoints, in the way it disciplines, in the way it disappoints all the public workers in the district.

Madam Chairperson, when you observe carefully the functions conferred on the District Service Commission, are similar and parallel to those conferred on the Public Service Commission. Now, the problem comes that there is no linkage completely between the Public Service Commission at the national level and the District Service Commission. When you look at Article 255, it was perceived that there is need there to do some linkage between the two. In 244 number four, it says, rather, it requires that removal of members of the District Service Commission should be made by the District Executive Committee in consultation with the Public Service Commission. To me, I think, that was a recognition of the supremacy of the higher level of the Public Service Commission. Now, what are the objectives of this amendment which we are putting across? We are trying to create a relationship between the District Service Commission and the Public Service Commission. We are not at all trying to take away or to derogate the independence of the District Service Commission. All we are saying is that the District Service Commission should be only guided. What do we mean by this guidance? We are trying to say there should be some regulations which are similar throughout the country which we are saying could be in form of standing orders which are similar and which are followed by District Service Commissions in the whole country for the purposes of uniformity. Also we are trying to have checks and balances Madam Chairperson. Remember where the President is appointing authority, we have said that the President will appoint either in consultation with Public Service Commission and with the approval of Parliament. But when you go to the District Service Commission, it has got a free hand to do everything. So there are no checks and balances. Madam Chairperson, we are trying also to establish uniform standards. It is our wish that the standards on which a public servant is appointed in one district should be the same as to what another district also is following. For that purpose, there must be a body which is disseminating those standards to all districts otherwise you would find maybe a person of lower calibre heading a department in one district and another district having another one of a higher level. Madam Chairperson, we are also trying to get a change. I think it is not ideally good to have the Public Service Commission different completely from District Service Commission. Because we feel a public servant at district level at one time should be able to work in another district, at the same time, he should be able to be promoted and work in other

levels in central government. So if there is complete lack of linkage between the two, then that chance may be lost and a person who has been removed from his work just out of grudge may fail to get where to be appointed again. Therefore, Madam Chairperson, we are trying to afford public servants an administrative channel for technical redress rather than illegal or political embarrassment. Paragraph (e) where we are saying we would like to have the Public Service Commission work as an appellate body, we are trying to say, should there be foul play at the district, what happens to this public servant? Should he go to court and accuse this District Service Commission? Should he go to the politicians and cause political turmoil in the district? We are saying departmentally, or at least administratively, it would be better to have a higher body which can be used as an appellate body. Madam Chairperson, I would like to appeal to Hon. Delegates to support this amendment with undue debate because it is for the good of the Public Service and it is good for the workers in general. I thank you Madam Chairperson.

**MR. DEO RWABIITA (Ibanda South County):** Thank you very much Madam Chairperson. Madam Chairperson, I stand to support the amendment because when we were in committee one, we had already supported these two clauses. Madam Chairperson, decentralisation is a good policy but definitely it needs checks and balances from either Central Government or from a central body, because what we have realised already is that at the district level, people tend to be too independent. They think what they do is final and to me, this is very unfortunate for the country. There must be some checks otherwise the civil servants at the district level can be very frustrated if they cannot appeal to anybody else. What will happen is that the District Resistance Councils will say, we are your boss and fullstop. Now, this will be very unfortunate because you will get a very good public officer, let me say he is in Kotido and he would like to be transferred to Masaka or Kampala for higher qualifications. But because his or her bosses say we are the final people, you cannot say anything unless we give you an okay. Then this person will be frustrated and he will never progress. But when there is an appellate body like this one, then that person can always appeal to Public Service Commission and get these problems redressed. So that is one of the rationale that we support this amendment. Now, the question of coordination and guidance at the district level is also

important. With decentralisation, we are getting young bodies all over the districts. They do not have experience as to how to handle personnel matters with Public Service. So it is important that at district levels, they refer back to Public Service Commission to find out how they approach to personnel affairs. Problems of discipline, problems of salaries and what have you so that the administration seems to be uniform in the whole country rather than having one district having its own terms of reference and terms of employment while another one has its own. So if there is coordination between the Public Service and District Service Commissions, then we shall have a unified and both horizontal and vertical proper management of the personnel. Thank you very much Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Can we have anybody on the opposition?

**MR. LUBULWA MIGADDE (Katikamu South County):** Thank you Madam Chairperson. I stand to oppose this motion. Madam Chairperson, the whole purpose really of decentralisation is to give power to the people at the grassroots. Now you have already heard down in the field people who oppose decentralisation and they say that with decentralisation, they give you with one hand and take away with the other. Now if that is true and we have already created these District Service Commissions to handle personnel in their districts, and if we are trying to say that they must be coordinated by the Public Service Commission, to me it means that we are really giving them with one hand and then take away with the other. The reasons given that at the moment the district service commissions do not have the experience is not very valid as far as I am concerned because we are trying to make this constitution for posterity. It is not only for one year. If at the moment these District Service Commissions do not have the experience required. With time, give it one year, two years and so on, they will acquire this experience. Madam Chairperson I personally believe that when we create this appellate body, it will create frictions between the districts and the public Service Commission. And I think even we are trying to create an unruly civil servant at the district because they will not be able to listen to the immediate body because they have that leeway of trying to appeal to the Public Service Commission.

**MR. WANENDEYA WILLIAM (Budadiri East County):** Point of clarification. Thank you very much Madam Chairperson. Madam Chairperson, I

would like Hon. Migadde to clarify to me as to why Uganda is a member of the United Nations. And not only that but there is the International Court of Justice and when we became independent, Uganda is a signatory and a member and can appeal to the International Court of Justice. So could Hon. Migadde clarify why we are members of the International Court of Appeal and especially couldn't members of the District Councils also appeal to it when it comes to Public Service Commission. I thank you Madam Chairperson.

**MR. LUBULWA MIGADDE:** Thank you Madam Chairperson. I will not be able to clarify this one because to me, I do not see the relevance. As far as I am concerned, I do not see the relevance. So maybe somebody else could clarify him. But the point I am making here is that why are we making the Public Service Commission in the first place if we know that they are not experienced, if we know that they are inefficient? If we are convinced that they are not going to perform -

**MRS. RHODA KALEMA:** Point of clarification. Madam Chairperson, I would like to clarify to the Hon. Member on the Floor that when I said the Public Service Commission is of a higher education and more experienced, that is correct. I did not say that the District Service Commission members do not have experience at all or are not educated at all. The fact, is the reason he is giving is that the article is giving the District Service Commission authority with one hand and taking it away with the other. This is also not correct because what is needed is to see that members who apply for jobs are fairly treated. I will give an example Madam Chairperson of the problems Kiboga has been going through during the last several months. We had a DMO in Kiboga who was appointed by Public Service Commission as a Medical Officer but appointed as DMO by the Director of Medical Services. Now in the on-going decentralisation process, all the district heads of department are under the DRC. Now this DMO refused to leave the house when he came here as a Constituent Delegate for a certain constituency away from Kiboga and he refused to leave the House. Now when a new DMO was appointed there, he did not have where to stay and this original DMO or former DMO refused to leave the house. Now when the people complained and DMO's services were lacking in the district, the Director of Medical Services wrote to the CAD here in this House to leave or be transferred and he refused to go because he saw on his letter that DES of Kiboga had not got a copy. It

was until the DES was given a copy at the end of last week that the former DMO realised that he could not run away from the issue anymore and he was summoned to go to Kiboga and I think at the moment he is packing to leave the house today. That is why he is not here. *(Laughter)*. So this is the kind of coordination which should exist so that the District Service Commission has got its powers. I am not saying that District Service Commission is always inferior but it should have its powers quite clear and then the Public Service Commission should have its powers also quite clear. The original letter was copied to Head of Civil Service and not to the DES and this made the Hon. DMO, a CAD of this house to ignore the letter from the Director of Medical Services. This is the kind of example I am glad to give to this House. Thank you.

**MR. LUBULWA MIGADDE:** Thank you Hon. Rhoda Kalema for the clarification but really it was more of a contribution and I think enriching the reasons we gave for this motion. But the point Madam Chairperson I wanted to stress here is that when we are trying to decentralise actually, we should decentralise fully. We should appear to be giving power down to the people at the grassroots and those people standard-wise, even the experience, they are not very much different from the Public Service Commission. Madam Chairperson, we have just recently thrown away the proposed Public Service Authority at the central level. I see no reason why we should try to introduce another authority at the district level because really what it is tantamount to is that, at the district levels, those people are not going to be independent. They must always depend on the directives of the centre. I think that one to me is not acceptable. I therefore oppose this motion. Thank you Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Hon. Delegates, we spent the whole of Friday afternoon on this issue. This one as it is brought in is just separated from (b). I propose that honestly - yes, there was a lot of reasoning on Friday and we now to waste the whole of today. I want to put the question. We debated this for a whole day and this one, everybody is clear of what is required, very straight forward. So I want to put the question and that Hon. Kalema and the others want to introduce a (d) and (e) and have talked about it and those who do not support it have also talked about it.

*(Question on the motion put and agreed to).*

**THE DEPUTY CHAIRMAN:** So (a) was passed through, (b), (c) and (d) and (e) and so we are remaining with (d) which now is going to be (e) and according to the report, it seems that one (d) is not changed. So if it is not changed, I want to put the question on 193 that it does stand part of this Constitution as amended.

*(Question put and agreed to)*

**THE DEPUTY CHAIRMAN:** So we have article 193 (2).

**MR. ONGARIA:** Thank you Madam Chairperson. I thought I should draw your attention to - I think the question should have been put on only section one.

**THE DEPUTY CHAIRMAN:** I said 193 (1). Now we are going on (2). Sorry if I missed that one, it is 193 (1)(a), (b),(c), (d) and (e) and then (d) becomes (f). That is where I stopped. So we are going now to 193 (2) and I was calling upon Hon. Ongaria who has an amendment. Did he change places? No, he is not around. Anybody who is in favour of this motion and who can move it? Hon. Ongaria is not around and it seems his motion is not seconded.

**MR. WANENDEYA:** Thank you very much Madam Chairperson. Madam Chairperson, you find that Hon. Ongaria's motion seems similar to Hon. Rhoda Kalema's which we have just had, which is in effect saying that to guide and advise District Service Commissions. Therefore, this motion should be redundant Madam Chairperson.

**THE DEPUTY CHAIRMAN:** So we ignore that motion because it has not been moved?

**MR. WANENDEYA:** No, it is not a question of ignoring but Hon. Kalema's motion is similar to this.

**THE DEPUTY CHAIRMAN:** What Hon. Ongaria was saying is we remove the word 'except' that it shall take into account government policy relating to Public Service. He wanted to move that one.

**MR. WANENDEYA:** I am sorry Madam. Then that should not be applicable. Thank you.

**THE DEPUTY CHAIRMAN:** He was saying that we delete the word from *except* to the end of the paragraph.

**MR. BAGEYA PATRICK (Kigulu North County):** Thank you Madam Chairperson. The way I look at clause two since even the mover is not around, I see it perfectly in order. And I propose that we go, we adopt what is set in the draft as clause 2 as it appears in the draft and I suggest that you put the question Madam Chairperson.

**THE DEPUTY CHAIRMAN:** There is a proposal that 2 stands as in the draft, the original draft.

*(Question put and agreed to).*

**THE DEPUTY CHAIRMAN:** And according to the report, three and four are not changed unless there is a contrary view. So if that is the case, then I will put the question on the whole of 193 that as amended, Article 193 do stand part of this constitution.

*(Question put and agreed to).*

**THE DEPUTY CHAIRMAN:** So it is so decided 193 is part of this constitution. Then we go to 194. Has this one not fallen by the way side? If that is the case, then look at 194 (1) as originally in the draft.

**AN HON. DELEGATE:** Thank you very much Madam Chairperson. I recall that we have sent in an amendment which is connected with article 194 (1). It is circulated.

**THE DEPUTY CHAIRMAN:** I have not received it.

**AN HON. DELEGATE:** I think all the Members have. Secondly Madam Chairperson, this is also contained in the report although it was thrown out. I recall asking the chairman and he assured me that we can recall that from the committee reports on Teaching service Commission. This was passed by committee one and I thought it would be proper for me to put it out now.

**THE DEPUTY CHAIRMAN:** Can you repeat so that I make my reference?

**AN HON. DELEGATE:** Yes, page 15 of the committee report and on my amendment.

**THE DEPUTY CHAIRMAN:** Okay, to delete the word *teaching* and you replace it with *education*?

**AN HON. DELEGATE:** That is right.

**THE DEPUTY CHAIRMAN:** Oh! sorry, I had not seen it. Somebody is complaining of a procedural problem.

**MR. BAGEYA:** Madam Chairperson, I am rising on a point of procedure. As far as this House is concerned, we have thrown out the report of committee one. And, is it procedurally right to refer to it now?

**THE DEPUTY CHAIRMAN:** No, we have not. I have seen my paper. You are trying to remind me of what was said.

**MR. JACK SABIITI (Rukiga):** Thank you very much Madam Chairperson. My understanding is that Article 191 which created authority was thrown out. But the contents of the committee's report as far as I am concerned, should in most respect guide the Assembly. For example, Madam Chairperson, I have seen in 193(c) Hon. Kitariko came out with a very beautiful amendment and the committee had also recommended that this one be deleted because really this one is a function of the Ministry of Public Service. Now this particular section has not been given thorough analysis by Members. The committee has done it.

**THE DEPUTY CHAIRMAN:** Hon. Sabiiti, we have a reconsideration stage. We are not going backwards. What we are saying, the motion is on the Floor. They have extracted it out. So they are not referring to the report.

**MR. SABIITI:** My request is that when we are discussing this chapter, we should make reference to committee's work. So Bageya is really out of order.

**THE DEPUTY CHAIRMAN:** No, he is not. That was his view.

**MR. ETUKUENYOK (Moroto County):** Thank you very much Madam Chairperson. Madam Chairperson, I beg to move that the word *teaching* in Article 194 Clause one be deleted and substituted with *education*. I beg to move. Madam Chairperson, the word *teaching* and *education* have significant difference. While *teaching* refers to a process of knowledge or passing knowledge to others, *education* refers to experience we acquire from birth to death. Nyerere defines it as accumulated experience

for self-reliance. Politically it is accumulated experience in the transformation of society. Therefore, teaching is just a subset of a process in education. Teaching Service Madam Chairperson, therefore, limits the function to classroom teachers. It tends to discriminate between educational administrators and the teachers. The effect of this discrimination is noted in the way teachers who join educational administration are interviewed and recruited under Public Service Commission and yet they are promoted teachers under the Teaching Service Commission. Madam Chairperson, it should also be noted here that the highest post a teacher may be elevated to under this arrangement is the chief education officer or currently the commissioner of education. To think of getting that post you have to wait for dismissal or death in order to succeed. This in my view Madam Chairperson is very unfair to the teaching profession. Why should teachers be denied the opportunity to become under-secretaries or permanent secretaries under the same Public Service Commission which is responsible for this? Further to this Madam Chairperson, is the fact that most educational administrators are sometimes rarely elevated in rank. For example, one has to work as an assistant education officer until maybe a long time and he gets to an education officer. While the administrative assistants who qualify maybe have the same qualification would be promoted from assistant secretary to senior assistant secretary, principle assistant secretary, under-secretary, even to permanent secretary. Mr. Chairman, Teaching Service Commission I want to qualify, was established in 1967 constitution under article 102 as an advisory body to the President just as Hon. Byaruhanga said with the Public Service Commission. But in Odoki's Commission under recommendation 16.16, 66 page 426, they provided for more power by stating one, that the teaching service commission should perform similar functions to those of Public Service Commission and should be subject to composition, requirement similar to those of the Public Service Commission. Two, that the Teaching Service Commission should have executive powers not only advisory as it was in the 1967 Constitution. Madam Chairperson, my reasons for of seeking to have the teaching service become education service is constituted and written in the government White Paper on recommendation 198 page 197 under strengthening of the existing autonomous education bodies. It comes clearly and says the existing teaching service commission should be converted into education service commission. Its

statutory functions should be reviewed to include recruitment, registration and promotion of teachers and other educational administrators, formulation of terms and condition of services and the code of conduct for them. Madam Chairperson, if both Commissions, the Public Service and the Teaching Service are to perform similar functions which embraces educational administrators as recommended above. Then I see no obstacle in us putting or transferring the Teaching Service Commission to be Education Service Commission because there will be no contradiction in even transferring the education administrators under the Public Service Commission to Education Service Commission.

**MR. MALIRO:** Point of clarification. Thank you, Madam Chairperson. Yesterday but one, I was informed that tertiary schools including Universities, do not fall under the Teaching Service Commission. What I am trying to get clarified from the Hon. Speaker holding the Floor, after adopting the Education Service Commission, we used to be automatic that now, these Tertiary schools will fall under this Service Commission.

**MR. ONYOK-ETUKU:** Madam Chairperson, I think that will have to be decided on, but otherwise, these Tertiary institutions all fall under the Teaching Service Commission by now. But if you talk about Universities, those are administered under Statutory instrument which is passed by Parliament. Madam Chairman, *-(Interruption)-*

**MR. KARUHANGA:** Thank you Madam Chairperson. I have been following the Hon. Member very carefully and I would like him to hear me so that he can clarify, but he is not attending. Thank you. I wanted the Hon. Member to help me, because I think he is making a very good point, so that I can be able to decide whether I can support the case or not. I want to know whether his move is not going to dilute the service of teachers to our country, by mixing them with cooks and people who are - the bursars, the people who are servicing the compound, school gardens, by mixing all these people, are we not likely to loose attention to the main crux of our work which is to make sure that the teachers are saved, and are encouraged and serviced? So, if he can help me with that, I think the rest of the valid move ...

**THE DEPUTY CHAIRMAN:** Hon. Ogwel are you responding to Hon. Karuhanga. Hon. Loote, are you allowing him?

**MR. OGWEL LOOTE (Moroto Municipality):** Madam Chairperson, I would like to give the clarifications. Now, when we are moving this amendment, we are actually trying to bring the concept which is already developed in Education Review Commission, which is currently practiced in the service. Like Principal teacher, like educational assistant or those teachers who are trained as Grade III and those who are Assistant Education Officer, those ones who are already Grade V. So, in other words, the concept is already developed, it is in the Education Review Commission which is already represented in the NRC.

So, we would like this concept also to be a part of our Constitution and what Hon. Karuhanga has said, it does not interfere with the principle. These others serve like the bursars, have been called, non-teaching staff in the auxiliary staff in the performance of their duties. And also what somebody said, higher institutions like Tertiary are not included in the Teaching Service, they are included, they are under - they have been under the Teaching Service. So, they fall on this. So, that is why now we want to broaden a concept to cover all the aspects where the education is concerned. Thank you Madam Chairperson.

**MR. BASALIZA HENRY (Fort Portal Municipality):** Thank you very much, Madam Chairperson. I would like to inform Hon. Karumanga that the bursars - by recognising the bursars under the Education Service Commission, will not dilute the Teaching Service Commission at all, or the teachers work. Instead, it will strengthen the Teaching Service Commission because, Madam Chairperson, the bursars play a big role in, the administration of schools. In fact, they are closer to the Headmaster or headmasters than the teachers are. So, if we recognise them under the Education Service Commission, then it will enhance our educational systems in the country. Thank you very much, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Hon. Etuku, they were clarifying you. Are you...

**MR ONYOK-ETUKU:** Thank you very much, Madam Chairman. I would like to thank all those who have assisted in clarifying. Mr. Chairman, there is one other point which I wanted to put across, which sometimes has forced us or inclined to these amendments. Now, when we see the provision which is already stated in the White Paper, there is another

provision, No.551 which states that, with the conversion of Teaching Service Commission into Education Service Commission, home education administrators, either appointed or hither to appointed, promoted or retired by the Public Service Commission, will be placed under the Education Service Commission. Their service records will be transferred to these resigned authority. Madam Chairperson, this elevation will help us to put right the current problems, say, for example, inconsistency in payment of salaries, of teachers, and education administrators. Many teachers tend to turn round and blame the Education Administrators as having delayed to pay their salaries and yet if you follow, you will find that the Education Administrators are paid directly by the Public Service Commission, while the teachers are followed under the Teaching Service Commission. This unfairness could be put right if both the Administrators and the teachers are put under the same body.

Madam Chairperson, I call upon Hon. delegates to support this proposed Education Service Commission, because it will streamline the procedures of recruitment, appointments, promotions, remuneration and discipline of all teachers and Administrative staff. I beg to move.

**MR. KARUSOKE CONSTANTINE (Ntoroko County):** Thank you, Madam Chairperson. Madam Chairperson, I beg to support the amendment which seeks to unify the traditional unified Teaching service with those education administrators who have been falling under the Public Service Commission in the past.

Madam Chairperson, under the unified Teaching Service, there are the following categories of people. There are what we call the classroom teachers, who are categorised as teachers, senior teachers, principal teachers, etcetera. Then, among those, there are also head of specialised units or sections like, the heads of subjects, head of games, or Choir Master and so on and other heads of sections. Then, we have the headmasters and Deputies, and then the Principals of Colleges and Directors of National Teachers Colleges and so on. Then, we also used to have Education Officers and Inspectors of Schools, who used to be recruited and employed by the Public Service Commission.

In the Education White Paper, Parliament has passed that all these people should now belong to one body,

the Teaching Service Commission and if you bring Education Officers who are not classroom teachers and Inspectors of schools and you group them under Teaching Service, then you are missing the point. So, the need for this change of name from Teaching Service Commission to Education Service Commission, because the Commission will not be dealing deal with teachers alone, but it also deals with education administrators. There are also categories of people who will fall under this Commission, who will not be teachers and these are what we call, the supporting staff or the non-teaching staff. Under these, there are bursars, who look after the funds of institutions, they are the Clerks, and Secretaries, they are the laboratory technicians, those in charge of mathematics, in charge of Chemistry and laboratories, in charge of physics and biology and so on. They are the carpenters and the librarians, the masons, the drivers, the caterers, the matrons, the nurses. All these, are not teachers but they are under the - the fall under the Education Service Commission. So, to call this body a Teaching Service Commission would be wrong. Therefore, there is every reason, Madam Chairperson to change the name from Teaching Service Commission to Education Service Commission. I beg to support, Madam Chairperson. Thank you.

**THE DEPUTY CHAIRMAN:** Are you opposing it Hon. Kalikwani? If you are not, then we better - Hon. Bidandi Ssali.

**MR. BIDANDI SSALI (Nakawa Division):** Madam Chairperson, I am not opposing, but I just want to clear my head a bit, if only the mover could clarify to me. Some of us are debating this in context of the present set-up and others are also quoting the White Paper. We seem also to be forgetting the other aspect which we have endorsed and that is, the decentralisation, where we have said, all the staff in the districts will be under the District Council. Now, I just want to be clarified, when somebody says, supporting staff, including matrons, masons and so on and so forth, non-teaching staff in the district, will have their allegiance derived from a unified centre somewhere. I would like to be clarified whether we have a similar body setup at the District level to be in charge of all this, distinct from the district Service Committee, but only following guidelines. Madam Chairperson, I am worried because if you talk of unified Teaching service and not from the policy point of view, but also the implementation point of view, the execution point of view, then, we are likely

to or at least in my head, I am not very, very, clear whether this tallies in well with the decentralisation policy we have endorsed in this Hall. I just want a clarification, somebody to clear my head.

**THE DEPUTY CHAIRMAN:** Hon. Karusoke was on the Floor.

**MR. KARUSOKE:** Madam Chairperson, I want to say straight away that the Hon. member should not worry really about this set-up vis-avis decentralisation. Because although we have not gone through the whole report here, I am sure somewhere in the report, they must have made provisions. So that, every district has this kind of body. Much as every district is going to have a Public Service Commission, because right now, - *(interruption)*

**MR. AMANYA MUSHEGA (Igara East County):** Point of information. Thank you Madam Chairperson. I just wanted to give the information even under the decentralisation Statute. There are education functions which have decentralised to the districts: That is, Primary education and Primary teachers and the other functions of education, secondary schools and tertiary institutions which are still under the control of the Central Government, under the existing law. Then, currently, we have the Teaching Service Commission and District Teaching Service Committee, which at the moment, are seconded by the district but appointed by the Minister on the recommendation of the Teaching Service Commission and they perform all those duties decentralised to the district. But the other assistance we could give, if it is worth the salt, is that I think the content here, is much more critical than the form. If we change the Teaching Service Commission to the Education Service Commission and full stop, we will not have done much, we may even bring more confusion. What needs to be done, according to what Prof. Kajubi then, now Hon. Member of this august House and a strong supporter of federalism not decentralisation, what he recommended then, was, to bring District Education officers and District Inspector of Schools under the Teaching Service Commission. Because the problem is, if somebody is a teacher and he is appointed Inspector of schools, he changes employers from the Teaching Service to Public Service. If tomorrow, he fails to be a good performer as an inspector, but he was a good teacher, to cross back, he has to sit another interview and we are saying it would be simpler if all these servants of education were brought under the authority. So that

they could interchange their programme. And the final one, is that actually under those recommendations and currently administratively, the teachers are being given promotional ladders, like professors at the University, so that you can rise in rank from a teacher, to a senior teacher, principal teacher there are terminologies they are working out. You do not have to cross over to be an Under Secretary when you are well looked after as a senior lecturer at the University. I thought those would assist us. So, to me, the content, the functions of the Teaching Service Commission should be paid more attention than the title. I have no problem with the title, but if the content is not attended to, then, we may have a good title, but then, the content is exactly the same and there is no problem whether decentralisation - because there are functions carried out under the district and supervised by the District Education Teaching Service Committee. And then also the function is carried out at the centre and looked after by the current Teaching Service Commission which we want to baptise the Education Service Commission. There is no conflict in decentralisation and this can be made in the Constitution. But finally, this is one of the problems of the constitution trying to be overloaded with too many things. Thank you.

**THE DEPUTY CHAIRMAN:** Okay, now we have been clarified, Hon. Bidandi Ssali. The Motion is that, instead of having a Teaching Service Commission, we have an Education Service Commission.

*(Question put and agreed to).*

**THE DEPUTY CHAIRMAN:** So, that means, whenever the word Teaching Service appears automatically it should be Education. 194 (ii), I think also that one, the amendment falls by the way side, so we go back to the original (ii) in the Draft and there does not seem to be any amendment as we have changed the word *education*. We are on 194 (ii), there was an amendment by Hon. Adoko Nekyon and Byaruhanga they have said, that one had fallen by the way side, and there was not other amendment on (ii). The same applies to (iii), but (iv) is the same, just - the Motion was to change the word *teaching* to *education*, by Hon. Basaliza then, (v), Hon. Mulassanyi. Is he around? 194 (v), Hon. Mulassanyi has an amendment.

**MR. MULASSANYI:** Thank you Madam Chairperson. I wish to move, Madam Chairperson, that we delete Clause 5 and insert the following: "A

*person holding any of the following offices shall relinquish his or her position in that office on appointment as a member of the Commission if he or she is:-*

*A) a member of Parliament*

*B) a member of the executive of a political party*

*C) a member of any board or any other authority responsible for the management of any school or college or;*

*D) a public officer.*

**THE DEPUTY CHAIRMAN:** And there seem not to be any contradiction. Actually, this is similar to what we passed in 192 (v), in terms of language.

*(Question put and agreed to).*

**THE DEPUTY CHAIRMAN:** So, (v) is amended as per Hon. Mulassanyi's formulation. (vi), I can see - Hon. Ongaria Stephen has something on 194 (vi).

**AN HON. DELEGATE:** Thank you Madam Chair. Sorry to say, Hon. Ongaria went for a burial. He lost a brother yesterday.

**DR. BYARUHANGA:** Thank you Madam Chairperson. Some members had a similar amendment for the Public Service Commission. When it was explained to them that the arrangement in the Draft is better for continuity purposes, they abandoned the - *(interruption)* -

**THE DEPUTY CHAIRMAN:** But that is 192 (vi).

**DR. BYARUHANGA:** So, I do not see why - I do not think this is *(interruption)*

**THE DEPUTY CHAIRMAN:** And 192 (vi) was retained.

**DR. BYARUHANGA:** It was retained?

**THE DEPUTY CHAIRMAN:** As in the Draft.

**DR. BYARUHANGA:** As in the Draft?

**THE DEPUTY CHAIRMAN:** Yes.

**DR. BYARUHANGA:** And we also need to retain it here in order to have a similar approach to the two commissions which are similar although they are doing different jobs.

**THE DEPUTY CHAIRMAN:** Hon. delegates, with that explanation, I do not think Hon. Ongaria will take offence. So, we are saying that (vi) can remain unchanged in the original draft and that is all for 194, because I do not see any 7, it is not changed, 8 is not changed, and 9 is not changed.

**MR. MALIRO:** Madam Chairperson, I would like to move an amendment on the Floor on Clause 9, to delete the words starting with *approval of the national Council of state* and stop at the word *President*. I beg to move, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Is that seconded? Who is seconding that Motion. It is seconded.

**MR. MALIRO:** Madam Chairperson, I have simple reason and I think we have talked about it in this House before, that if we subject a removal of an officer to discussion, either by Parliament or by National Council of State, if it was there, then, it is likely to cause conflicts between the officer who is being removed and the person who is removing him. And should there be, by any bad chance, the Parliament refusing to accept the removal of that person, the working relationship between the two will be severed and once there is poor working relationship between the two officers, that is the executive and the person who is intended to be removed, then the service will also be negatively hindered. It is for that reason, Madam Chairperson that I would wish that since appointment is already scrutinised by Parliament and the people who are employed are expected to be good, but now, the executive see that the person who was recruited is no longer living to his or her expectation, this person should be removed without further discussion. I do not think I should talk much about that, and I think Madam Chairperson, we nearly agreed sometime, that whenever there is removal with approval of Parliament, we should not be removing this phrase by approval of Parliament. I beg to move, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** So, Hon. Maliro, is moving that move, we stop at President and it was seconded by Hon. Kaheebwa.

*(Question put and agreed to).*

**THE DEPUTY CHAIRMAN:** That means we can clear up 194. So, now, we can put the question on 194 as amended, that it does stand part of this Constitution.

*(Question put and agreed to).*

**THE DEPUTY CHAIRMAN:** So, 194 as amended stands part of the Constitution. Now, we go to 195. According to the report, Hon. Nekyon and Hon. Byarugaba had moved a Motion which has also fallen by the way side. So, we go to the original Draft, to change *teaching to education*.

**MR. KARUSOKE:** Madam Chairman, I beg to move an amendment to delete 195 (iii) and substitute it with a new paragraph to read as follows: "*There shall be a Deputy Education Committee.*"

**THE DEPUTY CHAIRMAN:** Wait, we have to agree on 195 (i) let us go systematically.

**MR. ETUKU:** Madam Chairperson, I beg to give an insertion at the beginning of 195 (i). Although it says, subject to provision, this Constitution the Teaching Service Commission stands as the Education Service Madam Chairperson, I had wanted an insertion before we discuss the functions of the Education Service Commission. To begin as follows, to say: "*For avoidance of doubt, education service referred to in this Article will include both education administrators and teaching staff.*" and then we go to functions, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Is that seconded? Somebody, who was referring us to Article 200? Hon. Etuku, are you comfortable?

**MR. ETUKU:** Well, if it is consensus that we put it under Article 200, I do not have the objection, but I felt that this one should have been right from the beginning to say: "*Subject to the provision of this Constitution, the Education Service Commissioner,*" this Article refers to, both administrators and teaching staff. If it is interpretations, accepted by the House, I have no objection in putting it in 200.

**MR. BIDANDI SSALI:** Madam Chairperson, 195 (i), I am still expressing the same problem, hazy in mind and I am really appealing to the members to really think very seriously about this, because we are saying that this Commission shall have power to appoint to hold or act in any office, the Teaching service, including the power to confirm such appointment and so on and so forth. And by this decentralisation, more than 90 per cent of these costs and so on, are within the district and somewhere we have said all civil servants under a district, are under

a District Council. Really, my mind is not at rest at all when you are saying that this actually formed commission will be responsible for the appointment of staff in the teaching service in every district. I need somebody to clear my head, on this, otherwise, it is going to confuse. On the one hand, we are saying, all the powers are decentralised, primary schools. As far as I am concerned, later secondary education, secondary schools, will be the responsibility of the district Council under their district Teaching Commission as I have been assured, they will be there. Now, and yet we are saying, that this central one will be responsible for the confirmation, for the appointment, the district one cannot even dismiss, discipline, I want a clarification, please.

**MR. KAVUMA STEVEN (Kyadondo South County):** Thank you very much, Madam Chairperson. Madam Chairperson, I have Bidandi Ssali, I also have in mind the- I listened to the arguments of Hon. Bidandi Ssali. I also have in mind the arguments put by Hon. Amanyanya Mushega, when we were considering the name and I think he hinted on a need to refine the functions, the contents, rather than dealing with the form. I heard that the Committee had also looked at this area, although its report was eventually postponed. Now, Madam Chairperson, I am wondering whether it may be safer at this juncture to refer this Article to the committee for harmonising all these views before we debate at the Plenary. I was persuaded by Hon. Bidandi Ssali's arguments. Here we are, decentralising, some of these functions are going and yet, we are improvising in the Constitution, which is the supreme law of and above all other laws that some of these things will be carried out, centrally without any exception. I think Madam Chairperson, we could skip this provision for the time being, let it go back to the committee to harmonise the provision relating to our policies, and then we come back and usefully consider them. I want to propose that, Madam Chairperson.

**DR. CHEBROT STEVEN (Tingey County):** Point of information. Thank you Madam Chairperson. I think the point which has been raised by Hon. Bidandi Ssali is very pertinent, especially as far as decentralisation policies are concerned. The amendment which is being moved by the Hon. Member, seeks actually to usurp all the powers from the district and create a body within the centre itself, and yet this is, we have in the past, dissolved to support decentralisation. So, if you put in articles here, which will now usurp the powers from he

districts, you are even creating more problems. So, I do support the proposal by Hon. Steven Kavuma, that these proposed amendments which seem to conflict with those ones we have already passed, need to be harmonised by the Legal Committee, then advise us before we move forward. Thank you, Madam Chairman.

**MR. AMANYA MUSHEGA** Thank you, Madam Chairperson. I am also supporting the Motion by Hon. Kavuma, because there is some mixing up here. The mission of the original movers, the whole statement was wrong. It is only simple to bring the education administrators and teachers under the same umbrella, whether it is at the district level or the central level. For example the Commissioners, Assistant Commissioners, Inspectors of Schools, even at the Ministry Headquarters, are appointed by the Public Service Commission, yet on a day-today, management of education, they deal with the Teaching Service Commission. Similarly, it is the same at the district.

So, I think this amendment needs to be harmonised so that, while we decentralise, at the same time, also even at the district, the people managing people involved in the management of education should be under the same umbrella. There will not be a no conflict in that. That is why we need really for the committee to go back and look at it - look at those various reports being quoted and various Acts of Parliament and then come out with a harmonised position.

i) of bringing teachers and education administrators under the same umbrella, those at the centre, as well at the district where the power would have been decentralised.

To proceed with further amendment, under 195 really would be to do a job in hurry and to do it poorly. Thank you.

**LT. COL. KIIZA BESIGYE (NRA Delegate):** Madam Chairman, I was all along under the impression that the opening statement of saying that *subject to the provisions of this Constitution*, would grant an inherent coordination, cross reference to other provisions which relate to decentralisation, like we did for Public Service. Because the one under Public Service was also saying that, *subject to the provisions of this Constitution*. I thought that, that would automatically be synchronised with the provisions of

225, because 225 also says: "Subject to the provisions of this Constitution, the power to appoint persons to hold or act in any office in the service of a district, including the power to confirm..." and so on and so forth, is vested in the district service committee. So, I thought that, that subject to the provisions of this Constitution under the Public Service Commission, under the Teaching Service Commission, was to create an avenue for synchronising with 225 which creates a decentralised power for the District Service Commission.

**MR. ISOKE BAGUMA (Buyanja County):** Madam Chairperson, notwithstanding the plenary decision on our report. Select Committee One took off time to harmonise the powers to give a district Service Committee pending the decisions later on to be taken by the committee handling the Chapter on Local Government. But we finished this Chapter before Committee 4 came up with what powers to vest in a local Government. We were of the view that we could sit together to synchronise our thinking about what powers to give Local Governments. Today, Madam Chairperson, we are discussing in another Chapter land, what power to give to a District Land Board vis-a-vis a Uganda Land Commission. Here again, we had to look around for a report from the committee handling Local Government, to look at the strength, to look at the powers, the functions of a Local Government, vis-a-vis a Government at the centre. With all this in mind, Madam Chairperson, I support the proposal by Hon. Steven Kavuma, Kyadondo, that rather than give this matter back to Committee 1. We constitute a Select Committee composed of members of committee 4, who handled Local Government, members of committee one which handled Public Service, the one handling land, and the Legal and Drafting Committee. So that we harmonise the powers given to Local Governments with respect to Public Service, Land, and other related functions.

**THE DEPUTY CHAIRMAN:** I think there is an agreement that we stand over Article 187. Others had proposed that we delete 2, 3, 4 and 5 so that we have a clean article. So, they are deferring the 185, the Committee dealing with Local Government, which worked on Public Service and then the Technical and Drafting Committee so that when we come to the ready - looked at by the Drafting and Technical Committee - given that ....

**AN HON. MEMBER:** Madam, Chairperson, sorry

to take you back, but if this Committee we are setting up, is to synchronise the powers at the centre and the Local Government. Then I think they need to look at the provisions of this Chapter and at the provisions of Local Government again, because 195, we are almost coming to the end of the Chapter. This is just a Teaching Service Commission, but it affects the Public Service Commission and all other powers within the Public Service as related to Local Government powers. So, I do not know whether they cannot look at the whole and come up with recommendations, even for aspects which we have already passed.

**DR. F. BYARUHANGA:** Point of information. The information I wanted to give is that incoming with the Rhoda Kalema amendment, that talked about the district Service Commission. We referred to the report of Committee 4 of Local Government. I believe that the two are in harmony in as far as the Public Service Commission is concerned. So, I believe that the two are in harmony in as far as the Public Service Commission concerned, but when it comes to the Teaching Service Commission, the Odoki Report had actually erred. Because in 225, they talk of all public officers in the district being under the District Service Commission. But in the same breath, in this 195, (iii), they talk of the Teaching Service Commission delegating its powers to the District Service Commission. Whereas the powers under this District Service Commission were totally decentralised by this Draft Constitution to the District Service Committee the powers of the Teaching Service Commission are only delegated, they are not being decentralised at all. So, there is an anomaly here, which was created by the Odoki report itself.

**THE DEPUTY CHAIRMAN:** Okay, but that does not remove our earlier agreement for the Hon. Kavuma, that at least, we deal with 195.

I wonder whether that one prejudices 196. There was a proposal in the - a new one 196, on a judicial service commission, I think that has fallen by the way side. The Motion which has been moved by Hon. Adoko Nekyon and Hon. Byaruhanga has fallen by the way side. So, we go back to the original 196, establishment of offices. Any problem with that one? There seem not to be any problem, should I put the question on 196, that 196 do stand part of this Constitution as was in the original report.

*(Question put and agreed to)*

**THE DEPUTY CHAIRMAN:** So, 196 do stand part of this Constitution. 197, I do not see any amendment in the report in 197, in the appointment of Public officers. It moves from page 89 up to the top of page 90. I do not hear any complaint. So, we have 197 (i), (a), (b) and (ii) and (iii) and I put the question on those.

**MR. OCHYENGH DAN (Kapelebyong County):** Madam Chairperson, I wanted to refer you to item 33 on page 8, which says transfer Article 174 from Chapter 10 and we insert it as a new Article 197, to read as follows: "*Functions of Judicial Service Commission.*" I do not know whether it is related to this one.

**THE DEPUTY CHAIRMAN:** It is a full article moved by Hon. Adoko Nekyon and Hon. Byaruhanga, which you thought that it had fallen by the way side. Hon. Byaruhanga can you bail us out?

**DR. BYARUHANGA:** Thank you Madam Chairperson. You see, when we were moving these amendments as members, we have noted - we had wanted to bring every Public officer under roof, under one authority. Now, when this one rejected, also our arrangements really went with them.

**THE DEPUTY CHAIRMAN:** So, Hon. Ochyengh, this remains where it should be, that is why we said that it had fallen - the proposal had fallen by the way side, because the big body was rejected. So, now, can I put the question on 197, on appointment of Public Officers?

**MR. WANENDEYA:** Thank you Madam Chairperson. I do not know whether the way we turned down Public Service Authority made people lose heart, or whatever it is. But Madam Chairperson, I feel very strongly that we should have the Judicial Service Commission included in our Constitution. I do not know what other feel, but the Judiciary, if it is under Judiciary, I am advised by a neighbour, then, it should be in the Constitution. I thank you Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Hon. Wanendeya, it is on page 76. Okay, now I put the question that Article 197, Clause 1, 2, 3, do stand part of this Constitution.

*(Question put and agreed to).*

**THE DEPUTY CHAIRMAN:** So, 197 stands as it was originally in the Draft.

**AN HON. DELEGATE:** Madam Chairperson, I circulated an amendment which was seeking to add a new article. I wonder whether I can be given a chance to move that amendment. Madam Chairperson, the new article was intended to come immediately after the Teaching Service Commission, because it is creating a new Commission. Madam Chairperson, I wonder whether you can bear out to move it and then, as a Technical Committee, we will find a placement.

**THE DEPUTY CHAIRMAN:** When was that circulated?

**AN HON. DELEGATE:** Madam Chairperson, this was circulated last week and I imagined that members have a copy to that.

**THE DEPUTY CHAIRMAN:** It is unfortunate the Secretariat does not have it, I do not have a copy. Is it on the main report, I mean on the amendment?

**AN HON. DELEGATE:** Madam Chairperson, it is No. 39.

**THE DEPUTY CHAIRMAN:** That is 202, but we have not reached there.

**AN HON. DELEGATE:** Madam Chairperson, the problem is that, it is the placement and the slight changes we made from what was originally in the worksheet and what we are providing now. We had a slight change. Madam Chairperson, can I move?

**THE DEPUTY CHAIRMAN:** Just hang on. This is the one on medical service committee? But according to the report, it is given as 202. So, if it is a matter of placement, we better finish and then put it where it comes in a report, so as not to confuse ourselves.

**AN HON. DELEGATE:** Madam Chairperson, I have no quarrel with your wisdom.

**THE DEPUTY CHAIRMAN:** Because if it is coming later, according to - on page 12, we shall come there, then we should introduce it. You can 39, medical service committee. We would have just cleared 197, we have to go to 198, 199, 200, then after that, we discuss yours, and we see where we shall put it. I think it will work that way.

I cannot trace my paper, but there was somebody who was introducing something about rights of security .

On page 14, new 198, Hon. Okullo-Epak. Is Hon. Okullo-Epak around? Hon. Etuku, are you standing in for him?

**MR. ETUKU:** Madam Chairperson, we had dealt with that under protection of public servants. It is unfortunate that our amendment has been thrown, but is No. 202. Excuse me for referring to it under page 28 of our recommendation, 204, we had worked on that amendment by Hon. Okullo-Epak to state that, protection of public officers, if you could refer to our recommendation which says: "A member of the public service shall not.

*a) be victimised or discriminated against for having discharged his or her duties faithfully in accordance to this Constitution or dismissed or removed from office or refused a rank, or otherwise punished without just cause."* I beg to move.

**THE DEPUTY CHAIRMAN:** It seems it is different from item 41.

Hon. Etuku, can you have it clearly please? I have items 41, new 198, right and security of tenure of office for public officers.

**AN HON. DELEGATE:** Madam Chairperson, we synchronised this with Hon. Okullo-Epak and he preferred the submission which I had given and when we discussed in committee 1, it was passed as it is. So, this one which has been put here, *-(interruption)*

**THE DEPUTY CHAIRMAN:** Okay, can I have a look at it please, because I do not have any. Hon. delegates, I am sorry there is a lot of documentation which we really have to be careful of. On the report of the amendments, the item is 41, but I have been told that we want to refer to the report by the committee on page 28. Item 204, protection of public officers. I do not know whether you have your reports with you, but it reads:

*The member of the public service shall not be:-*

*a) victimised or discriminated against for having discharged his or her duties faithfully in accordance with this Constitution or dismissed or removed from office or reduced in rank or otherwise punished without just cause,"* and they gave the rationale and that would stand in place of Item 41 on

Rights and Security of Tenure of office for Public Officers. Hon. Elyau.

**MR. ELYAU MIKE (Kalaki County):** Thank you Madame Chairperson. Indeed, it was very clearly put in our report but since now the report was voted down, I would have wanted Hon. David Onyok to present another one with the same formulation so that it is a fresh amendment maybe. Anyway, it is a good idea because, Madame Chairperson, we wanted to protect civil servants so that the spirit of working in Uganda is elevated once and for all. You see, people have been fearing to work in government because they said the tenure of office is insecure. The public service was insecure. So, we thought when this was put in the Constitution, maybe the leaders in future will respect their brothers and sisters who are in civil service not to just kick somebody in a day's time for public interest when there is no public interest at all. So, this was a very important clue to protect all of us who want to serve this country faithfully with a determined future without anybody tampering with security. So, I think it is a very good clue. I have no quarrel provided you can accept as Chairperson to include it in the new 198, but it was a report among several reports which were rejected. But the opinion was very good.

**THE DEPUTY CHAIRMAN:** This is just a small element within the report and if Members agree, he will draft it as an independent Motion to replace the one on Page 14. I do not see that it does any harm. That is just paper work. So, can I put the question that those in favour of Hon. Etuku's Motion to have a new 198 as he has formulated it say aye, to the contrary, no.

*(Question put and agreed to)*

**THE DEPUTY CHAIRMAN:** I read it out clearly! He read and I read it, and I thought that Members were concentrating.

Okay, can we go to 199, because we have a new 198, we go to 198 but it will be 199. 198 as in the Draft because the other one was an insertion. It is Item 43. I can see the name of Hon. Jack Sabiiti on Number 2 but let us see - 198 (1) but shall be 199 Yes, hon. Sabiiti.

**MR. SABIITI JACK (Rukiga County):** Thank you very much, Madame Chairperson. This matter was also discussed thoroughly in the committee and it was passed that there is no need to introduce a new

word of the *Principle Secretary* and the *Title Permanent Secretary* was preferred. So, I think the amendment here is just to replace *Principle Secretary* to a *Permanent Secretary* and that is it. Thank you Madame Chairperson.

**THE DEPUTY CHAIRMAN:** Any contrary view?

**AN HON. DELEGATE:** Thank you Madame Chairperson. I support the formulation as it is in the draft. The word *permanent* means immovable. So, if one considers the word *permanent* in the context of public servants, it means such an officer is irremovable whether he is found in the wrong or right. But we are saying that when a permanent secretary is found to be wrong, then the president should remove him from the office which will be contrary to the word *permanent*. Since the word *principle* means chief or higher in rank, so I concur with the formulation in the draft which replaces the word *permanent* with *principle*. Surely, if one is appointed to that office, it means that he is the head of the civil service, he is the head of the civil servants within the department. However, he can be removed if he messes. Thank you Madam Chairperson.

**THE DEPUTY CHAIRMAN:** I want to get the wisdom of members who are very conversant with public service. I hear there is a post of senior, principle, then chief. So, what do we want. Because he wanted permanent, but he was saying that *permanent* would never move. But I am saying if we say *principle* - You mean that one cannot come chief because there is a post of chief. That is the top most. Hon. Elyau.

**MR. ELYAU:** Thank you Madame Chairperson. The intention was not actually to distinguish between the *Principle Secretary* or what but the word *permanent* has been feared by some people who think that if you are called permanent, you are irremovable. No, it is not like that. This is a terminology simply - The *Permanent Secretary* is the highest officer in every ministry. So, we found it necessary, instead of saying *principle* - *principle* for who again. So, we found it necessary - so, we thought permanent secretary was better language since now we have reverted back where the president has powers to remove anybody. So, there is no fear. I think the word *principle* came because the Commission went out to people who may not even know the work in the office! So, they thought that by putting *principle* they can still kick him away but when permanent is used, you cannot kick him away. This is not logical - it is illogical completely. So we

keep permanent as a normal name throughout.

**THE DEPUTY CHAIRMAN:** The proposal is - we leave the terminology of *permanent secretary* rather than *principle secretary*. Those in favour say aye, to the contrary no.

*(Question put ad agreed to)*

**THE DEPUTY CHAIRMAN:** We are now going with Hon. Sabiiti. I do not see any other change on (198) which is item 43 in our list of amendments. So, I assume that as amended, 198 (1), (2) and (3) a, b, c and d do stand part of this Constitution. Hon. Kaberuka.

**DR. KABERUKA WILLIAM (Ndorwa West County):** Thank you Madame Chairperson. I am a bit lost. I do not know whether this 43 is part of what we are discussing - that a permanent secretary shall be appointed by Public Service Commission with approval of Parliament. Have we discussed that or it is out? On Page 15.

**THE DEPUTY CHAIRMAN:** Yes - The Permanent Secretary shall be appointed by the Public Service Commission with approval of Parliament.

**DR. KABERUKA:** No, how? Have we discussed that. That is what I was asking. Thank you.

**THE DEPUTY CHAIRMAN:** Because I waited and there was nobody responding. Okay, Hon. Sabiiti. If you do not respond, then how do you expect us to - *(Interruption)* -

**MR. SABIITI:** Madame Chairperson, Article 198 - the only change was the word *principle secretary* to *permanent secretary* but the content of that article remained the same. It is the president who actually appoints the Permanent Secretaries. So, we have not changed anything here. Okay, which means that 198 (1) we changed *principle* to *permanent Secretary* and (2) remains as it is. (3) remains as it is - a, b, c and d. So, I can put the question on (198) as amended by just changing the word *principle Secretary* to *Permanent Secretary*. Hon. Kiwanuka what is the problem?

**MR. KIWANUKA:** Madame, I bit again confused. There was a certain amendment I do not know whether by certain Hon. Members - was it Elyau? You said that it is substituting Article 198 and then that it is going to come.

**THE DEPUTY CHAIRMAN:** Wait, it is just a matter of numbering. We have a new 198 but when we are discussing 198 in the Draft which will become 199. So, I put the question. Those in favour say aye, to the contrary, no.

*(Question put and agreed to)*

**THE DEPUTY CHAIRMAN:** So, 198, as amended does stand part of this Constitution and shall become 199 or will be given in any other code according to the numbering as we go along. You had 199 as is in the draft but which will be 200 and there is an Amendment there on the word reasonable. Hon. Sabiiti.

**MR. SABIITI:** Madame Chairperson, again in the Committee report, we had introduced a new article between 98 and 99 on the living wage for public officers and maybe I could read it which - it had already been passed by the Committee which says: *'A new Article be inserted between 198 and 199 to read as follows - (Interruption)-*

We have a different formulation from what is contained in the Amendment. Just a second. Thank you Madame Chairperson. *A public officer shall be paid a living wage to be prescribed by Parliament. (Interjections)*

**THE DEPUTY CHAIRMAN:** It seems your Motion has not been very favoured by the delegates.

**MR. SABIITI:** It is seconded Madame Chairperson.

**THE DEPUTY CHAIRMAN:** By who. Oh! by Mulassanyi. Okay, You can continue and debate.

**MR. SABIITI:** Madame Chairperson, it is undoubtedly in the Public interest that public servants should receive at least a living wage. The most important reason for this is to overcome the problem arising from inadequate compensation which has dodged the public service in Uganda for two decades.

**THE DEPUTY CHAIRMAN:** Just hang on. Before you proceed, we have not finished 199 because yours is - is it an insertion before or after?

**MR. SABIITI:** Before 199.

**THE DEPUTY CHAIRMAN:** It is before 199? Okay.

**MR. SABIITI:** Madame Chairperson, inadequately paid staff are seriously demotivated and are likely to provide a high standard of service - *(Interruption)*

**THE DEPUTY CHAIRMAN:** I can see some hand by Hon. Bantaliza, Hon. *(Interruption)*

**MR. SABIITI:** But why can they not allow me to present my case.

**MR. BANTARIZA FRANCIS (Buhweju County):** Thank you very much Madam Chairperson for giving me this opportunity, but I am rising on a Point of Procedure. The Motion on the Floor has not been seconded. Is it in order to *(Interruption)*

**THE DEPUTY CHAIRMAN:** It was seconded by Hon. Mulassanyi and Hon. Byanyima - Oh, point of Order.

**MISS BYANYIMA WINNIE (Mbarara Municipality):** Thank you Madame Chairperson. Is it in order for us to continue debating when there is no quorum here and if we throw it out, will there not be attempt to bring it back because we would have decided without quorum.

**THE DEPUTY CHAIRMAN:** I was not aware. I am being alerted that there is no quorum or the Members are just tired. Hon. Delegates if that is the observation, we adjourn on two conditions - (1) If tomorrow is Idd, we adjourn until Thursday afternoon. If tomorrow is not Idd, we reconvene tomorrow at 2.30 - if Idd is not tomorrow. Otherwise, if it is tomorrow, then it shall be Thursday afternoon, because we will not be able to see each other. Hon. Ssenteza Kajubi - *Order! Order!* Hon. Delegates you are disorderly because you are standing before I adjourn. *(Laughter)* Hon. Ssenteza Kajubi.

**PROF. SSENTEZA KAJUBI:** Madame Chairperson, is it in order to just adjourn the House because of lack of quorum without ringing the bells and appeal to the Members in the corridors to come in?

**THE DEPUTY CHAIRMAN:** Hon. Ssenteza Kajubi as it is going to 6.00 O'clock, I do not expect anybody to be hanging around in the corridors at 6.00 O'clock. So, we stand adjourned until either tomorrow or Thursday depending on what Allah will tell us.

*(The Assembly rose and adjourned until Wednesday, the 1st of March 1995 at 9.30 a.m)*