



THE REPUBLIC OF UGANDA

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

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**OFFICIAL REPORT**

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**CONTENTS**

WEDNESDAY, 29TH MARCH 1995

MOTION:-

Statements and Personal Explanations	[Pg 3650]
Consideration of the Draft Constitution of the Republic of Uganda	[Pg 3651]

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Wednesday 29th March, 1995.

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

#### PRAYERS

*(The Chairman, Mr. James Wapakhabulo, in the Chair)*

*(The Assembly was called to order)*

#### COMMUNICATION FROM THE CHAIR

**THE CHAIRMAN:** Hon. delegates, I do not have a communication from the chair as such but Hon. Mulondo was asking that he corrects the representation made of his statement here yesterday in the press. I thought we should give him this opportunity to correct that situation.

#### PERSONAL EXPLANATION

**MR. MULONDO BESWERI (Mityana South):** Thank you, Mr. Chairman. I would also like to ask you kindly when I have finished to allow Hon. Member, Hon. Kanyeihamba to also try to bear me out of this unpleasant situation which the press deliberately put me in.

Mr. Chairman, and Hon. Members, I would like to strongly deny what was stated on the Radio Uganda and the Uganda Television yesterday and what has appeared in some of today's press. Namely, the *New Vision*, *Ngabo*, the *Bukedde*, and the *Monitor*. Although the *Federo* Motion was lost, I categorically deny that I supported decentralisation instead of *Federo*. What I said among others was that if the *Federo* and *Decentralization* are confusing us, let us abandon both of them and work for substance. I definitely remember supporting Hon. Babu that let us have the structure and when we are through we shall then see what name fits it. The attempt by the press and the Radio was a deliberate way of tarnishing my name which I have taken trouble to build over many years. *(Applause)*

Mr. Chairman, at the beginning of my address to the House I said that I have a problem because it is not possible for me to stand here and oppose *Federo*. The mission I had from my people was to support *Federo*. But from the contribution so far made, that was what I said yesterday, it appears that the English words *Federal* and *Decentralisation* are confusing us. I went on to propose that why don't

we drop both and concentrate on the powers which I thought was the subject matter. I did not support decentralisation as such nor did I condemn Federalism, I have been mis-represented and I request very humbly that the position be corrected by the Press. Thank you very, Mr. Chairman.

**PROF. KANYEIHAMBA GEORGE (Rubanda East):** Mr. Chairman, if you recall, I think it is important the record be put right. I did prompt Hon. Mulondo actually to clear himself because I personally listened to the Radio Uganda, and I felt that gross injustice had been done to someone who was acting in the interest of the nation. And he had asked me to at least give my opinion of what actually happened here but obviously the chairman thought that he should do it personally. Nevertheless I think that it would be a mistake if one of us in this Constituent Assembly did not come and make a statement that it was a gross error. A misrepresentation by Radio Uganda and some Media in misreporting, what actually happened here, if you recall.

Mr, Chairman, Hon. Mulondo was in agony in make up his decision. The other point that we must remember he was not as far as we could see on paper a signatory to the amendment which was being debated. And, therefore, to say that he has abandoned ship was grossly unfair and a misrepresentation. I think that it is imperative that an august Assembly like this one should support people who are acting nationally when the occasion arises. So I thought that my voice should be recorded in support of Hon. Mulondo's statement and to concur with him that he was misrepresented and he never abandoned his original cause of *Federo*. But he abandoned the amendment which really had nothing to do with that *Federo*. I thank you, Mr. Chairman.

#### PRESENTATION OF REPORT OF COMMITTEES

**THE CHAIRMAN:** We will ask the Chairman of Committee 4 to lay on the table a report which is ready. Could Hon. Katenta Apuuli tell the House what paper it is that he has laid on the table.

**MR. KATENTA APUULI (Conservative Party):** I thank you, Mr. Chairman. I have just laid on the table Chapter 18 which is last responsibility of committee 4. That report is on Chapter 18, Mr. Chairman. Thank you

CONSIDERATION STAGE OF THE DRAFT  
CONSTITUTION OF THE REPUBLIC OF  
UGANDA

CHAPTER THIRTEEN - LOCAL  
GOVERNMENT

Article 201 Local Government system:

**THE CHAIRMAN:** We are at Clause (2) having disposed of Clause (1) yesterday.

**MR. KATENTA APUULI:** Thank you, Mr. Chairman and Hon. Delegates. Mr. Chairman, before I present Clause (2) of Article 201, with your indulgence, Mr. Chairman, I would also like to request you to allow me to deny that I am not Mr. Kagenda Atwoki of UPC as alleged by Radio Uganda. I am Stephen Kapimpina Tinkasimiire, Katenta Apuli representing the Conservative Party. Clause (2) paragraph (a). Mr. Chairman, the committee recommends that. Clause (2) (a) as it is in the draft constitution stand as part of the constitution to read. *"Two, the following principles shall apply to the local government system, (a), the system shall be such as to ensure that functions, owners and responsibilities are devolved and transferred from the local government to local government units in a coordinated manner rationale."* The committee considered this provision and found it to be a good principle. Mr. Chairman, I beg to move.

**MR. LIIGA ALOYSIUS (Buvuma Islands):** Thank you, Mr. Chairman. Hon. delegates I have a problem with the expression 'be such as to.' That expression between the words 'shall' and 'ensure.' Mr. Chairman, this expression to me appears a bit vague, and it would presuppose or give opportunity to the central government to whoever around with the powers and functions which should be transferred to the lower units. I am of the opinion Mr. Chairman, that we could perhaps delete these words so that the paragraph reads as follows. *"The system shall ensure that functions, powers and responsibilities are devolved and transferred from the central government to the local government units in a coordination manner-in a coordinated manner."* Mr. Chairman, I think the intention of this paragraph was to make sure that those functions, powers and responsibilities devolved to the local government units should be absolutely certain. But when you use the words 'be such as to,' it would only mean that the central government could be

here and give room there. Sort of twist around and make it almost impossible to clearly and finally or firmly transfer these functions and powers to the local units. So, Mr. Chairman, I beg move that we delete the words "be such as to" and leave the rest of the paragraph as it stands. Thank you.

**THE CHAIRMAN:** Hon. Liiga don't you think it should read: *"(1). The system of local government in Uganda shall be based on the district as units under which there shall be such lower local governments and administrative units as Parliament may by law provide."* Then logically it follows that Parliament shall provide the system which shall be such as to ensure so that one leads to the other. If that is to be the case, do we really want to pursue that amendment?

**MR. LIIGA:** Mr. Chairman I had that in mind when I was reading the provisions that if one clearly satisfies where the powers should come from under an act of Parliament, that these words 'be such as to,' sort of negatives Clause (1) as we passed it yesterday.

**THE CHAIRMAN:** Let us hear from one speaker or two, but the Motion is not seconded that is the whole problem. You have influenced Hon. Lokeris to support you. Hon. Lokeris do you support the Motion?

**MR. LOKERIS SAMSON (Dodoth County):** Yes.

**THE CHAIRMAN:** Okay. Hon. Liiga would like to delete the words "be such as to" so the system shall ensure that any comments from our friend-Hon. Dick Nyai is not around, he is normally good at language. Hon. Lokeris.

**MR. LOKERIS:** Thank you, Mr. Chairman, I have seconded this Motion of deleting the words "be such as to." Because in the first instance if you try to analyse the first that is 201 (1) the system of local government in Uganda shall be based on the districts as a unit under which there shall be such lower local governments. Now when you come down to 2 (a), the thing now is that a central government must ensure these powers and functions or responsibilities must now be devolved directly. But as Hon. Liiga has also explained, when you put these words 'be such as to,' I do not know why we should really doubt that these powers

should go directly as it is indicated in 201 (1). But now where we come to try as if we are trying to negotiate somewhere? But I think if we find this one is not possible then let us not try it. So it would be quite appropriate that let the thing be direct that the system shall ensure so that you have that strength. It is an obligation that this power must be given at whatever time it is required. Otherwise if we leave it like this that means now we are going to suffocate some of these powers to be given to the people or to that such lower units or local government. That is how I see it.

**MR. MALIRO GASTON (Mwenge North):** Thank you, Mr. Chairman. Mr. Chairman. I see no problem with having these words "be such as to." Because when you look at Article 201 (1), the system of local government which is being referred to is not only at district level, but at the other lower local government units. And others which may be established later by Parliament. Now the powers and functions which are going to be devolved to the districts have already been specified in this chapter. But you cannot immediately say that the government will devolve powers to the lower local government units say, the sub-counties, maybe the counties, the parishes, the villages. Now before we have specified them that is why they are putting this phrase to contain a time frame which will be in a form of a process. In that process power and functions shall be devolved to these other lower local government units. Therefore, it is in order that you put that phrase which allows for a process which does not have to be immediately set up on promulgation of this constitution. Otherwise maybe a parish would stand up and sue the government and say you have not devolved powers to our level. So, Mr. Chairman, I think this phrase should remain where it is.

*(Question put and agreed to)*

**THE CHAIRMAN:** Let us leave it as it is, Paragraph 2 (a) is agreed to. Let us move to (b).

**MR. KATENTA APUULI:** Paragraph (b) the committee recommends that paragraph (b) be amended to read: "*Decentralisation shall be a principle applying to all levels of local government and in particular from higher to lower local government units to ensure peoples' participation and democratic control in decision making.*" The above recommended paragraph seeks to elevate the word

'objective' in the draft constitution to a 'principle' and to entrench popular participation in decision makings Mr Chairman, I beg to move.

**MR. LUBULWA MIGADDE (Katikamu South):** With this Clause, Mr. Chairman, I am not happy with word decentralisation. And since the principle is about devolving power to lower levels, I am of the view that we could have changed that word decentralisation. Basically to avoid fights in the population and replace it with a phrase which says that devolution of power shall be a principle applying to all levels of local government. In particular from higher to lower levels, to lower government units to ensure peoples' participation and democratic control in decision makings. Mr. Chairman, we have had problems in the population fighting over these two words *Federo* and *Decentralisation*. But I think what is important just like Hon. Babu said yesterday, what is important is the principle. The principle is to move power from the high level to the lower local levels. Therefore, to avoid this fighting in the population I am proposing that we change that word 'decentralisation' and replace it with an expression 'devolution of power.' So I beg to move, Mr. Chairman.

**THE CHAIRMAN:** It is seconded by Hon. Kayizi and Hon. Mukiibi and many others I can see, and Prof Nsibambi. Now do you want to say devolution of power alone? I am addressing this to Hon. Migadde the mover. Do you want to devolution of power or devolution of powers and functions?

**MR. MIGADDE LUBULWA:** Mr. Chairman it could be improved upon because I had not thoroughly thought about it. I have no objection with the improvement.

**THE CHAIRMAN:** Okay, it has been seconded, I will hear one or two speakers.

**MR. BESWERI MULONDO:** Mr. Chairman I would strongly support this amendment and in my opinion it does not do any harm to us. Because the devolution of powers is stronger than decentralisation. And powers devolved will stay where they have been put. As I said yesterday, Mr. Chairman, if these words are confusing us why don't we find better words and use those which are neutral over any biases from people. So I want to support this strongly that we use the word 'devolution' instead of 'decentralisation.' And I would humbly beg the Hon. delegates to support this, Mr. Chairman.

**PROF. NSIBAMBI APOLLO (Presidential Nominee):** Thank you, Mr. Chairman. When we use the word 'decentralisation,' it has at least two meanings. The first aspect is deconcentration, when you deconcentrate you largely give functions but not powers. And I know it is not the aim of this august assembly to give functions without powers. Also decentralisation embraces another vital notion which is devolution. When you devolve powers you actually give functions and powers to elected local institutions. And so when we use the word decentralisation covers several meanings which to a certain extent are contradictory because it covers deconcentration and devolution. And yet it is my belief that we actually want to empower people and therefore, the real word we want to bring out is the word called devolution. Because when you devolve you actually empower. In addition to giving functions, you give legislative functions, you give financial functions, administrative functions, you go a long way to empower people. And, therefore, that is genuine empowerment. That is why I would prefer to use the word devolution. Because it is specific and it tallies with our declared aim of empowering people. I request the august Body to embrace that word devolution and I support the amendment.

**MR. HASHAKA JACKSON (Kibale County):** Thank you, Mr. Chairman. I oppose the Motion. Mr. Chairman, when we were discussing former Chapter 3 Article 8 Clause (3), we agreed here that the state shall be guided by the principle of decentralisation and devolution of governmental functions and powers to the people at appropriate levels where they can best manage and direct their own affairs. Therefore, Mr. Chairman, this recommendation of the committee properly expounds the powers of the people through the decentralisation to the lower levels- local units. Mr. Chairman, consistency. I do not see why people have fear of the word decentralization. It seems it eats up their mind whenever they hear of it. So, Mr. Chairman, I do not see any harm of maintaining this recommendation of the committee.

**THE CHAIRMAN:** But Hon. Hashaka you are talking of consistency, we have just approved (A), and (A) is using devolution. Don't you think it would be more consistent if we use the same language.

**PROF. NABUDERE DANI (Budadiri West):** Mr. Chairman, I would like to refer to the report of Odoki at page 241 where these concepts are defined. The Odoki report says that while decentralization means distributing power to lower centres of government, devolution is usually understood in debate in Uganda to mean de-continuation of decentralization to the lowest level of society. So I think it is better to use the word devolution rather than decentralization in this particular article.

**MR. KATUMBA MATTHEW (Kiboga West):** Thank you, Mr. Chairman. Mr. Chairman, the quarrel in Kiboga is not about the word decentralisation, it is about level to which the power is to decentralised. If the power has been decentralised to a region, there will not be any trouble at all. Thank you, Mr. Chairman.

**MR. SEBI HAROUN (Koboko County):** Thank you, Mr. Chairman. Mr. Chairman, I would like to agree with Hon. Katumba that we should not quarrel over a word. Our main concern should be over the substance. Mr. Chairman, I would like to remind this august assembly of the useful job that C.A research desk has done for us. And I would like to implore Members to make use of this facility of C.A. Mr. Chairman, I did request the research desk to do some for me of defining these words decentralisation and Federation. If you would allow me I would like to quote -

**THE CHAIRMAN:** But there you would be debating Decentralisation and Federation. I thought it is devolution and Decentralisation.

**MR. SEBI:** Thank you very much, Mr. Chairman for your guidance. For that matter let me concentrate on decentralisation which will help us to clarify a few things. Decentralisation this is the transfer of power from the centre to lower units. It takes three forms. One, devolution. Two, deconcentration and three, delegation. One, devolution. This entails substantial transfer of powers and responsibilities from the centre to lower units. The local legislature are allowed to legislate on any matter of local interest and decisions are binding within that locality. Two, deconcentration. This is a form of decentralisation in which the central government allows its departments stationed in local units to exercise powers but report to the centre. Three, delegation. This is a form of

decentralisation that takes place when some powers are exercised by semi-autonomous organizations on behalf of government e.g NGOs. Mr. Chairman, we may be having problems because as Prof.Nsibambi has defined decentralization at two levels he concentrated on devolution, and here we have another leg that is delegation. So, Mr. Chairman, really as Hon. Katumba was saying the problem should not with the word, the problem should be with the substance. If this definition will help us I think let us stick to it. Thank you, Mr. Chairman.

**THE CHAIRMAN:** What do you recommend?

**MR. SEBI:** So I recommend decentralisation because it then covers all the three aspects which I have defined. Thank you very much.

**MR. SABIITI JACK (Rukiga County):** Mr. Chairman, I thought when we passed the first Clause yesterday what some of us had in mind was that we had accepted decentralisation. Now if we are just playing around with words in order to please X and Y, I think it would be unfair to the country. Because the word decentralisation in fact encompasses the intentions that most of us had when we were voting yesterday. Decentralisation encompasses deconcentration, devolution and delegation. And the local government suddenly will be delegated certain power either through public service through whatever. Certain powers will develop there is no doubt about it, and certain functions will be de-concentrated. I do not see any reason why we should use another term which does not encompass all these ingredients in order to please X and Y. So I would, Mr. Chairman, suggest that we retain the decentralisation and we move ahead. Thank you, Mr. Chairman.

**THE CHAIRMAN:** But here we have the Odoki report which seems to draw a distinction.

**MR. ONGARIA STEVEN (Tororo Municipality):** Thank you Mr. Chairman. I oppose the Motion on the ground Mr. Chairman, that this word decentralisation as of now is a new word to many people, especially, outside this august House. We have taken trouble to explain to the Ugandan public the meaning of the word decentralisation. People have started grasping the meaning of the word decentralisation. Therefore, it is a word that many people in Uganda are now familiar with. Mr. Chairman, I strongly propose that we maintain this

word. Secondly this word decentralisation as many of us will agree is a World Bank term and it is a universally used word many parts of the world are using it, and the international community is used to it. Therefore, we should learn to move with international community if we now differ, this word and bring in devolution, it may cause us problems internationally. Mr. Chairman, therefore, I oppose the Motion.

**MR. KAWANGA JOHN (Masaka Municipality):** Mr. Chairman, for the very reasons that Hon. Ongaria has given I support the amendment. He has talked about taking trouble to explain this word to the population. In fact it is the explanation which has caused the confusion, the misunderstandings that occur at the grassroots arise out of the different explanations that different people have given to this world. In fact I would request Members that when you are making some decisions it is also necessary to take a political barometer of the situation. It always good to take that into account so that we do not cause unnecessary rises of temperatures if we can avoid them. And for the sake of consistency, since we have used the word devolve in the preceding sub-section two we should use it in the subsequent sub-section. And for those reasons, Mr. Chairman, I support the amendment.

**MR. MASALU MUSENE (Manjia County):** Thank you, Mr. Chairman. Mr. Chairman, I am the Vice Chairman of committee 4 and when we recommended the provision as it is. We had the following in mind. We had in mind that the meaning of decentralisation entails both delegation and devolution of powers and functions. And when it comes to all levels of local government, it means from district, sub-county, parish and village. So what we had in mind was that, powers and functions could be devolved as far as district and sub-county are concerned. But when it comes to lower levels like parish and village you cannot devolve the powers, you can only delegate because we do not expect village and parish levels to be given such powers as making laws, taxes and so forth. So at that point, you have to delegate but at a higher level we can devolve. So that is why we agreed on decentralisation which encompasses both delegation and devolution at appropriate levels. I thank you, Mr. Chairman. *(Applause)*

**THE CHAIRMAN:** We have reached a stage where we can vote. Let us put the question, the

Motion was moved by Hon. Migadde that we delete the word 'decentralisation' and insert the words 'devolution of powers and functions' appearing in (b). I now put the question.

*(Question put and negatived)*

**THE CHAIRMAN:** In view of the fact that we have discussed it think that it is better we voted on it. Now I will, put the question on (b) that it stands as part of the constitution as, it is. I now put the question.

*(Question put and agreed to)*

**MR. KATENTA APUULI:** Paragraph (c). The committee recommends that paragraph (c) be amended to read: "*(c), the system shall be such as to ensure the full realisation of democratic governance at all local government levels.*" This light amendment replaces the word 'government' with the word 'governance' which is considered to be more appropriate. Mr. Chairman, I beg to move.

**PROF. KANYEIHAMBA:** Mr. Chairman, we have already approved (a) and (b) and now we are on (c) and there is (d), and I have seen that we are talking about decentralisation and every time decentralisation is from higher to lower. And the emphasis in this article is the principle of democracy, there must be democratic governance which we all support. Nevertheless nowhere in this article is there a provision that we should ensure that these local governments are functional or indeed effective. In other words, we do not seem to have visualized a situation where power is decentralized to a lower level. Say to a *Muluka*, and later on it is discovered that, that unit is unable to service the people it unable to deal with that power and might necessitate to decentralise it higher to the *Gomboloola* and onwards. May I ask on a point of clarification whether this matter was considered by the committee? Whether we just leave the fate of the masses to these authorities whether they are efficient incompetent, whether they have made it impossible for themselves to be removed from power? Is there any 'saviour' Clause for people to be rescued from incompetence and non-performance at lower level by suggesting that since these people have failed to perform their powers and functions should be taken up at a higher and may be more competent level.

**MR. WANENDEYA WILLIAM (Budadiri East):** Thank you very much, Mr. Chairman. I would like to make some slight amendment with your permission. Mr. Chairman, the reading should be that the system shall be such that it ensures before realization of democratic governance at the local Government levels. So that the words 'as to ensure' should be omitted and substituted with words 'that it ensures.' And to me that makes it dramatically fair English wise. I thank you, Mr. Chairman, with the agreement of the chairman.

**THE CHAIRMAN:** If the chairman is agreeable, otherwise we have to have a seconder. The chairman is very quiet.

**MR. KAYONDE ISRAEL (Gomba County):** Mr. Chairman, I had only wanted to inform Hon. Kanyeihamba that Article 201 which we passed yesterday- I am giving this information to Hon. Kanyeihamba, Could you listen please? Mr. Chairman, Hon. Kanyeihamba wanted to know whether there was a provision to save the situation should the lower units be inefficient. And I am giving him the information that Article 201 (1) which we passed yesterday says the system of local government in Uganda shall be based on the districts as a unit under which there shall be such lower local government units and the administrative units as Parliament may by law provide. That means that Parliament will be reviewing there local government units and make adjustments where necessary.

**DR. BYARUIHANGA FABIUS (Kitagwenda County):** Thank you, Mr. Chairman. I would also wish to inform Hon. Kanyeihamba that in Article 209 that is on page 31 of the report, the President may with the approval of Parliament take over the administration of any district in any of the following circumstances. That provides that should the units to districts to which these powers have been decentralised fail to serve the people, then Parliament can step in. When we come to it, it may require improvement to allow also district councils to take back powers that may have been misused by the lower governments.

**MR. KATENTA APUULI:** Mr. Chairman, if Hon. Kanyeihamba could turn to page 31 of our report item No, 23. This particular item provides for the President to take over the administration of a district if it is functioning properly. And I think Parliament can provide under this arrangement for the district to take over the administration of a sub-county.

**THE CHAIRMAN:** Anyway I think the most important point is what was approved in 201, that Parliament is by law to provide, and in settling out that scheme, they could also set out the relationships in terms of enjoyment and exercise of powers and functions between the district and the lower level government. So (c)-

**MR. OBUA OTOA (Erute County North):** Mr. Chairman, I am wondering whether (c) is really necessary at all. Seeing that the methods by which district local governments will be organized that is through elections and so and so forth at various levels. Is it necessary for us to specifically state here as a principle because this is supposed to be a principle applying to local government? But elsewhere in this chapter we have made provisions which ensure democratic governance, that is people will be elected at various levels. Those are all democratic methods of doing business. Is it absolutely necessary for us to include (c)? I am suggesting that it should be deleted. Because there are provisions elsewhere along the line which ensure democratic governance at those levels, Mr. Chairman. So I beg to move that Clause be removed altogether because it is adequately catered for elsewhere.

**THE CHAIRMAN:** Are you seconded. He hasn't been. So let us decide whether we agree on this one or not.

**MR. KADAMA (Butembe County):** Mr. Chairman, as you may know I am new person here. Before you ask the question, I have got an amendment by Hon. D.K. Mulondo which I found here about article 201 Clause (2), and in particular speaks about paragraph 3. I do not know whether this is relevant to this particular article we are leaving.

**THE CHAIRMAN:** We are still on 201, we have not yet gone to 202 have we?

**MR. KADAMA:** Thank you.

**MR. KABUGO MESUSERA (Nakaseke County):** Thank you very much, Mr. Chairman. I think Hon. Kadama is correct, they moved the amendment before us stating, clearly that Article 201 Clause (2) paragraph (3). And he is proposing a deletion of words "not have powers to," appearing in the second line.

**THE CHAIRMAN:** And I think that is a typing error, I think he should be referring to Article 203. Because Clause (2) I think there are some corrections I have seen, I have got a document here with hand-written corrections making references to 203 and so you should correct the copies you have.

**MR. MULONDO:** Mr. Chairman, we discover an error in this amendment after some copies had been distributed. I wanted to ask the Members to ignore that until we know the amendment is distributed.

**THE CHAIRMAN:** Okay, let me put the question on (c). I now put the question.

*(Question put and agreed to)*

**MR. KATENTA APUULI:** Paragraph (d), the committee recommends that paragraph (d) as it is in the draft constitution stand part of the constitution and to read: "*There shall be established for each local government unit a sound financial base with reliable sources of revenue.*" This is a good provision in conformity with the increased responsibility taken on by local governments. Mr. Chairman, I beg to move.

**MR. SABIITI:** Could the chairman throw more light on this article. Does he mean if any local unit has no resources of funds government has to come to its rescue, is it the role of the districts to do that? Could he throw more light to this Clause?

**MR. NDEGE JOHN (Luuka County):** Thank you very much. I would also like the Chairman to explain a little more. Especially, under page 1, that they went short of recommending sharing of national finances between the centre and the local government. And in their wisdom, thought they should leave this responsibility to the next Parliament. Would he throw more light on how they expect these units to function without having tackled the fundamental question of sharing of resources.

**MR. KATENTA APUULI:** Mr. Chairman, in Article 201 we are setting out the objectives and structure of local government. We shall come to specific details as to finance, as to elections and other aspects of this chapter. If Hon. Delegates could be patient the details will come under the specific items. Like this particular issue on finance will come under an area which deals specifically

with finance in detail. This is setting out only the objectives and the structure. It is like a preamble to the chapter.

**MR. KAGIMU KIWANUKA (Bukomansimbi County):** Mr. Chairman, under paragraph 215 - article 215 they are going to tackle that, actually was I going to talk against. But I am patient I will wait for 215. So I urge my fellow members to wait for 215.

**THE CHAIRMAN:** Okay, (d) is agreed. I now put the question.

*(Question put and agreed to)*

**MR. KATENTA APULI:** The committee recommends paragraph (e), as it is in the draft constitution stand as part of the constitution and to read: "*(e), appropriate measures shall be taken to enable local government units to plan, initiate and execute policies in respect of all matters affecting people within their jurisdiction.*" This is a good provision empowering local governments. Mr. Chairman, I beg to move.

**THE CHAIRMAN:** Agreed, next.

**MR. KATENTA APUULI:** Paragraph (f) the committee recommends that paragraph (f) be amended to read: "*(f), persons in the service of local government shall be employed by local governments.*" The experience of local government demands that all officers employed by local government should be brought under effective control of local government for purposes of undivided or loyalty and accountability Mr. Chairman, I beg to move.

**THE CHAIRMAN:** Agreed, next.

**MR. KATENTA APUULI:** Paragraph (g). The committee recommends that paragraph (g) be amended to read: "*(g), the local governments shall oversee the performances of persons employed by the central government to provide services in their areas and to monitor the provision of central government services, all the implementation of projects in their areas.*" The new formulation strengthens the role of local governments to oversee and monitor central government personnel and services provided by them to local government. Mr. Chairman, I beg to move.

**MR. WANENDEYA:** Mr. Chairman, before we pronounce ourselves on that sub-section (g), I would want to be clarified by the committee chairman as to who is going to do the actual supervision and submit a report to the central government.

**MR. KATENTA APUULI:** The details like I said with an earlier question on clarification, Mr. Chairman, all these details will come out in the chapter if Hon. delegates could read the chapter in its entirety and try to internalise that. Some of these clarifications could be avoided. One the leading personality in local government charged with responsibility of monitoring and over-seeing is the chairman of the district, and he can delegate those responsibilities to other officers under him or her.

**THE CHAIRMAN:** Agreed next.

**MR. KATENTA APUULI:** That brings us, Mr. Chairman, to the end of Clause (2). We could now move on to Clause (3), Mr. Chairman.

Clause 3. The Committee recommends that Clause 3 be amended to read: "*The system of Local Government shall be based on democratically elected councils on the basis of universal adult suffrage whose mandate shall be renewed at regular intervals as Parliament shall by law establish.*" The amendment seeks to entrench stronger democratic principles in the election of local governments which have been given greater responsibility in the administration of their areas and in providing services to the people. Mr. Chairman, I beg to move.

**LT. GUMISIRIZA GUMA DAVID (Ibanda North):** Thank you, Mr. Chairman. I would beg the clarification from the Chairman of Committee Four whether this universal adult suffrage of RC's starts from RC.1 up to RC.5. Because when he talks of universal adult suffrage does he mean that even RC.2 councils to elect RC.2 executives who will be constituting RC.3 councils will be elected on the basis of universal adult suffrage?

**MRS. EGUNYU FIONA (Women Delegate - Kumi):** Thank you, Mr. Chairman. I would also like to be clarified as to why the committee did not consider a specific term. Because we have provided that the presidential and Parliamentary elections shall be every five or so years. Now here is a situation where we are giving these local governments a lot of responsibilities. It would be in our

interest that we know the term for which they will serve before again being elected but here we are leaving it entirely to Parliament. I do not know if they did address that. The other I wanted to know about the universal adult suffrage applying both to right from RC.1 to RC.5 and whether it was feasible.

**MRS. OPOTI DHUGIRA ESTHER (Okoro County):** Thank you, Mr. Chairman. We are all aware that the District Councils are going to be composed of men, women and the youth. Does this recommendation also take care of the women, and the youth elections because we had a problem of the women going to Parliament and I think we should be given some guidelines on this. Thank you.

**MR. WANENDEYA:** Thank you very much, Mr. Chairman. I would like the committee chairman to possibly include in line 3 after the word "suffrage" the words "by casting votes in one ballot box." The point over here, Mr. Chairman, is that in 1980 we said it was universal adult suffrage but we had four ballot boxes. Therefore, if it is clearly put in the constitution I believe that this would be the best way rather than diluting democracy. Because in 1980 they over printed labels so that by shaking the ballot box you could see which one had more votes in it and that is the one you would have pasted another slip on it so that you win the elections, Mr. Chairman. I would like those words "by casting votes in one ballot box" if possible to be included in the Constitution. I thank you, Mr. Chairman.

**MR. KATENTA APUULI:** Mr. Chairman, to clarify Hon. Guma Gumisiriza on the issue of adult suffrage. In my interpretation or rather in the committee's interpretation of adult suffrage, we took into consideration that if one is 18 years, is eligible to vote. Has registered to vote, should be allowed to vote and, therefore, is being empowered here to go ahead and vote. That is why we are using the words "universal adult suffrage." There is no other interpretation to it other than that if you are old enough you can vote. With regard to Hon. Egunyū's question which is also the same as Hon. Dhugira's question on whether we included women and youth, I would like to appeal to Hon. Delegates that we had enough time to look at this report. It gives me the impression that Hon. Delegates have not read it in its entirety because some of these questions that are coming up are provided for in other sections of the report. Sincerely if we are taking this exercise seriously I would like to implore Hon. Delegates to

read the report in its entirety because women and other disadvantaged groups have been provided for. Even there was a big lobby of lady Delegates who invaded committee four to make sure that we included one-third of councils from districts downwards to be occupied- those seats to be reserved for women. So I think if you have read the report in its entirety it will be realised that those areas have been taken care of. With regard to Hon. Wanendeya's question, I think what Hon. Wanendeya seems to lead to is whether we should use secret ballot. We considered the issue of secret ballot and declined to mandate it here in the Constitution. For the simple reason that if we were to use secret ballot through all the stages of local government it will be extremely expensive. So we have reserved the secret ballot only to the very vital areas like the electing of a chairman and much higher levels like at the district councils. But in other areas like RC.3 and RC.2 and RC.1 we have kept quiet and not mandated secret ballot just to allow that if the finances of the country cannot afford it other methods of elections can be applied.

*(Question put and agreed to)*

**THE CHAIRMAN:** Agreed. That disposes of 3 and also 201. So now let me put the question on 201 as amended or as recommended to us here.

*(Question put and agreed)*

**THE CHAIRMAN:** Article 201 stands part of the Draft Constitution.

Article 202.

**MR. KATENTA APUULI:** Mr. Chairman, Article 202 clause (1). The committee recommends that clause (1) of Article 202 be amended by deleting the words 'which existed immediately before the coming into force of this Constitution' to read: "202 (1) Subject to the provisions of this Constitution, for the purposes of local government, Uganda shall be divided into the districts referred to in Clause (2) of Article 4 of this Constitution." The Committee is of the view that the Constitution should not repeat a provision contained in another part of the same Constitution, that is Article 4 Clause (2). Mr. Chairman, I beg to move.

**THE CHAIRMAN:** Agreed. We go to the next clause please.

**MR. KATENTA APUULI:** Clause 2. The Committee recommends that Clause 2 be amended to read: *"The districts referred to in Clause 1 of this Article shall be taken to have been divided into lower local government units which existed immediately before the coming into force of this Constitution."*

**THE CHAIRMAN:** Agreed. I now put the question on Article 202.

*(Question put and agreed to)*

**THE CHAIRMAN:** Article 202 stands part of the Draft Constitution.

Article 203.

**MR. KATENTA APUULI:** Mr. Chairman, the committee recommends that a new Article 203 dealing with cooperation among districts be introduced in the Constitution to read: *"203. Two or more districts shall be free to cooperate in the areas of culture and development as set out in the Sixth Schedule to this Constitution and may for this purpose form and support councils, trust funds or secretariats subject to the following: (a) Such cooperation shall conform to the democratic principles enshrined in this Constitution; (b) the councils, trust funds or secretariat so formed shall not have power to levy taxes and (c) such cooperation shall be embodied in a charter signed by the consenting parties and deposited with the Speaker of Parliament."*

**THE CHAIRMAN:** Can I get clarification on one thing first. On the main provision of 203 before going to paragraph there is where they say that they may form and support councils, trust funds or secretariats. Are we saying that there are alternatives? Either you set up a council or a trust fund or a secretariat or you can actually have power to set up either or all. Anyway I just want that clarified.

**MR. KATENTA APUULI:** What we intend to provide for, Mr. Chairman, is that you can support councils, trust funds or secretariat, one of them or two of them or all of them.

**MR. SSEKANDI EDWARD (Bukoto Central):** Thank you, Mr. Chairman. Mr. Chairman, with the

permission of the chairman of the committee. I beg to move a slight amendment to this Article namely that Article 203 should read 203(1). The reason for this is that this will enable accommodation of possible amendments that may come without exhausting the alphabet.

**THE CHAIRMAN:** But if it reads 203(1) does it have other *(Interruption)*

**MR. SSEKANDI:** Mr. Chairman, the reason I am suggesting that is that there are a number of amendments which I have seen that may cater for other Articles in the same clauses.

**THE CHAIRMAN:** I think the question of numbering is a clerical question really which can be done by the technical team but what we are chasing is the substance. If that has the effect of restructuring the whole thing then it will follow as a natural consequence.

**MR. SSEKANDI:** Okay, Mr. Chairman, then I beg to move an amendment to the Article by introducing a new paragraph (a) to read as follows: *"Such councils, trust funds, secretariats, shall be bodies corporate with power to sue and be sued."*

**THE CHAIRMAN:** It is seconded by a number of Members, Hon. Sempa, Hon. Dr. Nakyanzi and Hon. Nsangi. Now, can we get it clear?

**MR. SSEKANDI:** Mr. Chairman, the first paragraph is the clause, two or more districts shall be free to cooperate in the areas of culture and development as set out in the Sixth Schedule to this Constitution and may for this purpose form councils, trust funds, secretariats, subject to the following. Now, the purpose of setting up these councils is to carry out certain activities, to promote development and possibly to own property for the cooperating districts. If these councils have to own property they have to be legal persons and also in carrying out the activities they may infringe on the rights of other persons. Such persons should have a right to sue the councils which have caused damages to them. For this reason we should make them legal persons and this proposed amendment is supposed to do that.

**THE CHAIRMAN:** This amendment comes in place of the present (a)?

**MR. SSEKANDI:** Yes, the present amendment and I will move another amendment to re-number the present (a),(b).

**THE CHAIRMAN:** But how does it follow logically? Subject to the following (a) such councils, trust funds ... shall be body corporate?

**MR. SSEKANDI:** First of all, you give them status and the status is that of making them bodies corporate.

**THE CHAIRMAN:** Don't you think that the question of the corporate status should be a separate clause on its own because does it read logically when you come from - This one is a subject to the following, these are restrictions but the other one would be in fact a positive conferment of a corporate status on those councils. Don't you think it should read as a separate this is just for purposes of - *(Interjection)*

**MR. TIGWEZIRE JOHN (Bunyangabu county):** Mr. Chairman, I am seeking some clarification from the Mover before actually I accept his amendment because he talks of the councils, the trust funds or the secretariat. Now I fail to understand the councils should not be at the head of everything or are we saying that secretariat can also sue on their own? I thought they should be below the councils.

**THE CHAIRMAN:** No, but you see you can chose simply to say we do not have to set up a council to administer land, held say on behalf of the people of Buganda or Busoga without having subject to a council. That of course it is inherent that if you are setting up a trust fund it should have that power. I do not know if it is necessary that you pass a separate piece of legislation or you seek its registration by those who are responsible. These are matters which lawyers can help us to clarify on the Floor but you do not have to tear them. You can just set up a joint secretariat like Uganda, Kenya and Tanzania are setting up a secretariat in Arusha. You do not have to have there an East African Council, they can just have an East African Secretariat with an Executive Secretary and say it does not have to be necessarily under a council. But they may chose to have a council as a separate body to run services but they could have both and also tear them if they so wish. That is how I understand it.

**MR. BIDANDI SSALI (Nakawa Division):** Mr. Chairman, I just want to comment on your earlier clarification. You are seeking clarification from Hon. Sekandi whether in his opinion he could not see a different clause. Whilst I should draw on your earlier advice that for us here let us agree and then the technical people will have to say whether it should be (a) or it should be a different Article, that is all I wanted to say, Mr. Chairman.

**MR. ABALIWANO ALBERT (Bugabula South):** Mr. Chairman, I am of the view that probably what Hon. Sekandi is saying could be accommodated in (b). The councils, trust funds and secretariat so formed which shall not have power to levy taxes, we could use the word 'and' or use the word 'but' would be body corporate and other things that he has said. So that it is part of that and I think it is more logical that, as you said, to start with it. But if we put it as part of (b) using the word 'and' adding whatever he says or use the word 'but' would be body corporate, that could also be accommodated. Thank you, Mr. Chairman.

**MR. KAWANGA:** Mr. Chairman, I think the proposal of Hon. Abaliwano would make that clause untidy. This is a bold statement giving legal status to this trust and should be separate. In fact the suggestion you are making that it should be a separate clause would be appropriate for anybody who is reading the Constitution to know the legal status of these organisations. And should not be covered under any other statement.

**MR. KWERONDA RUHEMBA (Kajara County):** I am seeking clarification, Mr. Chairman, in respect of this amendment because I have a problem with it and to substantiate what I want to be clarified on. I would like to draw on a certain experience that I have already come across. When districts join hands and they form councils, trust funds or secretariat and empower them to be corporate bodies, I do not know what the intention is. The intention could be development but development for who? The example I wanted to give was, for instance, or the parallel I wanted to give was, for instance, in respect of say cooperatives. Societies decided to come together and they formed bodies like Cooperative Transport Unions, Cooperative Central Union and those became body corporate. But experience has shown that these bodies have benefitted the management. The managers of these corporate bodies and those who have come to sit on

them as directors and you find that there is no remuneration going back to those very fellows who formed the bodies. In other words, the societies do not get anything from those corporate bodies. Now, similarly, I envisage a situation where districts are going to come together and they form such bodies and even create managers. Having created these managers to run those bodies may be some members from the districts elected or not could also be sitting on those bodies. But I see a problem in that these very fellows may divert from the original intention of the cooperators of the districts who have come together to actually benefitting those who manage those bodies or those who sit in them. May the Mover please explain the deeper intentions of this amendment? That is the clarification I am seeking, Mr. Chairman.

**THE CHAIRMAN:** But Hon. Kweronda Ruhemba, I think okay may be the experience of the cooperative movement which is a structure more or less in the lines of the RC system where you have the cooperative societies, the cooperative unions and then the national union. Those come together when they form the national unions to provide joint services to themselves like UCCTU and Cooperative Bank. How do you compare that with a situation where say if the districts of Buganda said they set up a trust fund in which they will pay some money to support their institutions such as the Kabakaship and so on? Do they expect back to be paid dividends so that the analogue follows logically? I think their dividends would be the presence of the Kabakaship. It will not be that they would expect the trust fund to be remitting money backwards.

**MR. KWERONDA RUHEMBA:** But, Mr. Chairman, we have said the intention behind the formation of these is in respect of causing development. Because that is what actually 203 says that two or more districts shall be free to cooperate in the areas of culture and development. I would expect that certainly when you establish a fund or a trust that actually this trust is going to help bring about development in the districts that have cooperated. But if you are saying that these districts are just coming together to form trusts and councils to assist the Kabaka in respect of Buganda for instance then may be I would understand.

**THE CHAIRMAN:** No, no. But you see they can be in two ways. You can have one which is to

support a cultural institution or education. But there can be, for instance, a joint secretariat to run construction equipment in respect of major feeder roads. Now there of course it can be mismanaged but that is a different issue from the question of whether they should be paid dividends in cash that you are giving the analogue.

**MR. NJUBA SAMUEL (Kyadondo East):** Mr. Chairman, I think there is some confusion in the mind of Hon. Kweronda Ruhemba in respect of the question he is trying to address. Whether we should have these councils or trusts but the issue at hand is when we have these bodies should they sue or be sued? Should they be persons who are of the capacity to sue or to be sued? So he is addressing two different questions. I think we should separate the two and say when they are created should they be having this capacity or not? Then you can discuss the other question or start the other way round.

**MR. KAGGWA MEDI (Kawempe Division South):** Thank you, Mr. Chairman. Adding to what the previous speaker has said I would want to assure Hon. Kweronda Ruhemba that even the society he seeks to protect would be more protected if these people are a body corporate and anybody aggrieved. Because he made mention to the fact that some people may gain and the others may not benefit. It will give them authority to bring any action against them in case of disgruntment and being aggrieved. So this issue should be seen in that light of getting legal status so that they could even function better.

**THE CHAIRMAN:** I think let us be more structured in our approach to the subject. I would like to ask Hon. Sekandi to stand over his Motion first until we have done one thing. Agreed that there should be cooperation and that cooperation can create these secretariats and then logically follow on the whatever other conditions. First let me now get your reactions to the first part of 203 then the rest if we amend we can always re-number. Is it agreed that two or more shall be free to cooperate in the areas of culture and development as set out in the Sixth Schedule to this Constitution and may for the purpose form and support councils, trust funds or secretariats? If we agree on that we can go on to the others. Hon. Chebet Maikut you have a problem with that?

**MR. CHEBET MAIKUT (Kween county):** Mr. Chairman, I agree with the principle itself but I would like to seek some clarification as to the procedure that may be followed for districts to cooperate. For example, if Kapchorwa wishes to cooperate with Mbale, is it the chairman who decides, is it the RC, is it by referendum? So I would like to seek some clarification because when you look at - (*Interruption*)

**THE CHAIRMAN:** No, no. Why don't you wait and we come to (c)? I think you are making a speech on a matter which is not yet on. So it is agreed on the main provision now let us go to (a) so that we follow logically. Subject to the following (a) such cooperation shall conform to the democratic principles enshrined in this Constitution. Agreed. So we have agreed on two things, the creation of councils, trust funds and secretariat and that it shall conform to the democratic principles. Now we go to (b) so that we agree on each one of them one by one.

**MR. MULONDO:** Thank you, Mr. Chairman. I want to move a very slight amendment here, Mr. Chairman, and I have discussed this with my chairman, chairman of committee four, who indicates that he may not have objection. Mr. Chairman, I wanted to delete four words from this clause and add in other words. The words I want to delete is from "not have power to." They are in line two and three. The amendment then would read as follows, Mr. Chairman. "*The councils, trust funds or secretariat so formed shall levy taxes on functions assigned to them with the approval of Parliament and shall have power to legislate for such functions.*" Mr. Chairman, I beg to move.

**THE CHAIRMAN:** Okay, it is seconded by Hon. Mukwaya and Kawanga Baptist.

**MR. KAWANGA:** Mr. Chairman, my problem is that I have already proposed an amendment on the same clause which seeks to amend 203 (b) by deleting the whole of it. And inserting a new clause to read: "*Parliament may by law make provisions for the cooperating districts to raise funds.*" Now, my seeking to delete the whole clause and replace it and the Hon. Mulondo just adds an amendment. Now, I was seeking your guidance as to what we should debate first.

**THE CHAIRMAN:** We should debate yours because if it prejudices it then there is nothing for Hon.

Mulondo to amend because if your amendment replaces this one then we do not have to go back to Hon. Mulondo's. So we start with the one which departs furthest which is yours. There are two amendments being proposed but I have not received yours Hon. Kawanga.

**MR. KAWANGA:** Mr. Chairman, Sir, I want to move that clause 203 (b) be amended by deleting the existing clause and replacing it with the one reading: "*Parliament may by law make provisions for the cooperating districts to raise funds.*" My reasons - (*Interruption*)

**THE CHAIRMAN:** Order. Is that seconded because I think I can Hon. Zziwa George and Hon. Sebalu and Hon. Kawoya.

**MR. KAWANGA:** My reasons for moving this amendment is this. First of all the way this clause is worded is a little unusual. Normally Constitutions do not make negative statements and I want to avoid making negative statement. Besides this one I think as the saying goes, the future is the word for which there is no map. You cannot foretell what will happen in the future. I envisage a situation in the future where it may be necessary for Parliament to look at the functioning of these secretariats and find a cause to give them a duty of levying tax to do some thing. That may not be now in one year, two years or three years but it may come subsequently. So I want to make this provision available for Parliament to use this and the reason I am putting Parliament it is because that is a people representative body. The kind of things we are going to put in place, the secretariats, charters and what not will require some administrative functions to handle them. One can envisage a situation like that one. Therefore as time comes up various developments may come which may cause these organisations to be able. Especially councils, to be able to raise funds and that is why I want this situation to be available to Parliament to examine and make appropriate legislation for raising funds. The reason I am also mentioning Parliament is because we do not want to raise or to levy any tax to do anything without the representative body of the people knowing and sanctioning it. As Hon. Delegates will notice there are very many other clauses where Parliament is empowered to authorise any body or organisations or districts separately to raise funds. One can envisage a situation where they having come together can be given an opportunity to raise funds and this is progressive. So for those reasons, Mr. Chairman, I beg to move.

**MAJ GEN. DAVID TINYEFUZA (NRA Delegate):** Thank you, Mr. Chairman. Mr. Chairman, I am specifically going to Hon. Kawanga's Motion. We passed a chapter on Legislation I think 146 (a) (i) stopping even individual Members of Parliament from imposing any form of tax or raising any form of tax. Now these are Members of Parliament and here is an amendment saying that lower bodies can now deal with taxation matters. I find it conflicts in principle with actually what we have already done in 146 (a)(i) but I have a more profound problem with Hon. Kawanga's motion. I do not want really people to keep us going round over the same thing, try to smuggle in things which failed yesterday and so on. If people wanted to bring these matters up they should have brought them up, matters of taxation, matters of body corporate of funds. I would really put it together with Hon. Mulondo's amendment also which seeks now to say - *(Interruption)*

**THE CHAIRMAN:** I think Hon. Tinyefunza we are debating one at a time. To combine them will be unfair.

**MAJ. GEN. TINYEFUZA:** Mr. Chairman, may be also you may give me guidance now in view of 146 (a), just rationale, 146 (a) (i) the spirit of it actually up to 4 and now transferring those powers to the local bodies of cooperation. Because I am more concerned with the spirit, what were we trying to stop here and now what are we opening up?

**THE CHAIRMAN:** I was not present, of course, I am not denying my presence and that I should be ignorant because I was not sitting here. But I think the principle is an old one, the one which is embodied in 146. It is a Constitutional rule that actually we inherited from Britain. In Britain it is very specific. Only the Crown may move Parliament to raise taxes or to increase any estimate placed before Parliament. Parliament is only allowed to reduce or reject any proposition. The substantial reduction is evidence of lack of confidence either in the Minister concerned or the government and should lead logically to his resignation or dismissal. But of course they can chose to make a token reduction of one shilling or one cent so that they generate debate upon that Motion without discrediting the Minister. If they were to delete his entire provision, within their tradition, that should be the basis. That is what 146 is all about. It reads unless of course what I am reading could have been changed, Parliament shall

not unless the Bill or Motion is introduced by or on behalf of the President or Government proceed upon a Motion that imposes a taxation or imposes a charge on the Consolidated Fund. In other words only the government can move Parliament in that direction. Government does move Parliament in many ways in this direction. For instance, under the present Local Government legislation Parliament was moved to pass a law empowering local bodies, district councils, urban councils, to impose taxes, rates, ground rent and so on. So that Parliament can enable but they are saying that a private Member should not come up and say I would like to empower Tororo County Council or Tororo Municipal Council to impose taxes. Only the government should come in. If the government has done that I do not see any harm be it in respect of other local bodies that are recognised by the Constitution. That is how I look at it.

**MR. SABIITI:** Thank you very much, Mr. Chairman. I think some of us are getting concerned about the powers of taxation. In 215 we have provided for the local government to levy, collect and appropriate taxes. Now, if the two districts cooperate or three or four, I would expect individual district councils to debate how much money to be injected in any given project in the projects being sponsored by the upper council. Now, if we give power to the councils of those five districts to tax, I think we shall be creating another body at another level with powers to tax. And if we give that body powers to tax I think many more powers may be requested for. I would suggest, Mr. Chairman, that the individual councils, the district councils, should be given power to tax. If the co-operating districts want funds the councils can shift funds from their relevant individual funds. I do not think there is any reason why we should empower the upper councils to tax.

**MR. KATENTA APUULI:** Information. I thank you, Mr. Chairman and I thank Hon. Sabiiti for yielding the Floor. I think this provision seek to empower Parliament not empower the councils. Really it should be read in that line that we are seeking to empower Parliament and Parliament in its wisdom can empower other people. So it should be debated in the light of empowering Parliament not empowering the corporate bodies.

**MR. BIDANDI SSALI:** Additional information. Mr. Chairman, additionally I think Hon. Kawanga's Motion is talking of raising rather than taxing. And

in raising Parliament can say yes you can raise money through setting up fees for people visiting the Kasubi Tombs, for people living on your land, because this common land has been put now in this middle here so Parliament can say fees, rates and so on which are not a subject of a legal procedure if you fail, which is the case in case it is a tax, here it is a withdraw of a service if you do not want it, if you are not ready to pay the fees. So I think let us distinguish between tax thing, raising fees and raising rates and I think this will be decided by Parliament. It could even be contributions.

**DR. BYARUHANGA:** Thank you, Mr. Chairman. Hon. Kawanga's Motion goes further than what Hon. Bidandi Ssali is telling - *(Interruption)*

**THE CHAIRMAN:** No, I think you are debating. Had Hon. Sabiiti finished? So you have to wait, he was receiving information. Could you wind up please?

**MR. SABIITI:** Mr. Chairman, if this Constitution empowers Parliament to make laws and giving the districts that have cooperated to raise funds, I think to me raising funds would include taxation. Because you raise funds through taxation. My worry is this body. I thought this would be like a temporary body in case there is a project that the two, three or four districts want constructed, the two, three or four districts would come and discuss and say we want this project can the individual districts contribute funds for this project. But if we entrench into this Constitution this very provision, this proposed provision, I think we shall be creating or we may find ourselves in problems in future. I would suggest that we leave the Article as it is, let these councils or trust funds not have power to tax, we just leave (b) as it is and we go ahead.

**MR. SAMKUTESA (Mawogola County):** Thank you, Mr. Chairman. Mr. Chairman, Hon. Kawanga's Motion seeks to leave an opening in future if Parliament should wish to see a need to support these councils or trusts by funds. I think the critical decision we have got to make is either we are going to have these councils trusts or secretariats and they are going to be useful or we do not have them. Because without funds they will never be useful and I think we should cut through the good word. The point is this, suppose you have a Lukiiko of Buganda and you assign a certain function whether it is cultural or development. Whether it

has come out of the agreement of the districts surely if you do not fund it or enable them to raise funds then it will not carry out whatever intentions there are. Now, there is this saying that it should be voluntary from the districts but a cultural council is not a project by project. If it has certain things to do it will have to run those functions, the salaries and things like that. So we better say this that we are going to have these councils or we are not going to have them. And if we are going to have them what Hon. Kawanga seeks in his Motion is that at some stage may be not now. once all of you have found value in these councils you may wish as Parliament to say well, why do you not have power to raise funds? I think that is the real argument. For us to scatter around this subject and appear as if we are talking to people who do not know the actual things in reality. What we are talking about was partly debated yesterday, it is part of a continuation of today. In relation to Hon. Kawanga's Motion, the critical question to be decided upon is, do we accept that these councils should be there? Yes, we do and that is why the amendment is being moved, may be that one has not been questioned yet. The question is how are they going to be funded? Is it going to be voluntary from the districts that cooperates? Or do we think that at some future stage it may be necessary to leave an enabling clause for Parliament to enable them raise some funds in another manner other than a voluntary one? It is not a contribution of support or against but I think I wanted to put the question clearly so that whatever we are determining we know what the issues are. Thank you, Mr. Chairman.

**THE CHAIRMAN:** From what you have said and from what Hon. Sabiiti has said and from what the Hon. the Mover has said, it would appear what really you are trying to find is a statement to the effect. It could also be almost a separate clause saying that the finances of the councils, the trust funds or secretariats established in pursuance of this Article shall be (a) funds contributed by the cooperating districts in accordance with the charter to be entered into between them. And (b) such other funds as they may be authorised by Parliament to raise. I was summarising, I am not saying that is what it should be but I was giving a summary having listened to three people.

**PROF. NABUDERE:** Mr. Chairman, I think what you have proposed and even Hon. Kawanga's Motion should properly come under Article 213

and not under the present Article. Article 213 deals with finances specifically and a clause could be inserted there to deal with the problem of these newly created councils rather than in that particular part which is dealing with the idea of co-operation.

**MR. HASHAKA:** Thank you, Mr. Chairman. Mr. Chairman, I do not see why we should involve Parliament to decide on how these cooperated bodies should levy taxes from either way. Because in (c) we are already saying that they are going to form a charter and a charter will be signed by Parliament - *(interruption)*

**THE CHAIRMAN:** No, it is deposited with the Speaker.

**MR. HASHAKA:** Mr. Chairman, these bodies which have cooperated I would think that they would come together and agree since each district has got a budget. They would sit down and agree which part of the budget they will be surrendering to each other for the sake of propping themselves. I do not see why really we should involve the Parliament to decide on how they will be getting their remuneration. It should be them because if you come together and make say an Article and Memorandum of Association, that Article and Memorandum of Association really decides. You decide through the same document how you are going to get remunerated and how you are going to develop. Therefore, I do not see why really we should involve the Parliament. The two districts which have decided to come together should decide on how to get remunerated without involving the Parliament.

**MR. KAJARA ASTON (Mwenge County South):** Thank you Mr. Chairman. Mr. Chairman, I stand to support the amendment moved by Hon. Kawanga. Mr. Chairman, we have already said that in principle these bodies will not be allowed to do taxation. And if we are to invoke as provided by a committee, this provision that they shall not have power to levy taxes, first of all, as told by Hon. Kawanga is very restrictive and very negative. Well, we know that they may not levy taxes but how about raising funds? Mr. Chairman, why I am saying this is that these councils may be unpopular today but just take decentralisation, they may pick and people will see advantage in them and the government will recognise them as being less harmful but rather more useful to carry on the task

of nation building. Mr. Chairman, there may be need for these councils or trust funds to be promoted. The only way you can do it other than by this Constitution is to leave it to Parliament. Parliament will have been duly elected by the people and its functions will be to make laws. The assumption is that Parliament is not going to make bad laws because there will be no law which will be passed by Parliament which is not accepted by all in Parliament or the representatives of the people. So, Mr. Chairman, for us to leave it to Parliament will mean that these people will assess, they will decide. They could authorise that this or that council or these two districts need funds, they are advised to borrow. They can be advised to acquire bonds or even Treasury Bills. Mr. Chairman, I think it is a healthy provision, we do not put it to a clause completely that they will not levy taxes. It may be necessary in future if Parliament deems it fit that they even levy taxes. What we are opposed to, Mr. Chairman, is this Assembly saying that this percentage, ten percent or twenty percent or one percent. But depending on the Charters these people can be advised. Parliament can advise them on how - if they say do not involve yourself in direct taxation, in collection of taxes, the government can tell them you can raise funds by other ways other than through taxation. So I support the amendment, Mr. Chairman.

**MR. BAGENA ANTHONY (Bufumbira County East):** Thank you, Mr. Chairman. I would like to support the amendment, Mr. Chairman. In Committee Four we looked at what is likely to cause consternation and opposition. We zeroed in on levying of taxes because that goes down to the grassroot person. But this amendment which seeks to involve Parliament that represents the people is certainly going around the problem because Parliament is going to be involved in approving proposals from these cooperating districts. There are very many ways of raising funds, taxation being one of them. There are several others which were excluded from the proposal under (d) of the committee and here the amendment seeks to tap them. Investment is another one which is perfectly legal, resource utilisation of the cooperating districts and even donations. Now, there are areas where Parliament might or will have to be involved in order to keep law and order within the district itself and within the cooperating districts. So this amendment, Mr. Chairman, goes out to find other ways which Parliament is likely to approve. Which Par-

liament will find no problem accepting because the local person who was protected by the prohibition of levying taxes will not be affected, will not be touched. I beg to support the amendment, Mr. Chairman.

**MR. GEORGE ZZIWA (Kawempe Division North):** Thank you very much. Mr. Chairman, this is a very well intentioned amendment and I do not think it should raise any fears of double taxation as it might be in the minds of some people. The man at the grassroot should always be protected especially when it comes to taxation. In fact this is where most Delegates have been putting their eye to make sure that the common man or the peasant is not over-burdened with taxes. And where anything is mentioned regarding tax the Delegates have been very careful to ensure that this tax does not turn out to be a burden to the peasants. This amendment Mr. Chairman puts safety valve on to the raising of funds. It clearly states that Parliament should keep an eye on the kind of activity to the raising of funds. And I think everybody agrees that Parliament being a body representing the peasant and representing everybody in this country, this country will not just accept and accede to a tax or to funds being raised, without consideration being given to the common man. Mr. Chairman, some Delegates have given examples where the raising of funds actually does not involve taxation and one of them is the investment. Is putting public funds in investments in order to realise dividend or profit. And this one is a very clear example where if you have tied the hands of the councils or the trust funds, no more funds would come in. Because no room was given in the constitution for them to invest in certain investments. Mr. Chairman, I therefore strongly support this amendment. And probably I would like to give another very live example may be from Buganda. Whereby, the council would take up a project like constructing a stadium. This is the Wankulukuku Stadium. And it might think it appropriate to raise funds for the construction of this investment from the people of Buganda. Mr. Chairman, therefore, we should not have any fears that the common man will suffer out of this permission being given by Parliament. Thank you, Mr. Chairman.

**MRS. MWONDHA FAITH (Women Delegate - Jinja):** Thank you, very much Mr. Chairman. Mr. Chairman, I just have a small contribution to make. In my opinion I feel that, the amendment would not

be bad if it is not talking of deleting Clause (b). I feel that in order to make the provision work, (b) should remain and the amendment would be a provisos to this article. Mr. Chairman, I am saying that, because I feel that to levy taxes is just one of the ways in which funds can be raised. Now, when you specify it, it has to remain, and then we put a provisos for Parliament to make provisions for the cooperating districts to raise funds. So, I am opposing it merely because it is attempting to delete (b) which is very instrumental in this article. But I would accommodate it, if it remains as a provisos at the end of Article 203. Thank you (*applause*)

**MR. KIWAGAMA WILLIAM (Bunya West):** Thank you very much, Mr. Chairman. I am a member of Committee 4. This question of taxation was a problem in the committee, and we knew in our consultations, people were against these middle councils imposing taxes in addition. Taxes imposed by districts. When this amendment came in this morning, I thought it was as Hon. Bagena said. It was a way around this problem. It is even not talking about taxes, I am thinking of a scenario where two or three cooperating districts have agreed on a project for which they cannot raise funds from their own resources enough funds. They can approach government and present their project and then government can go to Parliament and seek permission for these cooperating districts to raise funds for a particular project. But who knows, government may even decide to give them a grant for that particular project. So, I do not see any risk in this provision, because if parliament sees that, there is no need or it is not possible for these districts to raise funds for a particular need, they will not allow it. So, I do not see why people are really opposed to this one. It is a very good amendment, brought in good faith Mr. Chairman.

**THE CHAIRMAN:** Now, you see there are ideas on the Floor. It would appear Members are debating two things. Some are debating the idea that, the words raise funds are broad enough, and could include, taxing powers. Others are saying that, actually they would like a lee way. Some option, so that Parliament could having received charter deposited with speaker, if it so approved, would then enable by legislation or resolution to these bodies to raise funds. So, let us first of all declare what we are debating. Are we debating a proposition as Hon. Faith Mwendha was trying to suggest? Sorry, Hon. Kawanga the Mover is saying that we delete (b) and

insert the formulation he had suggested. And then, Hon. Faith Mwendha is saying, it should read: *"The councils trust funds for Secretariat so formed, shall not have power to levy funds, but parliament may make provision to enable them raise funds in addition to funds made available by the cooperating districts."* Now, it is really up to Hon. Kawanga to react so that we know what we are debating. But he may be assisted by Hon. Bidandi Ssali, who seems to have some answer.

**MR. BIDANDI SSALI:** Mr. Chairman, we have been caucusing with the mover Hon. Kawanga, and he agrees that, what is provided remains in (b), and that, his amendment becomes either (b)2 or whatever the case may be.

**THE CHAIRMAN:** But then, are you saying, that you do not want to mention because some Members were concerned that, we were leaving the cooperating districts without mentioning that, they can also make contribution. Of course we know, there could be a charter. But should it be mentioned? If that will be the case, then formulation I have read out would cover that. *"The Councils Trust Funds or Secretariat or so formed shall not have power to levy taxes, but parliament may make provisions to enable them raise funds, in addition to funds made available to them, by the cooperating districts."* Agreed? Thank you. Now, (c). This has been approved, unless you want me to put to the vote. I now put the question.

*(Question put and agreed to)*

**THE CHAIRMAN:** Hon. Mulondo is not happy.

**MR. MULONDO:** Mr. Chairman, while I do not object to the Ayes, that have gone through, I still feel that, my amendment has not been overtaken by passing this one. Because it is left intact. And Mr. Chairman, while I would have improved on it, I still feel that, the amendment is necessary. I wanted to improve on it by, still crossing out the word, 'levy taxes' from 'not to taxes.' Mr. Chairman, I have a reason for that. And I want to be understood very clearly from here. I want this to read: *"The Councils Trust Funds or Secretariat so formed shall have power to legislate for functions that have been assigned to them with the approval of Parliament."* Mr. Chairman, I want this to be understood. That some functions that may be assigned to this cooperating body, may need some sole bye-laws or

laws to protect them. For instance, if the cooperating districts were to transfer or to ask the cooperating body to look after forests, and then you tie up their hands that they cannot even legislate, protect those valuable assets of the country, I do not see how they can be effectively be working. This legislative power, some people interpret them, as having properly too many of them. But if a district has powers to legislate, I would have thought that, some of these transfer functions definitely need some legislation to protect them for the good of the whole the community concerned. And I would like to urge the Hon. Members to try to look at this with the compromise and cooperation and maturity that is necessary for a House of this nature. Mr. Chairman, when you look at the list of areas of cooperation, definitely you have to come up with legislation of one kind or the other. Because how do we operate? You assign duties to this group and then they can only work at the mercy of the districts or the central government. I cannot see them effective. If we have agreed to this cooperation, I am sure it is our duty to enable it to work effectively, instead of just living it in the balance. So, Mr. Chairman, I have proposed to put this amendment and for the benefit of the Assembly, I would like to read it again. *"The Councils Trust Funds or Secretariat so formed shall have power to legislate for assigned functions with the approval of Parliament."* I beg to move.

**THE CHAIRMAN:** Hon. Kanyeihamba. But I do not think it has been seconded.

**PROF. KANYEIMBA:** Mr. Chairman, I wanted to assure my friend Hon. Mulondo that, really this Clause he is proposing is not necessary. Because here, the constitution is saying that, districts may cooperate in this area. For that purpose, they will be forming a charter which shall provide among other things, the way they will cooperate. And I visualize that, in that charter, these districts will make rules and regulations of cooperation. And it is not necessary to put it here. What is important to see these districts shall cooperate in these areas, and they will form a charter for that purpose. That is sufficient without further saying, that they will make laws for that cooperation. That is not necessary, Mr. Chairman. So, I thought that, this amendment really, does not add anything to what we already have in the Committees' recommendations.

**THE CHAIRMAN:** Someone seeking clarification?

**MR. BIDANDI SSALI:** Point of clarification. Mr. Chairman, I am seeking clarification from Hon. Kanyeihamba in learned family. If for example these come and agree to cooperate, for example on the development of the language say Luganda. That is agreed. And there is need for a law be put in place, for example prohibiting production of grammar books by anybody in Luganda unless it has been approved by such and such. And if you do, it will be legal. Now, in the explanation by the Hon. Member, Hon. Kanyeihamba, will the districts be free to seek that power of legislation in that respect and some other respect which will be binding if the cooperating body the council legislated and becomes legally binding in the courts of law. I just wanted that clarification.

**PROF. KANYEIHAMBA:** Mr. Chairman, I think that example is a very clear case, where it is very necessary that, this matter be left as it is. Because you see, the power which is given to them, is to cooperate in these areas, but not to legislate and control them. For example one of the areas is health. I cannot visualise such an association secretariat, making regulations that people within their jurisdiction should not go to hospital. That is a matter which must be left to parliament to determine. But they can say that, we should cooperate the administrations of these dispensaries and so forth, they should be under one management and so on that they can do. Which would be otherwise, if you gave them powers to legislate the control of those areas in which they are going to incorporate. That is where there is danger. So, I think the example you gave is a good one. They may make rules and regulations in accordance with provisions of this constitution, for corporation purposes. But they may not make laws which change the substance of the areas in which they are cooperating. I do not know whether I am making myself clear. Which would be otherwise, if you did give them powers to do so.

**MR. KAYONDE:** Point of clarification. Mr. Chairman, I am also seeking clarification along those lines. According to article 205, in the report, and I read: "*The local government shall be based on a council which shall be the highest political authority within its area of jurisdiction and which shall have legislative and executive powers.*" Now,

this is the function of the district council, one of the functions is to legislate. If they decide to cooperate, can they delegate this function to the so formed council.

**THE CHAIRMAN:** Which provision are you referring to?

**MR. KAYONDE:** Article 205 (1) it is being proposed that, they will have legislative function. Now, can this legislative function be delegated to the council formed through the cooperation of the district? I am seeking that clarification, if they decided through charter that some of these functions can be exercised by the cooperating council. I am seeking that clarification.

**MR. MWESIGWA RUKUTANA (Rushenyi County):** Thank you, Mr. Chairman. I would begin with the question raised by Hon. Kayonde. And I would step that, it is unfortunate, to have not reached that article. That some of us have intentions of challenging it. If we pass it as it is, to me, I see no problem that the cooperating districts may agree to exercise it jointly. That is if we pass it.

**THE CHAIRMAN:** If it provides that, it may be so, they are so exercised jointly.

**MR. KAYONDE:** That is if the charter provides. But as I stated, I do not personally take it to be the best approach. Mr. Chairman, I was rising to oppose the Motion by Hon. Mulondo.

**THE CHAIRMAN:** First we are trying to find really, is it a new clause! Because you see, we have just passed a provision which is relating to (b), retain (b). But with an addition to enable monies to be made available by the cooperating districts. An opportunity for Parliament to enable these councils and so on to raise funds in other ways, other than by way of taxation. Now, the substance of the Motion by Hon. Mulondo is to say, what about the question of legislation? Where had this come from together and said, we shall manage our local forest in Buganda together for instance or Busoga, Jinja Iganga Kamuli(JIK) forests and you put JIK forests together. Now, if there was need to ensure protection of those forests whether by-laws or by rules whatever. Would those councils have automatic authority by virtue of the charter to be able to pass those rules or by-laws or as Hon. Kayonde was asking? You can put a rider to 205, if he succeeds

within his form to say, that nothing prevents councils that have acted in accordance with 203 to confer some of their legislative and executive powers to those councils Trust Funds or Secretariat. So that, we know, exactly which one we are handling.

**PROF. KANYEIHAMBA:** Mr. Chairman, I think that the - *(interruption)*

**THE CHAIRMAN:** Before you answer Hon. Kanyeihamba, Hon. Mukwaya has got -

**MR. MUKWAYA ABBEY (Busiro County East):** Point of information. Mr. Chairman, this information may help Hon. Kanyeihamba to make his point that, under the areas of cooperation among districts, we intend to add on (i) which reads: "*And such other functions as the Central Government may assign or delegate the cooperating districts.*" I think the Motion by Hon. Mulondo is actually intending to cover this area of functions of delegated or assignments delegated to those cooperating districts. His point is, when the Central Government Delegates assign such functions, shouldn't those cooperating districts or that council have powers to legislate in such areas?

**PROF. KANYEIHAMBA:** Mr. Chairman, I wanted to go back to the question asked by Hon. Kayonde regarding Clause I of Article 205. And I was suggesting that, that power cannot be delegated. Where it says that, the Local Government shall be based on a council which shall be the highest political authority within its areas or jurisdiction and which shall have legislative and executive powers to the exercise in accordance to this constitution. That power in my opinion cannot be delegated to the charter or Secretariat that we are talking about. Because the jurisdiction of the Secretariat and of the bodies to be created after the charter are simply for purposes of cooperation in the areas which are mentioned. Not for making laws or being the highest political authority in that jurisdiction of the districts. So, my view is that, that cannot be delegated.

**THE CHAIRMAN:** What about the last leg of that very provision. It says, powers to be exercised in accordance with this constitution. Supposing the constitution said so?

**PROF. KANYEIHAMBA:** Well, Mr. Chairman, if it did say so, then that is okay. I would be in that

light, but having read the recommendations of the committee, unless we pass another amendment, that power in 205(1) could not be delegated. It is up to this Constituent Assembly to do so, if they wish it to be delegated.

**THE CHAIRMAN:** Hon. Mulondo, what do you have before us? What do you want the Assembly to do for you?

**MR. MULONDO:** I want the Assembly to help me on this issue, Mr. Chairman, because it is crucial in the area I represent. I feel that, if these councils or Trust Funds of Secretariat are going to be of any use, they should have some way of legislation in view of the function that, are assigned to them. I do not want to advocate that they get legislation on all issues. Because this is well covered in the constitution. But it is going to be useless, Mr. Chairman, if for instance the cooperating districts were agreeing that, such functions will be performed by our cooperation council, and the person has no say, he will just be like a rubber stamping. I think that does not make sense. For instance, if forests in a region like Uganda here, were signed to the cooperating council and this council has no power whatsoever, even of saying that, trees will not be cut until they have matured, until they are these years old and so forth and so on. I cannot see how the operation of this council is effective. And I would not like an Assembly of this nature to create a council which is useless. So, I still appeal that this consideration should be made, Mr. Chairman. And on that point, I wanted to propose that, probably this be a separate sub-clause to say that, the Councils Trust Fund or Secretariat so formed, shall have power to legislate in respect of functions assigned to them, with the approval of parliament. This is specific. And I can see no danger in it. So, in the spirit of give and take, Mr. Chairman, I feel that this Assembly should agree to this proposal. Thank you, very much.

**MR. RUKUTANA:** Mr. Chairman, it is now clear that, the principle we are debating, is whether the cooperating districts should have power to legislate. Mr. Chairman, looking at the 6th schedule which stipulates the powers and the areas under which the districts may cooperate, I see culture. Culture and traditional lands, promotion of local languages, education, roads, health, etc. Legislation is not one of them. That is first and foremost. Two, it is clear that, we are confusing two things. One, the districts that have come together under the

charter, and the district councils. The two are totally different. Now, Mr. Chairman, when we come to powers to legislate, it is clear that, we have already in article 132, empowered Parliament to be the sole source of law in Uganda. It will be very confusing, Mr. Chairman, for us at the same time, to empower another organ, to have powers to make substantive laws. If we are seeking to allow, the cooperating districts to make by-laws, or regulations for the purposes of the cooperation, that is very good. But to say plainly, that they should be allowed to legislate would be very dangerous. We could be faced with a situation where we have laws emanating from the cooperating districts conflicting with the national laws. So, Mr. Chairman, in those circumstances, we would be faced with a dilemma which of the two would prevail. So, to avoid all that, I think we should not state that, they will have power to legislate as such. We may say, they may have power to make by-laws or regulations as regards the areas of their cooperation.

**THE CHAIRMAN:** But are you not saying the same thing. Really you are saying that, where there has been a charter establishing cooperating districts. The council established by virtue of that charter may to the extent that, the issue would have had the power to legislate pass laws in that respect.

**MR. RUKUTANA:** Mr. Chairman, I would not want to call them laws. I would say, those would be areas of their understanding in the charter, and those understandings would be binding only inter-parties, as between the cooperating districts. Now, if you say, they are laws, then they spill over. Laws are laws generally. We should avoid the situation where we have uniformity in laws. The law should be uniform. They cannot be uniform if we have two different sources of law. So, Mr. Chairman, my argument is that, if two or more districts have come together, they may agree on certain sets of rules within their charter and as amongst themselves, that will be law. That will be enforceable amongst themselves. But say that, we should include this in the National Constitution. Would be to extend it to other areas not covered in the Charter. So, I would, Mr. Chairman, suggest that we leave the idea of law along, we allow them to make rules and regulations and provisions in their charter that, will be law as between themselves.

**MR. SEKITOLEKO SEBASTIANE (Bugangaizi County):** Thank you very much, Mr.

Chairman. I understand fully the concern of the mover. But then, my only problem of (b), one that, the sources of power or making laws would be too many. You have Parliament, you have this trust, you have the district. Now, in that case, you are likely to create a conflict. You are giving an example of say a forest. A district may not be interested in preserving that forest, but then the trust, the council may be interested in preserving the forest. Now, you are likely to have conflicts. Let us have power at the district, and have another law making body at Parliament and those would be enough for me. I thank you, Mr. Chairman.

**MR. NJUBA:** Point of clarification. Mr. Chairman, I have noticed a base confusion about the charter. And they were empowered to make some laws. The charter is a law that will relate to each as we relate to each other. And it cannot be a source of power or cannot give power of registration. Now, Mr. Chairman, you gave an example of forests. Protection of forests. Now, it will be pointless, if that power was transferred to the council, and yet that council cannot look after the forests properly. My learned friend here, Hon. I have forgotten the name. He is talking about rules, regulations, but they are all laws. And there must be a basis upon which they make these regulations in order to acquire the force of law. So, the charter is, in otherwords, to inter-relate, as they will inter-relate. But there must be a constitutional provision whereby that council can protect the area where it is functioned. Whether you call it by-law, or regulations, but it cannot have a force of law, unless and until it is adopted, by the Constitutional provision. I thank you.

**MR. ATWOKIAMBROSE (Youth-Northern):** Thank you, Mr. Chairman. Mr. Chairman, I want to bail out of this. Mr. Chairman, I support the Motion moved by Mr. Chairman. The import behind that Motion, is to ensure that, there is a constitutional provision which gives a legal basis to the charter which would be drawn. Mr. Chairman, if you can allow me to read for you Article 205, it says that, it gives the powers of legislation to district councils. And here, we are trying to see, districts which will decide to come together. And the implication is that, these districts which will decide to come together, will have to surrender certain powers to the trust in common good. So, I believe that, it is important for us not to ignore the importance of providing the legal basis for the

Secretariat. Mr. Chairman, it is also important to note that, the power of legislation which the Secretariat will need, must be derived from the constitution. And this is the message behind Hon. Mulondo's Motion. He is saying that, the laws that will be made by the Secretariat in common good of the districts which are cooperating, must be in consonance with the provisions which Hon. Mulondo is trying to entrench. And they will derive their legislative basis from that provision which Hon. Mulondo is trying to entrench. And we are aware that, the district councils will be given legislative powers to enact by-laws. And it is in the same spirit that, they will surrender certain legislative powers to the Secretariat to enact by-laws which must be for the common good of the cooperating districts and must be consistent, with the provisions of the constitution. So, Mr. Chairman, I do not see any basis of conflict. There is need for the Secretariat to have legislative powers which will make by-laws in the interest of the districts which are cooperating. I do not see any conflict at all.

**MR. NSAMBU NSUBUGA (Makindye Division West):** Thank you very much Hon. Chairman. Hon. Members, when you look at the schedule of the functions which are going to be transferred, they include culture, cultural and traditional lands, promotion of local language, crafts and antiquities. Surely, when you look at these functions, they are not fit for the Parliament to set rules or laws governing. Because, you will find the cultures differ from district to district. Similarly, traditional lands also have got their own regulations. These need only those people who are affected, who can make laws governing them. You cannot say, that you can have a home whereby, you will have a charter governing all these things. Each home, must be looked in its own identity with its own rules. So, you find, Hon. Chairman, that the only bodies, which can make such rules to govern our culture or cultural and traditional lands, promotion of local languages. It is these organisations like the charter you are talking about, sets out the conditions of cooperation. It cannot go in detail to provide for such items which may even come later, as the central government may decide. So, in the circumstances you will find, that the amendment which is being sought by Hon. Mulondo is justified. Anybody who offends the culture, how are we going to handle him? Shall we ask Parliament to set rules for our culture, how we shall handle such a person? Anybody who says a king we want to follow, how

he should come in power about three or four sons of a deceased king are trying to claim for throne. How are we going to handle the situation? Will it be the Parliament surely to do the job? I think that, these are local things, which must be handled by local legislation, after all, we have said that, with the approval of parliament. Should parliament think that, what has been legislated is not fit to be law, of course it will say No! And that is all. Thank you very much, Hon. Chairman.

**DR. NAKYANZI VERONICA (Ntenjeru South):** Thank you Mr. Chairman. Mr. Chairman, Hon. Mulondo's Amendment is talking about legislating in respect of functions which have been allocated to the trusts. It does not talk of legislation in general. So, when we allocate any service, on functions to that particular council, if for example it is road maintenance, it is in respect of only those functions that it has to legislate. Therefore, there is no fear, that it will conflict with the regulations or rules set by the district, and there is no fear that, it should conflict with those set by the parliament. Mr. Chairman, it becomes almost impossible for you to perform a function without a way of making sure the function is growing. For example if I can give an example, we might give these trusts the responsibility of looking after the inter district roads. When I was still a young child I remember, there was a by-law in our area, whereby each person or each owner of a plot of land had, in order to maintain the roads, you had to dig around the roadside adjacent to your plot. That was a sort of legislation then. It was made so as to enable proper maintenance of the roads. Those were the types of things we were referring to. We are not saying that, what applies for example in Ntenjeru, should automatically apply to Hon. Rukutana's area No! So, it is really a limited provision, it is harmless, and it will be for the proper implementation of the functions we are giving. Secondly, all laws made in Uganda, are subject to the constitution, and which ever law, or by-law is going to be made, is going to be subject to that. We do not expect any council trust, be it the district or other local council to make a law which is in conflict with the constitution or in conflict with the laws as passed by Parliament. I therefore, see no reason why we should oppose it. And I am asking fellow delegates, to look through this amendment and accept it as it is going to help to preserve the functions and services being offered by these people. Mr. Chairman, I am a doctor. And when you are functioning

for example if you come to me to treat you, I can actually legislate and tell you that, you take this drug, but you do not drink alcohol today. That is the form of legislation. I am giving it to you, so that what I am telling you will work. So, Hon. Delegates, that is the sort of thing this provision is seeking to empower. So, that, when you are given a function, you pass the necessary legislation to empower that it is achieved. I thank you, and beg you to support this amendment.

**THE CHAIRMAN:** Okay, I think there is a bit of excitement particularly from the law making powers. But I think really, I would suggest that, we proceed this way. That we had dealt with (b), Hon. Mulondo came in with a new formulation relating to the legislative powers. I would rather we pronounce ourselves on (c). We accepted (c), then from the speeches I have heard from the Floor, it could be possible to make a formulation which says, where the charter has been entered into, specifying the areas of cooperation that, the districts concerned may also assign powers to make by-laws, rules or regulations, in relation to the matters, subject of the charter. So that the councils can do that.

**MR MUSUMBA ISAAC (Buzaaya County):** Point of clarification. Thank you, very much, Mr. Chairman. I just seek clarification from the movers of this Motion. Mr. Chairman, my problem is a legal problem. Supposing the council or the trust sat, this cooperation of districts. The council sat and said, in the interest of promoting our culture, our local language, which are all here. We want to pass a by-law which says, everybody in the cooperating districts, every school going child in primary should be taught the grammar or the vernacular of Buganda. One, would that be within the proposed amendment? And two, if the answer to that is Yes. I, who is an Alur seated or sitting in Tebe-Tebe in Kireka or Bweyogerere, with my school going child, would I be affected by this provision? Mr. Chairman, I would seek further clarification again. Supposing this council sat and said, in the interest of promoting our every culture, everyone seated in our districts will contribute by way of manual labour, to the cleaning of our historical lake or whatever the Kabaka's lake. Will that affect me an Alur? This is what I want to know, even if I do not believe in this arrangement."

**THE CHAIRMAN:** But I thought Hon. Musumba you know that, we shall read the constitution as a

whole, there may be provisions relating to Ebyaffe for instance and as to how it should be maintained. Now, I think somewhere it says, that no person should be forced to make a contribution. Any by-law of that nature would be contravening the constitutional provision if it is there. Similarly, there would be other statutes of Parliament. If Parliament says that, districts shall have responsibility for managing primary schools, their establishment and management, but shall not have the power to determine the curriculum. Then of course the issue falls by the way side which we have just raised. In other words, the district did not have the power to pass on to the council. But if we said, that a district shall have power to make by-laws relating to the use and management of a local or community forest. And they decide that, the management, maintenance, and utilisation of local forests or community forest shall be a matter of the cooperating district. Then what I was formulating was to say that, in the charter of cooperation, they could say to that, to the extent that they would have passed by-Laws or laws relating to the management and use of that forest. Those powers shall be passed or those by-laws shall be passed by the council, established for the purposes of the cooperation. They will not have gone beyond the powers they have, be it under statute, or under the constitution. That was what I was looking at. And that, arises from the charter, so that the charter confers.

**MR. TIBAMANYA URBAN (Kashari County):** Thank you, Mr. Chairman. The formulation by Hon. Mulondo has a catch, and in that respect can be dangerous. You see, we have empowered parliament to make laws and the districts to make laws. Now, it ought to be the district that has surrendered powers, that can say to the Secretariat that, you can make such laws. And in fact, in some of these International Organisations, to which we are the Members, when treaties or laws are made, like the non professional treaty, each Member is required to ratify it. And I thought it should be the same that, these two districts having got a charter anything made under the charter should be ratified by each district, then it turns into law. But if we empower the Secretariat to make laws, and one day, one district does not agree with that Secretariat, then we shall be in a problem nationally of how we can solve that problem. So, I think we should remain quiet about this secretariat making laws, and let the charter handle it. The charter of the districts coming together should handle it. And when they surrender powers to the Secretariat or

Trust then, the charter ought to say that, you know, for laws made under these powers we have surrendered to you. We ought to ratify them, so that, if they are four districts and three gang together, to pass a law which is against the fourth district, then the fourth district can opt out and say, we are not part and parcel of that law. It ought to ratify it, I thank you Chairman.

**THE CHAIRMAN:** So, you accept the formulation, but with a reservation to ratification. This is how I understood it. In other words, I think what he was saying, if I may say how I understood him, was that, the districts which have come together by their charter, they set out the rules and regulations that will manage the cooperating arrangement. But that this thing should be submitted to the councils of the district for ratification. Having done so, then these apply by force of law, as if they were passed by those councils.

**MR. TIBAMANYA:** That would be better. Correct.

**MR. BIDANDI SSALI:** Mr. Chairman, bringing in of ratification is a very, very important improvement. But let us not lose sight of the content. A proviso contained in the amendment by Hon. Mulondo, which was that, the laws so made, are in a way subjected to the approval of Parliament. It is contained and I think it should not be lost sight of. In which case, any of those fears and so on have in a way one been protected in a sense that, Parliament will have definitely given an approval to them. Because it is subject to the approval of parliament. And now, even made better, that also, before they are implemented, it is subject to ratification by the cooperating service. I think these two should not be lost.

**THE CHAIRMAN:** But if parliament has approved, do they have any room for ratification or should it be the other way round?

**MR. BIDANDI SSALI:** No, No! Mr. Chairman, the approval of parliament is two way either the laws are made and sent to parliament or Parliament puts in place provisions under which, such regulations are made, before even the laws are made. But they put in place a system where, these laws can be made by these bodies, and before they are implemented, they are ratified by each district.

**PROF. KANYEIHAMBA:** Point of clarification. Mr. Chairman, I am seeking clarification from Hon. Bidandi Ssali when you introduce Parliament in these matters. Because it is expected that, these matters will be exclusive to these few or several districts. They are the ones which understand their sensitivities, and the aspirations of those subjects under them. And I think that, ratification by the district in the group is more logical than when we introduced the matter to the whole parliament including representatives who come from outside those districts. Could you perhaps clarify for me, why you think parliament would be better than ratification by the participating districts or cooperating district?

**MR. BIDANDI SSALI:** Mr. Chairman, my clarification will be in form of requesting the mover Hon. Mulondo to read out his amendment, where this parliament figures. Mr. Chairman, I beg you to once again, let us listen to the amendment.

**MR. MULONDO:** Mr. Chairman, the text of the amendment reads as follows: "*The Councils Trust Funds or Secretariat so formed, shall have power to legislate in respect of functions assigned to them with the approval of parliament.*" And this approval of parliament Mr. Chairman, was deliberate that, there is no conflict between what the council or trust is doing, and what the government would wish. So, this would be in conformity with the cooperation that is necessary between the government and these councils.

**THE CHAIRMAN:** But I think Hon. Mulondo the problem is this, these powers are coming from districts not from the parliament or from the national government. And therefore, what some Members are saying, that if you enter into a charter and say, we shall cooperate in field of health, primary health and all the rest. And you want to pass laws relating to construction of toilets and their nature, by everybody, every family, and that can be passed at the level of the cooperating council. What other Members are saying, that for purposes of giving effect, since the power originally comes from the districts, they should be subject to ratification by the cooperating districts. Rather than sending it to Parliament where someone from Mount Elgon comes to decide whether or not, they should certain things in Buganda.

**MR. MULONDO:** I have no objection to that, Mr. Chairman, provided it is entrenched in the constitution. Because my worry is that, these people should be able to function, and they should be provided for to function, as to who ratifies this I do not mind. Whether it is the cooperating groups or the Parliament.

**MR. KAVUMA STEPHEN (Kyadondo South):** Thank you, very much Mr. Chairman. I am sorry I have just come in, I wanted the clarification. Supposing we say, these councils will have legislative power. Normally where you have legislative powers, you also have a machinery to enforce breach of that legislation you have made. Who is going to enforce these pieces of legislation made by these councils. Because, I think legislation goes with the cohesive machinery of state to enforce what has been legislated upon. I want a clarification on that.

**MR. MULONDO:** Mr. Chairman, these late comers always disturb us when we are proceeding very well.

**THE CHAIRMAN:** But are you calling him out of order for saying you arrived late?

**MR. MULONDO:** Because Mr. Chairman, the charter will cater for this. And I think that is more than enough. The Charter will provide for this, Mr. Chairman.

**THE CHAIRMAN:** Now, do we stand? Do you accept the formulation?

**MR. RUKUTANA:** Mr. Chairman, if we are get something sensible, it is very important as suggested, that ratification is at two stages. First and foremost, is the stage of the cooperating districts, and thereafter at parliament. Approval by parliament. The rationale is simple, using the example of Hon. Musumba, suppose the districts of Buganda passed a by-law that every school going child, must be taught in Luganda, from Primary One to Primary Seven. I can see the districts of Buganda endorsing such a by-law, thinking that is very good, it will keep Luganda and their culture and all that. But then we know very well that, Uganda is a heterogenous society. In the cooperating districts, there may be minorities who are oppressed by particular type of legislation. Now it is clear that if there are minorities, they may not have a voice in ratifying or

otherwise. But if the matter was put to Parliament, it is at that level that Parliament would come in and see the plight of these minorities. I have used this crude example but there are a number of situations that can arise by the mere fact that we are a heterogeneous society and no district can boast that it is comprised of only the same people. So Mr. Chairman, I was appealing to Members to see that it is important if we are to pass the legislation to allow the districts to legislate at all. It is important to have ratification at two stages.

**LT. COL. SSERWANGA-LWANGA (NRA Delegate):** I thank you Mr. Chairman. I think Mr. Chairman, since we have accepted that the power will be in the district and it will be the district to surrender some of this power. In my view, Parliament is not necessary. The district should be the one to ratify what has been agreed because if Mbale and Kapchorwa are discussing circumcision, how they will handle the circumcision of men. It would be wrong for me a man in Ssesse who is representing Kalangala or whatever, to come and start also getting so much involved in that. I will actually spoil the soup.

**THE CHAIRMAN:** Really more particularly if you are scared of circumcision. *(Laughter)* So Mr. Chairman, these by-laws made by cooperating districts should be ratified by the cooperating districts or district councils. When it also comes to reinforcement, a question raised by Hon. Kavuma. It is the district which has got the machinery to do so, to reinforce those things. The Parliament may not have the machinery to ensure that those clauses or by-laws which were passed are enforced.

**THE CHAIRMAN:** Okay, now I think you have narrowed in now to ratification. Who should be ratifying?

**AN HON. MEMBER:** The district.

**THE CHAIRMAN:** The formulation now is as read out by Hon. Mulondo but ending with, subject to ratification by cooperating districts.

**MR. MULENGA JOSEPH (Democratic Party):** Thank you Mr. Chairman. Mr. Chairman, the mover I think had a reason in suggesting that ratification be vested in Parliament. Hon. Rukutana has made a point that is being overlooked. But there is another one. There is a question of possibility of

a by-law or whatever their legislation will be called, running to counter some laws that Parliament has passed. Do we want that it be referred to court in case of such conflicts? Or should there be that linkage between Parliament and these we are giving powers so that if Parliament ratifies, we are satisfied that there is no infringement of anything. I think that was the purpose, not so much because the Parliament is more knowledgeable than the districts concerned but because this legislation may affect first of all what Hon. Rukutana was saying, minorities. If we use the example of circumcision Mr. Chairman. Suppose the Mbale or whatever that cooperating body will be called, legislates that everybody residing in Mbale shall be circumcised whether or not they believe in it. People like Sserwanga-Lwanga are living there and they feel they should not be affected by this law. I think that reservation in Parliament to see that these by-laws are not in conflict with national laws and secondly not oppressing minorities.

**THE CHAIRMAN:** But you see the logic I am failing to find is, the Members are saying, if a by-law or a rule or a law is passed by the district council, that is right. But if it is sent to the cooperating council and it is passed there, it must go for ratification. And yet if it is passed by the district council alone, it does not go for ratification by Parliament.

**MR. KABUGO:** Thank you Mr. Chairman. Mr. Chairman, we are debating on a very, very important issue. And looking at the Members contribution as I have gathered, it seems that most of us are looking at this issue from the present NRM set-up. We are failing to look at the issue bearing in mind that after some time, after promulgating of this constitution, we might end by entering or re-introducing multi-party system. How will it work? Mr. Chairman, it is my view that before we decide on the issue and judging now, it is already 1.20 p.m. Let us leave it and go for lunch, come back and decide on this issue after consulting our Colleagues rather than to rush this issue at this very moment, Mr. Chairman.

**THE CHAIRMAN:** Okay, let us first of all see where we have reached. On article 203 as recommended, we have approved (a), we have approved (b) with amendment, we have approved (c), we are now discussing a new formulation relating to legislation. The question is, who should be responsible

for - I mean it has been agreed that if you really enter into a charter handing over certain functions, they should carry with them, the right to pass by-laws or regulations relating to those matters. The question is simply one, once they have exercised that power, there is need for ratification. Should it be ratified by the cooperating districts alone or should it be ratified by the cooperating districts plus the Parliament? I think that is the consideration. Some Members are fearing that for instance, Bagisu might impose circumcision on other people who lived in their boundaries and who could not believe in it. Therefore, they should be able to be protected by the national parliament. That is one of the arguments. I think what we do, we break for lunch now and we resume at that point. We resume at 3.00 o'clock. We stand adjourned. Thank you.

*(The Assembly adjourned for lunch and resumed at 3.00 p.m.)*

**THE CHAIRMAN:** Let us be started. When we adjourned, we were considering inserting another paragraph in 203 towards conferring some legislative function on the councils, secretariats for Trust Funds that would be established pursuant to the paragraphs we have already approved. Now, we were still discussing the motion on the floor which was that the councils should have power to legislate in respect of the matters assigned to them. But that such legislation shall have to be ratified by the districts concerned. There was concern that sort of thing may create problems. So there was a proposal which had previously been in fact suggested by the mover Hon. Mulondo that Parliament could also be brought in with respect to ratification of the laws so made. The question was, who should ratify? Is it Parliament or the councils only or both? But the motion was still available for discussion before we could come to a conclusion. So I can hear a few Members.

**MR. COSMAS ADYEBO (Kwania County):** Mr. Chairman, committee four has given us a clear picture as to which centre, laws in this country must be made. Mr. Chairman, when I am talking about the law, what are these laws? These laws are rules established by authority. They can be established by custom to regulate the behaviour of members of a given community or a given country. In the wisdom of committee four, they went further to say that having imposed on local government the responsibility to provide different social services,

local government must enjoy a reasonable level, not only financial but also legislative autonomy. And this is also why they made a recommendation that local authorities will have to make such laws within their jurisdiction which are in conformity with this constitution. Mr. Chairman, according to the debate this morning and afternoon, we have given to centres power to make laws. Parliament is to make central laws and these local authorities which in my opinion are to make by-laws. What is this by-law I am talking about? A by-law to me is a law or regulation made by a local not central authority. It can also be a regulation of such bodies which we have agreed in the constitution to come up together for the common good. But Mr. Chairman, if we are going to create more than two centres for making legislation in this country, then we are actually causing confusion. You will agree with me that no sooner shall we enact this law than some interested parties go into wrangles over power. Now, we have agreed that local councils do make laws. If these bodies we are calling councils, trust funds or secretariats are going to operate within the districts or those districts which have come together for a common good. Then I do not see why they should sit together with those districts to go over their by-laws! I can see here a kind of attempt to go back to the centre through the window when going through the door has not been possible. Mr. Chairman, making laws is not a simple matter and even we went far in stage on six, we identified the areas of cooperation, culture, land, languages, education, roads, health etc. We already have, according to the arrangement in the RC system sub-committees to deal with those sub-sectors of the economy. There are sub-sectors dealing with education, with health, with roads, name them, in the districts and they have laws. So if these bodies, the councils, the trust funds, secretariats think that they are going to be wiser and come up with other laws, they should sit down together and talk to the authorities in the districts I am talking about Mr. Chairman. But to say let them again go back to Parliament, go back to Parliament for what? You have already agreed to localise yourself there, you have agreed on your local problems, why run back to Parliament? If you are an elephant, you should be ready to carry tusk. We have allowed districts to come into association. Do not therefore fear the authorities in your local areas. I am here Mr. Chairman, not ready to support this amendment but I will go along with those who want two centres to make laws, Parliament and then the districts. But

if our councils which will create themselves, our trust funds, our secretariats would like to do so, then they should be allowed to make by-laws but with ratification by I think their districts. I think Mr. Chairman, I am very clear. I do not want to have three centres. One there is the district, then another one is the secretariat call them any name because Mr. Chairman. I do not know who will initiate coming together in one, two, three, four districts. Will it be the Chairman RC 5 to initiate? Will it be the executive of the DRC? Will it be the total executive, the number of executive members or will it be also elders there? We have different interest groups. There can be even religious leaders, there can be opinion leaders to initiate coming together, there can be women groups. So it is not true that only the DRCs will have the upper hand in initiating the coming together. There can be other power centres. So this is why I am saying if we allow these new bodies to also be given power to legislate, we are going to have rivals in the districts and we are going to have confusion. I would recommend that they come up with their by-law it to DRC or councils. Thank you Mr. Chairman.

**MR. ELYAU MIKE (Kalaki County):** Thank you Mr. Chairman. Mr. Chairman, to volunteer to come together and form an association should not make this Assembly have task in helping to do what they want to do voluntarily. Because I remember there may not be many districts from other parts of Uganda who might want to come together. I have been hearing arguments about land. Mr. Chairman, this is a very serious issue. We have not brought land issue as yet and we have not known from committee one how land will be handled in Uganda. How can you discuss about land, forest before we tackle that land issue? It is very complicated because if we are going to allow all districts forming the association to handle the matter about land, then we are getting the problem quickly.

**THE CHAIRMAN:** No, but I think you are being unfair. This one is talking about cultural and traditional land. We are looking at lands that are held for cultural and traditional purposes.

**MR. ELYAU:** Okay, I see. But still Mr. Chairman, bringing this argument because I wanted to find out the truth about it because we should all share the sentiments of the discussion. Otherwise what I see is that let us respect view because yesterday, we accepted that the district council will be the unit on

which power will land immediately. Now it is up to those districts which will formulate the centre of their cooperation to surrender these powers so that they themselves in their charter formulate the idea of how they work actually under this matter, for the interest of all those areas which will come together. So I think if we bring back again Parliament on this matter, it becomes a bit complicated. Because what will Parliament do if some three people want to be together and they have their own problems? Now when calling Parliament, it means you are involving the nation again on an issue of a small area which has got only a simple issue they have regarding their interest commonly. So I think as the power goes down to district councils, these are the people, as they come together in form of this council, to come and agree together, have own interest groups specifically. Then the charter will indicate how they will operate either culturally and under laws they would want for themselves to surrender to the centre for the common good. So I think referring to Parliament will make the matter very complicated Mr. Chairman as far as I see. I thank you.

**MR. HIGIRO SEMAJEJE (Lwemiyaga County):** Thank you very much Mr. Chairman. I want to join those who say that they do not need to go to the Parliament for ratifying what the districts have agreed to do together. Mr. Chairman, it seems the constitution is giving powers to districts, that when they want to get together, they can get together. It is also allowing them to withdraw some of their powers to the centre which they have themselves created. So let them hold on with that power so that when they get together and want to legislate a law for their local facilities then let the districts themselves ratify because it affects them. If you go to the Parliament, it may take a long time because the majority of Members of Parliament may not even be seeing it so urgent. Meanwhile what the legislation was intending to do will not be done. So there will be a lag there which is unnecessary. Mr. Chairman, it has been feared that if Parliament does not come in, then a local area will impose some cultural habits to those who do not belong there. Mr. Chairman, that is not correct. Because say, for instance, somebody is working in Mbale as a policeman but he came from areas far away, from where the *Embalu* does not take place. They will know him. They are not going to impose it on him because even today, when they see a grown up man who is supposed to have been circumcised and they know he is a Mugisu, they go

and cut him. But I have not heard them cutting anybody who is not a Mugisu in Bugisu and we are there most of the time. I have not had anybody coming to check whether I have been circumcised. So for sure really, this is just creating the imagination. People know their cultural habits and they are not going to impose it on anybody else. So Mr. Chairman, let us not simply imagine certain things which may not take place. Somebody was saying that Buganda might say that let everybody in primary learn Luganda. Surely, if that is so, the child who is in Buganda and may be he will grow there, it will be to his advantage to learn Luganda. But if he does not want to learn it, he will not be forced. Bakiga now, you go and buy timber here in Ndorwa and see. They are all speaking Luganda which is broken like mine. But if they have chance to learn Luganda, they will learn it. But that is the only case Mr. Chairman. I think what we are talking about here is that this constitution is giving power to the districts and districts will be the ones which will give some of their powers to the centre they have created. Now, it is right for the districts themselves to ratify so that the work is done immediately and I do not see any conflict. Maybe what should be done after the ratification, these laws should be sent to the Parliament for keeping so that there is no duplication anywhere. Mr. Chairman, moreover these districts will be having their members in Parliament. So the Parliament will be well informed. I propose Mr. Chairman, that we do not have to involve Parliament in ratification of the by-laws which are being legislated by the councils, by the trusts which have been formed by districts. Let districts complete their job. Mr. Chairman, I thank you.

**MAJ. GEN. TINYEFUZA:** Thank you Mr. Chairman. Mr. Chairman, I would like some clarification maybe even from you and guidance as to the intention of Article 203 especially in view of yesterday's debate. Mr. Chairman, 203, to me, it appears to be providing for room for voluntary cooperation and therefore, any council coming as a result of that type of cooperation is more of a coordinative body other than a power centre. Because I think yesterday's debate hinged on regional power and really regional power in the real sense to me would imply having three basic things. One, political power, two, legislative power and to some extent maybe even judicial power. But that one we can avoid and say legislative, political and political would of course involve taxation. Now, having

refused this power yesterday, I would like you to try to enlighten me. If we extend legislative power to a merely coordinating arm of a voluntary organisation what legal impact would it have in as far as 201 specifically? Because now confusion comes in as long as we specifically came up and said that the unit of local government is the district. Then it is the district which can decentralise any other lower units as according to 201. There is no provision for a dispute. Two, evolve to a higher unit according to 201. Now what we are trying to do is actually the other way round that now a district can give some of its powers. So maybe if you could tell me if it is more of a coordinating arm, then there you would maybe give some suggestion. If it is a coordinating arm, then it would originate policies. Then these policies are sent back to the districts to be made into laws. But if we give it a legislative function, then I think we may be going against the spirit of 203 and 201. So Mr. Chairman, I seek some clarification.

**THE CHAIRMAN:** Now let me hear Hon. Sakwa. I am sure the movers are taking note and then we shall discuss them and dispose of them one by one.

**MR. SAKWA DARLINGTON (Bungokho South):** Thank you Mr. Chairman. In fact Hon. Tinyefuza has almost touched on the issue which was nagging me. We did agree yesterday on how many levels of government we have. We have got the central government, we have got the district government and the lower local government. Now we also agree that those local governments or district governments which want to cooperate for a certain purpose are free to do so. But now when you come up and begin saying that a trust or council or whatever name you give it of these three, four, five districts takes on legislative powers, you are actually creating another government. I do not see how you can legislate, pass laws and yet you have no power to enforce them. Who is going to enforce the laws that have been made by this cooperation? So I find this very strange. We are saying this is free and voluntary cooperation. Then we are turning round and using the same constitution to say that we are actually now determining how and what to cooperate on. We are ending up creating another tier which is going to begin telling districts what to do. I would think that the districts which want to cooperate Mr. Chairman, would have found reason for cooperation. They discuss these reasons at their various government levels at the district level. Then they appoint a coordinating committee or

whatever you want to call it which forms this cooperation council or cooperation trust or whatever. But now if they do that and this trust begins making laws and passing them down to the district, to me, it is unworkable. Because even if the districts refuse to obey those regulations, where do you derive power to enforce them? So it seems to me as if we are just building a wish, some wishful satisfaction but we have got a body which can make laws. You make the laws, I do not obey them, you have no legal authority to act. So let us be careful I think when we are talking about this thing. If we agreed to be clear about where the power centre lies and we are now cooperating, surely you cannot tell me that if I am associating with my friend. Say we agree with my neighbour that for this christmas, we shall pool resources together, we now sit and begin making laws which will govern our homes. I think we are going to agree on a budget for christmas and that will be the purpose for our cooperation. We make our party, we drink and when booze and food is finished, we go back to our respective homes and then continue to obey the rules that govern those homes. So I find this whole amendment Mr. Chairman, unworkable and I call upon the movers, unless they have got a better way of convincing me to withdraw this one. I thank you Mr. Chairman.

**MRS. RHODA KALEMA (Kiboga County East):** Thank you Mr. Chairman. Mr. Chairman, I find this amendment very interesting but I would like to start with getting some clarification asking the previous speaker about what he considers this motion to mean. I fail to appreciate his illustration of getting together with another family, his friend, to hold a christmas party together and make laws that are going to govern their party. Lunch and sodas, what not and then afterwards, they go back home and they carry on according to their individual homes. It seems to me that the Hon. Member forgets what this motion says. The motion is seeking, from what I understand, to have powers, to legislate for the functions assigned to them. The functions which are assigned to this new body which is going to be formed according to the different districts. In my opinion, districts of the same culture, same kind, this is actually the main reason why they would form together. These functions are not included in the districts. The districts are not empowered on their own independently to take care of every culture, the culture and traditional lands, the promotion of local languages, crafts and antiquities, education, inter and inter-

district roads and health. It seems to me that this sixth schedule has what the individual independent districts do not have. I take the example of (c), promotion of local languages. Someone earlier this morning mentioned about if there may be any kind of law regarding languages. A single district does not have this power, it does not have the capacity, because it is just a district which does not hold the values of the tradition of a district. Now we come to the inter and intra district roads. Here I envisage the problem of the land laws. An inter-district road may need to be made, constructed and yet this land passes through Baguma's land and he has to be paid money for compensation. These are some of the regulations, these are some of the issues that will come up and need to be worked on legally. I think this kind of situation the mover is seeking to say, now if this happens and we as a charter, we make a law for compensation, will parliament say, where do you get the power regarding land? Because land in itself is not in your power? Where do you get the power to legislate about land compensation? So these powers, I would like to inform the previous speaker, the Body will not be touching the powers of the districts at all. They will be powers for the functions that are assigned to them by this constitution. So Mr. Chairman, I think the mover has got a case and it is necessary that it is put somewhere to assure the formation of this body that it should not have any interruption by Parliament after they have made some laws. Because after all, in 203(c) we read that such cooperation shall be embodied in a charter signed by the consenting party and deposited with the speaker of Parliament. Now, if the charter is to be deposited with the speaker, it is necessary that we know whether the speaker of the Parliament will not also be involved or be answerable to any laws made by this body which will have constituted itself among the districts of the same kind. I support the motion Mr. Chairman.

**MR. KITARIKO ROBERT (Democratic Party):** Thank you Mr. Chairman. There is something that is really nagging me. There is a famous saying, *derogates non astigmia derogate* meaning powers delegated cannot be further delegated. Does it apply in these circumstances? Or are we envisaging Mr. Chairman, that the councils we are talking about can make regulations and referendum to the councils which have got power to legislate? I would like to be given that kind of clarification because we can liaise discussion on this matter. Or do they make regulations or laws, add referendum to the councils which have got power to legislate?

**MR. RUKUTANA:** Thank you Mr. Chairman. Mr. Chairman, maxim read by the Hon. speaker which says a delegate cannot sub-delegate, to me it does not apply in this situation. We are not saying that the districts are sub-delegating their powers to the cooperating body. All we are saying is that the districts which agree to cooperate, agree to exercise those powers collectively. The question of delegation does not arise here.

**MR. TIBAMANYA:** And further Mr. Chairman, perhaps it will help if the Members can equate this trust to the European Economic Union where collectively member States can make their European currency. But one country as such has no power to make the currency that could apply throughout Europe. Now, once the secretariat does pass a law that there should be a common European currency, this law goes back to each Parliament for approval. It is those members that approve, that are part of that arrangement and I suppose this will be the same where independent districts surrender some of their functions to a Trust but the Trust cannot be independent of the districts themselves. They derive authority from the districts. Everything the 37 do must be on behalf of the districts and has to be definitely approved by the districts. I thank you.

**MR. BASOGA NSADHU (Busiki County):** Thank you very much Mr. Chairman. I wanted to add on a problem which I have been having here. I had the impression that the spirit behind the Article 203 is voluntary. It is that spirit which makes the districts come together to form a council, a trust or a secretariat and when that secretariat sits, they agree on certain things which may constitute a policy. That policy would then be transformed into enabling laws by the appropriate legislatures of the districts that have volunteered to cooperate together. Now my problem is that are the districts willing under schedule 6(h) where we say that such other matters as the cooperating districts may resolve to be handled in common? I was wondering whether we should let these districts which have agreed to volunteer to work together to again go ahead and agree and resolve that in common, they will be legislating from the trust or the secretariat. If the various districts agree on that one and it is embedded in the charter and the charter is submitted to Parliament or to the speaker. Then the speaker will appropriately brief Parliament that when it comes to these volunteering districts or two of them from a particular part of Uganda, their method of

work is that the district councils will no longer have legislative powers. But those will be carried out by the trust, by the council, by the secretariat so that it is known. But I was wondering and my problem is that should we not let these volunteering districts themselves determine how much they want to volunteer and at what level it should be done? Should we do it here? Because I fear if we did it here, we are killing the voluntary spirit and therefore, the article which we have already passed. I beg to be advised. Thank you.

**MR. KAYONDE:** Thank you Mr. Chairman. We in the committee, I am a Member of committee four. We recommended in Article 203 (c) that the charter formed should be deposited with the speaker of Parliament. Mr. Chairman we realised we would have said that the charter will be laid in parliament. What we are avoiding is to subject what is considered local in which the districts have agreed to work together to areas or Members of Parliament who may not have interest in this. So we use this one, depositing at the Table for information to Members of Parliament. So here, I think ratifying what has been agreed on by the cooperating districts to Parliament will negate this spirit. Mr. Chairman, I think the problem we have is that once the cooperating districts have agreed in their charter. And here, we have not put any conditions on what they will agree on. Now suppose these districts decide that they will constitute their councils by let us say, the executive of those councils who are democratically elected as we approved in (a), that they will follow democratic principles. Now, suppose the executives of RC 5s go and constitute this council and these people say, look, this is a high body, let us give it a role to decide on behalf of the districts. Now if you say you cannot give them legislative powers, then I think you will also be interfering with this cooperation which is following democratic principles. So Mr. Chairman, I wanted to propose possibly a way out and here I want to propose that this charter which is in (c) should give room for these districts to give some legislative provisions. In other words, a charter should provide or should allow some legislative provision which can be exercised by the council. So, can I move Mr. Chairman?

**THE CHAIRMAN:** No, first let us get what you are trying to say before you move on a point of procedure. It will be difficult to know what you are moving on a procedure is about. Are you saying

that the charter should contain provisions have the character and nature of laws within the powers of the councils but those laws to be enforced by that body or applied? Or you are saying should just confer powers to the councils and secretariat to make laws? Because there is a difference there.

**MR. KAYONDE:** Mr. Chairman, what I am saying is that we have provided for the charter. The charter should allow some legislative provisions which can be exercised by the council formed by the cooperating districts. So in other words, constitutionally, we say that this charter which will form can have legislative provision. In other words, it will be the districts to know which legislative power to surrender to the council agreed on.

**THE CHAIRMAN:** By specifying those provisions in the charter itself?

**MR. KAYONDE:** Yes.

**MRS. EGUNYU:** Point of clarification. Thank you Mr. Chairman. Mr. Chairman, I am seeking clarification because I do find a problem with this amendment. The problem I find is that should we give the tier which we forming legislative powers, then the question of also enforcing what they legislate on will have to come up. Which means we again have to reconsider and give that tier also a means of enforcing what they have come up with. The situation was that we let the tier make policies and then the implementation is left to the districts and districts can do this either through legislation or other measures. The argument here is that we have already defined the power centres and once you give legislative powers, then other perspectives come in which is not necessarily cultural or economic. So it takes you beyond the cultural and economic and I find a problem with that. So I would like the movers to clarify whether or not the tier should not just be left to make the policy, agree on what they want to do together. Then the implementation is left to the districts and the districts can implement either by legislation or other measures. Thank you Mr. Chairman.

**MR. TIGWEZIRE:** Thank you Mr. Chairman, for availing me this opportunity. Mr. Chairman, I find it very difficult to accept when all along we have been talking of taking back power to the people and then we turn around and say no, this power should now be taken away from the people.

More especially the people at the grassroots. True, we all agree here that districts can come together and cooperate in various aspects but such cooperation can be defined to mean that we can have a secretariat. Which secretariat can even do research to advise the districts. And that secretariat, its sole purpose should be to initiate policy which policy must be ratified by the districts which have voluntarily agreed to come together. And after ratification, then maybe it can foresee at the implementation that ratification must definitely come from the districts which have voluntarily accepted to come together and work together. So we should not switch the districts, if we agree to give certain powers to the council, then we shall have cheated the districts yet we are saying the districts will be the basic units. So Mr. Chairman, I urge Members here to throw out that movement. Because even in the case of the East African Community Mr. Chairman, we had a secretariat coordinating various activities in the Community but then before laws could be passed, or before any legislation could be passed, it could come back to the member countries to ratify. Nothing would be enacted and I have never heard of any East African Community Act. What I know of is that policies would emanate a way of research from the community but then the member countries would ratify.

**THE CHAIRMAN:** That is not quite correct. The East African Community had a legislature which passed laws - *(Interruption)*

**MR. TIGWEZIRE:** But which same laws Mr. Chairman, required all the member countries to agree on.

**THE CHAIRMAN:** Well, it was a procedure that the Heads of State who formed the Authority, the highest body, would sign the assent rather than ratification.

**MR. BIDANDI SSALI:** Mr. Chairman, the more we have debated, the more we have lost sight of what we are debating in my view. But the way I understood the motion, was that we all agreed that districts which want can agree to come together on area a, b, c. Now in some respects these districts are saying you take over the responsibility of policy making or in these fields. Now, the question is, has this body which has been entrusted with this responsibility had power to make by-laws covering the responsibility they have been given? That is the

question. Did they have power to make by-laws? Now by the time we broke off this morning, most of us were saying, yes. Now the second question was, there was need for these by-laws to be ratified by all the cooperating districts. The other opinion was that in addition they should be ratified by Parliament. Now I think it is wrong to lose sight of this. If we say that yes, take for example in our case and two examples were given. We say let the question of forests be handled together, the environment connected with forests. We all agree, let it be there. Now, should this council require to make a law that no tree should be cut unless it is so many years as a policy, it comes down to the districts, they ratify. Naturally, it is not the central body which makes the policies that have got to enforce that. It is the ratifying districts. But the important point also contained is, although this by-law has been put in place by the council and ratified by the district, does it fall within the general national law covering forests? Now this is where the other Members thought that it was also necessary not only to depend on the ratification of districts but also to make sure that this law falls in line with overall national law connected with government in association with forests. So I think Mr. Chairman, once we have said that districts agree to cooperate and seed whatever they want to seed there, there is no way you are going to say that you can seed but do not seed the power to make by-laws in this particular area. I think that becomes unreasonable. But I think our concern Mr. Chairman, should be one, should they be able to make by-laws? And if they do, should we make it mandatory that all the cooperating districts must ratify and if we do, how do we make sure that this by-law falls within the general national law? I think Mr. Chairman, these are the ones I see as issues.

**THE CHAIRMAN:** You see, before you came in, I had summarised the position that way and invited Members' comments. What has been emanating from the Floor is that there were some fears and I wanted to hear how far we can go in this. Whether in view of 201, this sort of addition would not be creating internal conflicts within the provisions of the constitution itself? It was I think raised by Hon. Tinyefuza, followed up by Hon. Sakwa and a few others. Now they were then merging two lines in view of those fears. One, whether it should be as it is formulated and then we vote on the question of whether the Parliament or both the Parliament and the councils of the various districts that are cooper-

ating and do ratify or we leave it to the councils alone. What was emerging from Hon. Kayonde was as if to say that the charter which is referred to in paragraph (c) may contain legislative provisions relating to the matters of the charter or to the subject of the charter. And that those provisions, I think what he was saying, should have effect and apply as if they were laws passed by the councils in accordance with this constitution and other laws. So that then they agree, we have come together, we shall apply these by-laws set out in our charter and if you want to increase or reduce, then the councils of the districts come together and either amend the charter or make a supplementary charter. That is how I understood what was coming from Hon. Kayonde and that is why I was allowing a bit of debate to see which way the consensus was developing. But now, let me hear on the area of who should ratify.

**MR. RUKUTANA:** Mr. Chairman, we are experiencing some difficulty with this motion because to me, we are handling two separate principles together. First and foremost, there is a principle which we have to express ourselves on as to whether we should give legislative powers to these bodies or institutions. We have not expressed ourselves on that. But the debate, the trend it is taking and the ruling the Chairman has made seems as if that one is now taken for granted. The issue is now at what stage and who should ratify. The thing is to me, we must first express ourselves whether on principle, we are giving legislative powers to these organisations. It is after that we should consider if we have given them powers. How are they going to exercise them, who is going to ratify and who is going to follow? So Mr. Chairman, I would suggest that we handle these two separately. Let us first express ourselves whether on principle. We are giving legislative powers to the organisations and after we have said yes, we are going to give them the legislative powers, then we go ahead to discuss how they are to be exercised and who ratifies and all that. Otherwise, we shall lose vision of the important aspect which comes first.

**THE CHAIRMAN:** No, Hon. Rukutana you are making our work a bit difficult. Because to some people, the only way they are prepared to say, yes, have the power is because there is the question of gratification. And it also becomes doubtful, then, some people are not prepared to proceed. That is how I understood it, because if you know ratification and you subject it to a separate vote, then some

people may be reluctant to give power not knowing whether they will be the requirement of ratification.

**MR. RWABIITA DEO (Ibanda South):** Thank you very much, Mr. Chairman. Mr. Chairman, the way I understand this Article 203, is that, districts will associate voluntarily for common purpose of certain items as are put out in Schedule 6. Therefore, if it is a voluntary action, I do not see how we can make this trust or secretariat a legislature. Because, these are districts coming together voluntarily. They make a Charter, a sort of Constitution, a sort of Articles of Association. Aims and objectives are going to follow. Now, when you make it a legislature, it will bring a complication that some districts might be forced to do things where they can opt not to do them. So, there is a problem here. As long as you make a legislation for these districts that have come together voluntarily, it will mean that it will be difficult at one time, when a district says, according to our resources, we cannot afford this. We can as well opt. Because this will be already a legal commitment and when we talk of ratification, definitely, I think the right area of ratification, first of all, it must be the separated district. I imagine a situation whereby, when this is going to happen, the executives of the district Councils will come together and discuss certain areas of cooperation and then go back to the Councils to discuss them. After each Council has accepted what they would want to be in the Charter, then they will come back to the secretariat to try and put things as the policy. Now, before the policy will be accepted by all districts, definitely each individual district or District Council will sit and ratify that policy. So, as a question of having Parliament ratified, this could come later, but the first people to ratify the policy that will be made by the Secretariat of these districts, will be the individual District Resistance Council. This is the way I can see it. Now, when you come to Parliament, Parliament, I do not know whether this will be ratification, but Parliament should have a look at these by-laws of the Secretariat. When you are talking about education, when you are talking about forest or land, definitely, we should have a national policy, uniform on education. Although one region might say we want vernacular from P.1 to P.4, naturally the Ministry of Education should have a say on the whole national policy on education to make sure that the education given in those regions is similar to the education given to other districts. Otherwise, it will be unfair for a certain region to have its own Education policy. It should be a

national policy and if we are talking about land and forests, definitely there are laws that will be intermingled with the national laws. Therefore, the districts or these secretariats, should make sure that their laws do not contradict the national laws or even the Constitution. So, there is a need that Parliament looks into those by-laws so that they do not conflict with other Constitution or the national laws. So, Mr. Chairman, I can see on two sides, the districts will have to ratify. But on the other hand, the Parliament will have to look through these regulations and be satisfied that they can be utilised in those regions as long as they do not make a conflict with the National law. Mr. Chairman, there is important aspect of voluntary. If we want this Secretariat or Charter to function properly, the district should be given freedom to join that Trust or not to join. Because if there is an element of forcing districts to join, then you are going to have a problem of conflict of interests and which might cause even Central Government to come in. I do not think you are going to leave districts to start fighting among themselves and the Central Government just watch. So, definitely, those Trusts must accept that coming into that Trust or Secretariat, must be voluntary you do not force. So, Mr. Chairman, I think the question of legislating of giving of authority for the Trust to legislate, for me, I think would be out of order. Therefore, I would not support it Mr. Chairman.

**MR. OCHYENGH DAN (Kapelebyong County):** Thank you, Mr. Chairman. Mr. Chairman, I have no problem with the districts voluntarily cooperating. But there are certain issues which I had wanted clarified in relation to the proposed Amendment in connection with the legislative power to Secretariat or Council, which is formed by the Cooperating districts.

I had originally three, but Hon. Bidandi Ssali has clarified one of enforcement, because once you legislate, necessarily you must have a machinery for enforcement. I think if the district Councils are to ratify, then the District will enforce. But, Mr. Chairman, I have problems about the formation of these Councils or whatever you call them Secretariat or whatever it is. Mr. Chairman, we have given legislative powers of Parliament, because it is composed of elected representatives. We also gave legislative powers to the District Councils, because it is also composed of elected representatives of the people. So, when they legislate, when

they pass legislation, it applies to the people who elected those people. Now, my worry is, how is this organ, this Council or Secretariat going to be formed? Is it going to be composed of elected people so that they can also have power to legislate and account for the people who elected them, or is it going to be nominated? In which case, if they are nominated, I do not Mr. Chairman, *(interruption)* see how they should legislate powers.

**THE CHAIRMAN:** If I may refer you to paragraph (a). It was intended to address that very issue, that such cooperation shall conform to the democratic principles enshrined in this Constitution, that is how I understood it.

**MR. OCHYENGH:** Well, I do not know whether it comes out clearly, because I thought it would. But really, in election we have to have constituencies, mode of election, what have you, is it by secret ballot, and what have you. So, I would have possibly may be thought this would go further, if they are going to be elected, it should be specifically included here, that month of election should be clearly indicated.

The last point, Mr. Chairman, where I am having problems, is, a district may agree to cooperate now, but after a year or two, it may want to opt out. Is there any provision here for opting out? After I have joined to cooperate, can I come out?

**THE CHAIRMAN:** In the Charter? Is it not? You negotiate it.

**DR. CHEBROT STEPHEN (Tingey County):** Thank you very much, Mr. Chairman. I have listened to quite a number of members, and especially Hon. Sakwa who has raised his very pertinent points, which were later amplified by Hon. Bidandi Ssali, the Minister for Local Government. Mr. Chairman, - *(Interruption)* -

**THE CHAIRMAN:** He is a member for a division called Nakawa in Kampala as far as I know.

**DR. CHEBROT:** Mr. Chairman, each district will make its own laws. Now, once they decide to cooperate, it would mean that in order to allow them to have their laws conflict, they would have a provisos where they will have to harmonise the various laws which have been passed in each district. The point which was raised by Hon.

Kayonde. Now, let me propose an Amendment which will take into provision fears of Hon. Mulondo as well. I beg to move an Amendment as follows that the Clause referred to in paragraph (c) may contain legislative provisions relating to the matters to subject of the Charter which shall apply and have effect as if they were laws enacted by district Councils of cooperating districts. I do not mind if they were even a hybrid of what was proposed by Hon. Kayonde.

**THE CHAIRMAN:** Can we get your text correct, because you are saying the Clause referred to.

**DR. CHEBROT:** Which one? Clause referred to in paragraph (c).

**THE CHAIRMAN:** There is no Clause referred to. Do you mean the Charter referred to in paragraph (c)?

**MR. CHEBROT :** Yeah. The Charter. That is right, sorry.

May contain legislative provisions relating to the matters to subject of the Charter which shall apply and have effect as if they were laws enacted by the District Councils of cooperating districts.

**THE CHAIRMAN:** It is seconded by Hon. Kayonde.

Is that an Amendment to the Hon. Mulondo's Motion? Let us first hear what Hon. Mulondo says. They are saying that, if I may repeat it, that the Charter referred to in paragraph (c), that means, (c) - I presume they mean of this Article, may contain legislative provisions which shall apply and have effect as if they were laws enacted by the District Councils of cooperating districts. In other words, if this is accepted by the Hon. Mulondo, we would have a situation where actually, you are lifting the provisions of the Chapter to a legislative level. And they will be as if they were laws passed the Council themselves and every time they want to cover a situation, then they meet and revise the Charter from time to time and that could be signed again by both parties, by the cooperating parties. But let us hear from Hon. Mulondo.

**MR. MULONDO:** I want to accept the Amendment because it does not really defer very much from mine. In that case, probably, I seek to put the question so that we can go to other Amendments as we have quite a number of them. Mr. Chairman, since morning, we have been talking over this.

**THE CHAIRMAN:** I put the question on the Amendment? The Amendment has been read to you. It is this way. The Charter referred to in paragraph (c) of this Article, which is this one that they shall sign a Charter, may contain legislative provisions relating to the matters to subject of the Charter and shall apply and have effect. Those legislative provisions as if they were laws enacted by the district councils of cooperating districts. Because why this one differs is that it is the Councils themselves which shall do the enactment. They say they will enact their own laws, but if you do not like it, you just speak against, you do not have to shout. Let us hear others first.

**MR. ABALIWANO:** Thank you, Mr. Chairman. I think Mr. Chairman, what we are trying to do here, is to have a system of Local Government which our people can understand. Which is simple to operate, is cheap to run, has grown out of our own past experiences. And we continue to promote unity and head towards democracy which promotes Government of the people for the people and by the people. The more tiers we try to bring in local Government, the more complications we are going to have, the more complications we shall have and more tiers we create. The more those who believe that they are at higher tiers would take over the responsibilities of those who we want to give power to. If we are devolving Local Government to the local areas, let us leave those powers to the local areas. If any higher Council is created, let us have that Council responsible for whatever we have given them, but leave the legislative authority to the lower Councils themselves as set out in the Constitution that the districts will legislate for themselves. I do not see any problem here because what happens is this, that Jinja, Iganga and Kamuli (JIK), will send their representative to the Council. And if they wish to cooperate, they will sit together and say, we want to cooperate in putting up for instance, we have Namasagali College. We would like to finance Namasagali College. Now, if that is what they envisage to do, each respective group will say, we need the necessary legislation in order to do this. So, could you go and initiate this legislation in your respective District Councils and we give ourselves a certain timing. At the end of the day, once legislation has been passed and all of us have agreed to it in principle, we will come back and get on with the job which we are expected to do. To me, that is the simplest way in which our people will understand it. The moment we start putting in the

Charter, that such and such matters go to this or go to that, when actually we are the same people trying to cooperate together, - *(Interruption)*

**THE CHAIRMAN:** I think let him advance his argument, unless he really thinks he should, because he was coming in fact, almost to the same point as where Dr. Chebrot was. If Jinja, Iganga, Kamuli (JIK), passes these enabling pieces of legislation. How do you reflect them in one continuous document to effect the very unity that you are coming together for? Is it not the charter and all that? What that amendment was saying, is that, that Charter which contains provisions that have come from the District by agreement among themselves, should apply as if it was laws passed by them. But what I am saying is this, that why do we have to surrender these powers to a higher tier? Why do we not agree and say, whatever comes, we shall sit together, discuss. If it requires legislation, we shall pass the necessary legislation at a district level. I do not see any problem in that as far as I am concerned, because what would happen is that, in certain areas, I envisage there will be that tendency of thinking that, for instance, at the *Lukiiko*, would have more powers than the district. Eventually, we shall find that there is going to be struggle for power, because I would like to see Kalangala, being able to have some powers of their own and they are able to influence the others. Rather than saying they do not matter or that we can take over their powers where necessary. If what we are devolving is Local Government, let us please devolve, and give in the necessary powers and leave those power centres where they are. This voluntary aspect should remain as voluntary as possible as long as we have a Charter. Thank you Mr. Chairman.

**MR. OBUA OTOA (Erute County North):** Thank you very much, Mr. Chairman. Mr. Chairman, essentially, what I am about to say, agrees with the previous speaker's contribution. I think yesterday we very definitely rejected a third tier. We devolved power from the centre right to the district. This proposed Amendment seems to me, to introduce a third tier in terms of legislation. I do not think that is acceptable, Mr. Chairman, it is not even necessary. The power of legislation about local matters has been given to the districts, let that power stay there. As the previous speaker has said, if for any reason, these cooperating districts want something done in common, let every one of those districts ratify in their own councils whatever leg-

islation affects that particular function. Mr. Chairman, I oppose this proposed Amendment and I urge everyone of us not to go backwards and forwards. If you reject a third tier, do not come back the following day, where you saw a snake yesterday, you do not see it today. I do not see why we should go back and forward, Mr. Chairman. *(laughter)*

**MR. SEBI:** Thank you Mr. Chairman. I would also want to give an illustration here of a similar situation of districts. Mr. Chairman, in West Nile, in 1993, the executive committees of the DRC of Moyo, Arua and Nebbi, came together and formed an Association which they abbreviated MAN (Moyo, Arua, Nebbi). The objective was to unify the peoples of those areas and to discuss common problems and seek solutions to them in the areas. For example, security, and development and we have had to do this without seeking Parliamentary ratification. So, this Amendment here, which provides a Charter, I think will go a long way in strengthening this Association which we founded. I am a member of the District Resistance Council Executive Committee.

Now, Mr. Chairman, if we look at the areas of cooperation in the district. For example (a) - Culture, and we have in the Draft Constitution, Article 64, where we said, every person shall have the right to enjoy practice, profess, maintain and promote any culture, language, tradition or creed or religion. Subject to the provisions of this Constitution and to the condition that the rights protected by this provision do not impinge upon the rights and freedoms of others or the national interests especially in it. So, Mr. Chairman, one sees that here, first and foremost, the district councils have to ratify what the District Executive Committees come up with. Then, to make sure that we do not step on anybody's toes, these have to be synchronised with the national interest.

Mr. Chairman, Members might remember that there was a story carried in the news media sometime back, in Mukono, where some drunkard fellow was moving along the road at a time when Imbalu was taking place. This gentleman is reported to have claimed that he was also a member of this community and he ended up being circumcised against his will, but he had said it. So, when he said it, people just arrived on him and circumcised him. So, Mr. Chairman, in order to synchronise this, I think both the local Council and the

Parliament has got to come in and make sure what exists on the ground locally, does not also infringing the rights of the rest of the Ugandans elsewhere. Mr. Chairman, this issue of culture, we should not take it lightly, because culture itself, is power. Culture is power and if you would allow me, Mr. Chairman, I would like to quote briefly here from Professor Ali Mazrui, in his Book 'Cultural Forces in World Politics' where he outlines seven functions of culture. He says first, It helps to provide lenses of perception and cognition.

Secondly, culture lies in providing motives of human behavior.

Thirdly, culture lies in providing criteria of evaluation.

Fourthly, culture is to provide a basis of identity.

Fifth, it is a mode of communication.

Sixth, is the basis of stratification.

Seventh, a system of production and consumption, and the most important bit here is that, this seventh function of culture has relevance for the new cultural order. So, Mr. Chairman, this thing called culture, if it is not guided and guarded, anybody can do everything under the sun in the name of culture. That is why I am saying that the Councils down at the grassroots have to be ratified and then we find a way of also having it ratified at the national level. Thank you very much.

**MR. WANDERA OGALO (Bukooli South):** Thank you, Mr. Chairman. Mr. Chairman, I have just one problem with this amendment by Hon. Chebrot which seeks to say if I understood it correctly that the different units having passed their laws, they put it in the Charter then it becomes the law for all of them. If I understood him correctly to say so. My problem with this is, we have had a kind of, almost a tradition now in our laws that if a law is made by a particular body it is that body which may revoke it. Mr. Chairman, I would wish to draw Hon. Members attention to Article 131 Clause 12 of the 1962 Constitution. Also Article 130 Clause 9 of the 1967 Constitution and, Mr. Chairman, also Article 286 Clause 8 of the Draft Constitution. They all read the same thing and I may read them here. They all say the same thing all these clauses I have talked about. Where any power is conferred

by this Constitution to make any Statutory instrument or Rule or pass any resolution or give any direction, the power shall be construed as including the power excisable in the like manner to amend or to revoke any such Statutory Instrument, rule, resolution or direction. My problem here if I take the example of Jinja, Iganga and Kamuli (JIK), having made a law which is transformed into a Charter binding all the three of them and these laws emanate from the distinct different councils. If one of them wished to jump out of the arrangement, who would be in a position now to revoke this law which has been put in the Charter? Would it be the people who met representing all the three districts of JIK or can Iganga, for instance, alone jump out? I find that if we are to go by this tradition of interpretation which has been on it will be very difficult for an individual unit having found out that what it had agreed on in law can no longer be of any assistance to it to get out of the arrangement. Mr. Chairman, I just ask for clarification from the Mover on whom he thinks will have the power to revoke such a law which has now been included into a Charter?

**THE CHAIRMAN:** Hon. Bidandi Ssali, you want to clarify?

**MR. BIDANDI SSALI:** Mr. Chairman, the Charter will contain terms of co-operation and the Charter will contain the terms of opting out. It will be up to, the members who want to cooperate to put in place the terms of entity, the terms of opting out. We cannot sit here and pretend that we can provide what we think will be in the Charter. I think we are only here dealing with the principle as to whether even if those districts collectively agreed that the council should have legislative power to make by-laws. Our concern here is whether the Constitution should allow them to make those bylaws or not. This is our interest and this is the point at issue.

**THE CHAIRMAN:** Okay, now I think Members are tired of the subject. Now, we had a Motion moved by Hon. Mulondo to add a paragraph which would have been paragraph (d) of the present Article 203 as recommended to us by the committee Four making reference to powers to make by-laws. The Mover wishes that the councils established and other bodies established pursuant to the provisions we have passed should have power to make laws in respect of matters assigned to them. After discussion a proposal was made by Hon.

Chebrot following some difficulties pointed out by some Members that it should be amended to say that the Charter which should be provided for under paragraph (c) may contain legislative provisions which shall apply and having effect in relation to the matters subject of the Charter. As it were laws enacted by the District Councils of co-operating districts. That was the Motion by Hon. Chebrot seconded by Hon. Kayonde. Hon. Mulondo was prepared to accept this in place of his Motion. Therefore, the Motion we are having here now is that one which was moved by Hon. Chebrot. Otherwise if he does not accept that, we shall dispose of Hon. Chebrot's and then we come to Hon. Mulondo's if it is so desired.

**MR. MULONDO:** I would probably appeal to Hon. Chebrot to withdraw his so that this remains, Mr. Chairman, and I understand he has already abandoned his seat, therefore, his Motion automatically goes out with him.

**THE CHAIRMAN:** No, the question of moving on the Motion does not require that he be present physically. Hon. Kutesa.

**MR. KUTESA:** Mr. Chairman, we either agree on or abandon Hon. Chebrot's Motion. I would like to understand what he means by a Charter containing legislative provisions. Secondly, how those legislative provisions would mean that these would have the same effect as if Laws were passed by the districts? It is, I think, very long winded amendment and very unclear. I would like to be clear about it what he means by that Motion before I either think to support it or not. When you say that I beg to move an amendment saying the Charter referred to in (c) above may contain legislative provisions relating to the subject matter of the Charter which shall apply and have effects as if they were laws enacted by the District Councils of the cooperating districts. Exactly what does this mean? One, it means that the Charter will have certain provisions enabling the Council to make laws, if I understand him correctly, on certain matters that are left to the Council by the Charter. And that those decisions when they are made, when those laws are made they shall have the effect of having been made by the districts. I would like first of all to confirm whether that is his interpretation. My interpretation is the same as his. If that is correct then I would wish to proceed, argue and really support the original Motion by Hon. Mulondo which allows at least a level of ratification by the districts because I find this omnibus amend-

ment difficult to accept. First of all, I am going to accept provisions that are not before this House. These provisions will be in a Charter. And I say they should have power to deal with certain things which also are a subject matter of the Charter not even of the Schedule because at least here we have a Schedule. The Charter may come up with different things.

**THE CHAIRMAN:** No, I think that one, are you right to say the subject matter of the Charter or the matter the subject of the Charter?

**MR. KUTESA:** Legislative provisions relating to the matters the subject of the Charter. That is what I have.

**THE CHAIRMAN:** Yes, subject of the matter, matters subject of the Charter - not matters of the Charter.

**MR. KUTESA:** If you are talking about the subject of the Charter you are talking about the provisions of the Charter itself which will be regulations inter-say the parties. If you are talking about legislative provisions within the Charter. I would imagine you are talking about enabling provisions to the councils to make laws based and contained in the Charter. I would like to be cleared.

**THE CHAIRMAN:** Okay, let us hear from the seconder, the Mover is not here but may be before he clears can we hear Hon. Rwabyomere please?

**MRS. RWABYOMERE JOAN (Presidential Nominee):** Thank you, Mr. Chairman. I did not support Hon. Chebrot's amendment, I was following with interest the amendment by Hon. Mulondo and also the debate that ensued. Those Delegates who are opposed to Hon. Mulondo's amendment are concerned about the legislative powers which can easily create a clash between the legislature and these councils. I would like to assist Hon. Mulondo by making this proposal and if it is accepted to him we can draft quickly something which I hope can be popular. I would like to propose to Hon. Mulondo that in his amendment instead of sticking to legislative powers or provisions so to say he states more categorically that what the Councils will have are by-laws which is something less than what we get from the legislature. If this is acceptable to Hon. Mulondo we can luckily work on this and sell it around. I think it will go a long way in assisting him. Thank you very much, Mr. Chairman.

**THE CHAIRMAN:** Hon. Rwabyomere I did not want to interrupt you but I had wanted us first to deal with Hon. Chebrot's and then come back to, if it is not carried we come back to Hon. Mulondo's. Hon. Kayonde wanted to clarify the point.

**MR. KAYONDE:** Mr. Chairman, in moving this amendment we intended to solve the problem we are facing here. First of all, we have authorised the cooperating districts to make a Charter. Now, what this amendment is seeking is that in that Charter the cooperating districts can decide that some legislative functions can be exercised collectively by their council. Once that council has legislated then that law or by-law will be taken as if it was passed by the cooperating districts. And this one allows, it gives freedom because on other matters other than legislative we have authorised the cooperating districts to decide. Now, what you are saying is that for legislative purposes those districts can not do so and you have already given those districts legislative functions. So really I think we are only consistent with what is provided in (c) that the districts once they have decided that in this area the council can take this decision. For instance, Mr. Chairman, in case let us say of Buganda, in case of Buganda these districts they have. Let us say, a culture in common let us say, clans and if they can decide that in the area of clans can be best decided collectively together in the council. Therefore, in that area they will have to put that one in the Charter that these areas can be decided collectively by the council. Once that council has decided because it has been agreed then that decision will be binding as if the districts have already enacted. So, Mr. Chairman, this really is to assist us to solve those intricacies. Thank you.

**THE CHAIRMAN:** Following on the clarification I was going to call on Hon. Basaliza whether he has -

**MR. BASALIZA:** Now with that clarification it appears to me that Motion does not solve the problem and what really must be done if you intend to give any legislative powers to that council I think it should run like this. Such a council shall have powers to make rules, regulations and by-laws in respect of functions assigned to them in this Schedule. Provided that such rules, regulations or by-laws are not in conflict with any existing law or the provisions of this Constitution. I think that will be the best formulation.

**THE CHAIRMAN:** Now, let us vote on Hon. Chebrot's Motion. Let me put the question. We are now deciding the fate of Hon. Chebrot's Motion.

*(Question put and negatived)*

**MR. KAVUMA:** Thank you very much, Mr. Chairman. Mr. Chairman, I have listened to the formulation by Hon. Sam Kutesa - *(Interruption)*. Okay, Mr. Chairman, let me now go on to Hon. Mulondo's amendment which is on the Floor. I wanted and I have been consulting with Hon. Mulondo because the problem I see is that we want to be assured that there will be harmony. First, between the council which we are trying to give some legislative power and the districts. Secondly, also at the national level. Now, I was proposing to Hon. Mulondo and he did not have objection that the principle should be this. Those legislative powers in those areas which we are talking about in Schedule Six could be given. So that council can pass by-laws or rules or regulations but before they become effective that district councils shall ratify, that is one. Two, the Attorney General who is the custodian of National laws should look at these by-laws, rules and regulations. So that in case there is dis-harmony between any national legislation and what has been passed by these councils then the Attorney General will take care of that. Obviously the district interest will be taken care of by the ratification. Mr. Chairman, I am making this because even some of those legislative powers we are giving to the districts eventually have to be gone through by the Attorney General who ensures that what has been passed does not conflict either with the Constitution or with any other law. Since Hon. Mulondo is not opposed to that I would want to appeal to the Assembly to take the principle of ratification by the districts and submitting to the Attorney General. I thank you, Sir.

**THE CHAIRMAN:** Yes, but there is no formulation before us. The Chair only takes note of matters which have been moved. What he had said was merely a statement earlier on which seems to attract the House. Could you reformulate it so that we hear it.

**MR. KUTESA:** Mr. Chairman, having listened to Hon. Kavuma maybe we can combine all these and say: "*Such councils, trusts, trust funds or secretariats so formed as under (b) shall have power to make rules, regulations and by-laws in relation to the*

*functions assigned to them provided that such rules, by-laws and regulations are not inconsistent with any existing law or the provisions of this Constitution and are ratified by the district councils of the cooperating districts.*" I do not know if Hon. Kavuma wants to add Attorney General but I think ratification of the cooperating districts would be sufficient.

**THE CHAIRMAN:** Okay, we have debated this long enough, the rest is drafting. Let me put the question.

*(Question put and agreed to)*

Now, that will be paragraph (d) of Article 203.

**MR. SEKANDI:** Mr. Chairman, I beg to move an amendment to Article 203 by inserting a new clause to read as follows: "*Councils, Trust Funds, Secretariats referred to in the above Article ...*" (*interruption*)

**THE CHAIRMAN:** It should be in this Article surely.

**MR. SEKANDI:** Okay, "*..in this Article shall be bodies corporate with power to sue and be sued.*"

**THE CHAIRMAN:** That was debated. I put the question.

*(Question put and agreed to)*

**MR. KATENTA APUULI:** I thank you, Mr. Chairman. The Committee recommends the insertion after the Fifth Schedule as approved by the Assembly. When we considered Chapter Two, the Republic, following the new Sixth Schedule *Areas of Cooperation among districts*

- (a) culture;
- (b) cultural and traditional land;
- (c) promotion of local languages, crafts and antiquities;
- (d) education;
- (e) inter and intra district roads;
- (f) health;
- (g) inter and intra district development projects and
- (h) such other matters as the cooperating districts may resolve to be handled in common. Mr. Chairman, I beg to move.

**MR. MULONDO:** Clarification. There is something left behind. Mr. Chairman, the amendment is left behind. There is an amendment before we reach the Schedule which was supposed to be moved by Hon. Sam Kutesa and seconded by Hon. Muyingo Kezimbira and Hon. Medi Kaggwa.

**THE CHAIRMAN:** I do not see it in mine.

**MR. MULONDO:** It should be there, Mr. Chairman, because -

**THE CHAIRMAN:** It is in relation to what? I do not have it.

**MR. MULONDO:** This batch which we have been handling since morning Mr. Chairman. This one is page two. I am wondering why Hon. Sam Kutesa did not draw your attention to this, Mr. Chairman.

**THE CHAIRMAN:** No, I do not have it.

**MR. MULONDO:** Can we make you have it, Mr. Chairman?

**THE CHAIRMAN:** It would appear you are still sorting out your Motion because we can go on with the Schedule, the two are not linked, are they?

**MR. SAM KUTESA:** Mr. Chairman, I am having difficulty in light of having passed Article 203 (b) which relates to powers of taxation. Whether my Motion is capable of being moved competently, of the ten percent and if you advise me to move it and competent I will move it.

**THE CHAIRMAN:** Well, that will be like you are going to amend what we passed this morning. What we passed this morning was saying that the councils, trust funds so formed shall not have power to levy taxes but that Parliament may make provisions enabling them. This was a Motion I think moved by Hon. Kawanga.

**MR. SAM KUTESA:** By Hon. Kawanga, that is why I am seeking your advice because I think ... (*Interruption*)

**THE CHAIRMAN:** That one should have been an amendment of that one at that time. It should have come logically as an amendment at that time but now we would be doing our work forwards and

backwards. The only thing we can do is that this matter should come up at reconsideration stage. Because this morning we had a very wide ranging debate on Hon. Kawanga's amendment, you formulated it. Hon. Katenta Apuuli.

**MR. KATENTA APUULI:** I have just read the Schedule Hon. Chairman and I would like to know whether we accept the Schedule as I have read it.

**MR. MULASANYI DAVID (Rubanda County West):** Thank you, Mr. Chairman. I have a problem with paragraph two of the Schedule, cultural and traditional land. Mr. Chairman, I want to find out from the Chairman, Select Committee Four what he means by this. I was under the illusion that he is may be talking about cultural sites. Could he please elucidate?

**THE CHAIRMAN:** Okay, I think we shall come to that. I think you accumulate them, if they are just clarifications. Is Hon. Nakyanzi seeking clarification?

**DR. NAKYANZI:** It is not an amendment, it is insertion.

**THE CHAIRMAN:** You are seeking an amendment, let us get clarification first. Is Hon. Kabugo going to clarify?

**MR. KABUGO:** Thank you very much. Mr. Chairman, cultural and traditional land which are referred to here I think applies to the land which was returned to Buganda under Statute No. 13 of 1993. This land is known and cultural sites are well clarified into that Statute. Mr. Chairman, I do not think it should take time of the Delegates to debate on this issue. Thank you very much, Mr. Chairman.

**DR. NAKYANZI:** Thank you, Mr. Chairman. Mr. Chairman, I beg to add an insertion to add a new clause (i) after (h) to read: "*Such other functions as the Central Government may assign to the cooperating districts.*" I beg to move, Mr. Chairman.

**THE CHAIRMAN:** Is that seconded? It is seconded by Hon. Nsambu and Hon. Medi Kagawa.

**DR. NAKYANZI:** Mr. Chairman, we have enumerated the functions above to be covered under cooperation but as you may be aware with the time as the cooperation or the Charter becomes more

functional even the Central Government may realise that there are some functions where the Charter or Trust can assist it. So this new clause is empowering the Central Government to assign the charter or the Trust or Secretariat such other duties as it may feel or deem necessary. I think it is such a straightforward issue. It is very simple, it does not refer to any particular matter but leaves it at the discretion of the Central Government but at the same time allowing it the discretion and a lee-way to opt for one. I therefore, Mr. Chairman, move and ask fellow Delegates to support it. Thank you.

**THE CHAIRMAN:** Let us start this way. Hon. Musumba, Hon. Bagen, then Hon. Obua Otoa and Hon. Serwanga Lwanga, then we decide.

**MR. MUSUMBA:** Thank you very much Mr. Chairman. I am just seeking clarification because as we write the constitution, I would want us to be as precise as possibly can. Now, when we say Central Government shall assign or may assign. What exactly are we looking at? And who shall we say has authority of Central Government on the day that someone writes and says we are now assigning this responsibility to the Busoga Lukiiko. So, Mr. Chairman, we can have many people acting for and on behalf of the government of Uganda. I would have preferred, if possible, these functions to be assigned by Parliament because then we have a definite body that will sit and say this is what we are now assigning and by majority resolution direct so. But Central Government can be vague. It can actually create problems in determining who had authority of Central Government at a certain point of a time. So, Mr. Chairman, while people are considering giving me clarification, could they also consider that we may actually look at Parliament instead of Central Government. Thank you.

**THE CHAIRMAN:** Hon. Bidandi Ssali, you want to clarify.

**MR. BIDANDI SSALI:** Mr. Chairman, I just wanted to give an example where government may wish to give such responsibility. The districts of Jinja, Mukono, Mpigi, Kalangala and Masaka have come together to form the trust to fight the hyacinth. And in the eyes of everybody, they have come up with a very good scheme and they are very busy. The government has also a plan to fight the hyacinth. They may, in their own opinion, feel that what this trust or secretariat or committee or what-

ever the case maybe, is doing, composed of these cooperating districts on this matter - is very good, very efficient. So, government may wish to give additional either funding or responsibility. So, this particular provision, I think gives that chance to seek power that government may, if they so wish they find that what they want to do will be done better by that co-operation union. That is an example. Just an example.

**MR. BAGENA ANTHONY (Bufumbira East):** Thank you Mr. Chairman. Under item (h), there is such other matters as the cooperating districts may resolve to be handled in common. We have created two levels of cooperation or direction. Central Government, District Government. What would be impossible for the Central Government going through districts, such that if it becomes something that needs to be handled commonly, it comes through the districts rather than hovering in between there.

**MR. OBUA OTOA:** Thank you Mr. Chairman. I have the greatest admiration for the Mover of this Motion. But with due respect, I do not think this Motion is necessary at all. I mean of a number of districts decide to come together to do something in cooperation with one another and we have given them certain powers and functions and so on and so forth. I do not see the need for the central government to come in and assign them other functions. What would be the nature of these other functions which they would not have probably foreseen in their charter of cooperation? The example given by Hon. Bidandi Ssali I think really does not satisfy me in terms of such other functions as the central government may assign to the cooperating districts. If something is necessary to be done by the cooperating districts, there are so many channels where by it can be done. They can even make an appeal to the Central Government if they so wish or the Central Government can in turn make an approach to them and they do it as if they were the ones originating whatever project it is. So, I really do not think it is a question of local autonomy we are talking about. Now, if it is a question of local autonomy we are talking about, let it be a matter of local autonomy, not somebody looking over their shoulder and saying now, you cooperating districts, I want you to do this, I want you to do the other. Mr. Chairman, I think it is completely unnecessary to have this provision. Thank you very much.

**THE CHAIRMAN:** These hands I see. Are you trying to respond to that? Hon. Babu you want to respond to that, then we get it out of the way and proceed.

**CAPT. FRANCIS BABU (Kampala Central):** Thank you very much Mr. Chairman. Whilst I agree entirely that autonomy and independence of these units must be respected, there are certain things in the workings of government sometimes, where you have to share. I will give you an example of roads. Roads in this country are shared between the center and the local government. The local government roads, the feeder roads, every so often, a committee sits and upgrades them to become trunk roads. When this happens, these roads go to the central government. We have just passed in the Cooperation Council that there will be allowed to carry out certain functions on certain roads. Assuming that there are certain important roads which are historical that are already trunk roads and you would like to give them to this council. Whether they are in the center or at the district, you might sit down and agree that the Go-operation Council you formed can run those roads better. Now, when you do not leave this avenue of sharing this respect with each council, you then create another problem. Even the funds, the money, because that is going to be the most important thing. There is bound to be the giving of the national cake from the center because the center will collect more money than the local authorities. Therefore, there are certain functions and certain areas in the working of this system that might eventually appear in the working of the system that are better at that region than the district. The central government and if this happens, there should be an avenue you should go through to give this tier that power. Therefore, it is very important. Somebody was saying that let us go via the district before we go to this cooperation Council. It is not bad at all but then let us take another example of a University for example. If a regional tier wants to build a university and the center wanted to devolve certain things to that regional council. One should have an avenue for that one to be done. I would therefore like to, request, Mr. Chairman through you, to the Hon. Members that we should create an avenue. We should not close avenues, we should allow cooperation between all centers of government. I get the impression that people say, no, there should be only one way. They should be able to have different ways of carrying out this. Remember, the central government still

has a lot of power. It has got the money and at the same time they have got legislative power and we must be able to have those sometimes devolved to different levels of government. Thank you.

**MR. MUYIISA JOHN (Bujumba County):** Thank you Mr. Chairman. Mine is not a big issue really. I would seek the indulgence of the chairman of the committee on item (e). It seems we had agreed at the Committee Stage that we should add 'water ways.' It should read: "*inter and intra districts roads and water-ways.*" If this is not added, it seems if it is passed as it is, the people of Kalangala will be left out of the provisions of this whole article. Thank you Mr. Chairman.

**THE CHAIRMAN:** I think we are now diverting. We should first finish Hon. Nakyanzi's Amendment. I think yours is not likely to find a lot of opposition. Hon. Serwanga Lwanga you are talking to Hon. Nakyanzi's Motion?

**LT. COL. SERWANGA LWANGA: (NRA Delegate)** I thank you Chairman for giving me the Floor. Mr. Chairman, I have got a problem with this amendment. I would like a clarification from the Mover and the supporters with effect that is this soliciting jobs from the Central Government. Will it not create another political power center which will undermine the district authority? If the central government is going to deal with associations and leave the established people's elected councils. *(Applause)* Do you not think you are actually undermining? You are writing a constitution and then if it falls in the hands of bad politicians, those councils which are going to be elected by the people, will be no more. That is one. Two, - *(Interjections)*- Mr. Chairman, we have said that these councils shall be cooperate bodies and now the central government is going to transfer its responsibility to these people to do them. Now, suppose these people in the prosecution of those duties commit some problems who is going to be sued? These cooperate bodies or the government will be the one to compensate because it is the one which gave them the functions? Why do we not leave everybody's job clear? So that if we said defence is for you all problems committed by defence, then we shall look for the central government but the Ministry of Defence to say that, no, for us we had passed on this responsibility to Jinja Iganga Kamuli (JIK). So, it should be JIK which should be sued. Mr. Chairman, I am having prob-

lems with those two issues. Undermining the elected districts by dealing through associations and corruption which may emanate and two, this suing. I want a real clarification from the Movers.

**MR. KAGGWA MEDI:** Thank you Mr. Chairman. I want to react to Hon. Serwanga's difficulty. I get the impression that he is assuming these cooperating councils would be composed of people who are not members of the district councils and I think this is erroneous. We have just passed that these cooperating districts will be composed of those district councils. The only difference is that the districts are giving some powers to the higher tier and we have just passed here. They can make by-laws and regulations and the like. Now, if government so feels that there is work and I see nothing wrong with that especially these days when government is trying to rid itself of many functions. Even more important that the council to which is seeking to give functions is already constitutionalised. Why should that raise a problem? If he feels so bad about this, I would maybe add on that such other functions as the government may assign to the cooperating districts in consultation with them. If he feels the peoples' powers will be taken away from them. But the fundamental issue is that it will be the same groups of people who will be sitting in the cooperating councils. I think it will be for their common good as already agreed and I think this should cause no problem. Thank you very much.

**THE CHAIRMAN:** I think we should put the question on this one. Hon. Nakyanzi is moving that she adds (i) to say: "*...such other functions as the government may assign to cooperating districts.*"

*(Question put and negatived)*

**THE CHAIRMAN:** First, let us go systematically. There was a proposal by Hon. Muiyisa which should be answered by the chairman of the committee relating to water-ways on (e).

**MR. MUYIISA:** Thank you Mr. Chairman. I realise that when this matter was discussed by the committee, the item water-ways was included. However, we were advised to drop water-ways by the technical team because water-ways have implications beyond the cooperating districts and sometimes have implications beyond nations. So, we are advised that we should not bring water-ways under

the administration of the co-operating districts. However, many members of the committee feel that water-ways should be included here and I have no specific objection for its inclusion. I just to inform you that we were advised that because of these implications beyond the districts, water-ways should not be included here.

**THE CHAIRMAN:** It was on technical advise. Order! Order! Hon. Byarugaba.

**MR. BYARUGABA ALEX (Isingiro South):** Thank you very much Mr. Chairman. I have read carefully through the 6th Schedule and I am agreeable with (a), (b), (c), (d), (e), (f), (g) but not (h), Mr. Chairman. (h) seems to be a little bit wide and can be misused, you never know. We do not want to take things for granted. I would rather go Mr. Chairman, with a formulation similar to that one on Page 144, the 4th Schedule in our Draft Constitution. Number 13, Mr. Chairman which reads: *'Any matter incidental to the services mentioned in this schedule.* That alone, Mr. Chairman, is wide enough but also closed to a certain extent. Mr. Chairman, I beg to move that we adopt this one and drop the current (h) in the report.

**THE CHAIRMAN:** Let us hear from Hon. Sebalu.

**MR. SEBALU KENNEDY (Youth - Central):** Thank you very much Mr. Chairman. I do oppose my friend Byarugaba's suggestion because (h) is very clear. It talks of such other matters as the cooperating districts may resolve to be handled in common. It brings out a degree of consensus on those very matters they agree to be in common for their own common good. And if the districts themselves have decided and something is in their own interest, why should we be so restrictive? I find it very accommodative and it will address even the interest of Hon. Byarugaba. So, his suggestion, if anything, is not very different from this one. So, Mr. Chairman, I oppose it vehemently.

**THE CHAIRMAN:** Hon. Dr. Byaruhanga.

**DR. BYARUHANGA FABIUS (Kitagwenda County):** Thank you Mr. Chairman. Though I am a Member of Committee IV, when I read the whole article this morning, I also got worried about the formulation of our 6th Schedule. At the beginning of Article 203, we said that districts shall be free to cooperate in areas of culture and development.

Now, by producing a schedule, we seem to be trying to limit them to certain areas of culture and development but in the same schedule, we have the (h). So, I cannot see having this (a) to (g) and (h) in the same schedule. We should either have (h) alone or (a) to (g) minus (h) because later in the chapter, we created an exclusive list for the center. So that every remaining area was left to the district. Therefore, when you have the (h), you are saying that they can cooperate on any other area that has not been given to the center. Therefore, there is no need to have (a), (b), (c), (d), (e), (f) and (g). You cannot have (h) and (a) to (g) at the same time. Thank you Mr. Chairman.

**THE CHAIRMAN:** Let us hear Hon. Kassajja Patrick.

**MR. KASAJJA PATRICK (Bulamogi County):** Thank you very much Mr. Chairman. I do support the provision (h) in this Schedule as proposed by the committee. Mr. Chairman, if you look at the beginning of the Article 203. It says: *"Two or more districts shall be free to cooperate in the areas of culture and development."* Now, here when they talk of any other matters as the cooperating districts may resolve to be handled in common it is not as diverse as some people are saying. It is limiting itself in these two areas, Culture and Development. The fear that most members have is that when you leave it as diverse as that, some districts might go into areas which are not connected with these two areas where they are supposed to cooperate. So, Mr. Chairman, I will give an example. If the districts for example decide to cooperate in the areas of culture. Culture is a diverse area. You cannot exhaustively come up with all the elements of culture. There is say singing, there writing, drama and other things as you may think of. So, if the areas decide that we come up with maybe a way of writing or a way of singing. That could be one area that they may be able to cooperate. Now, if you look at development also. Development is also a wide subject. It is not an area where you can limit because it involves all the spheres of life. It involves culture, it involves legal, it involves education and many others which may not even be listed here. So, Mr. Chairman, I think Members should not fear that this thing is too wide and therefore maybe the districts might come up or might trample on areas which are not involved. I know the area which most members are fearing is, supposing these districts decide to cooperate in the areas of politics. These

areas decide to make, say, a political entity and maybe make the heads of those districts political. That one is not involved here. I think that is what is making most members really fear. So, for that, I think the thing is clear, it takes into account diversity of the two areas which have been mentioned here, Culture and Development. Those two areas are really diverse. Therefore, the cooperation which is being envisaged in here, I think is consistent and I would appeal to the members that we do support this amendment as it is here.

**THE CHAIRMAN:** Can I point at some area and see whether it is something that can be covered in this? For instance, if five districts or four districts were to come together and set up cooperation in all these fields. They feel because they also need to cooperate together, they cannot afford paying a separate legal service for each district and they set up a joint one. They also set up a joint internal audit system or a joint accounting organisation. Will that be prevented by this constitution? Would that fall under any of the other matters they may want to have together? Because that is a supporting service to something that you have put together. I had Hon. Kaija on my list. Hon. Kaija.

**MR. KAIJA JOHN (Kibanda County):** Thank you Mr. Chairman. Having gone through the specifics of the 6th schedule, I really find that there is something undefined in this very number (h). We may remember, or rather, man is a political animal. We may guard and leave the other end open and once the other end is open, it is very difficult to limit him. Therefore, it will be open to manipulation. I really feel that (h) should not be included on this point. If we do, we should give some examples - *(Interjections)*- and when we review the areas of cooperation among districts, we already find (a), (b), (c), (d). This is already a list of items in which we should cooperate. Then, why bring in (h) which is not defined? That is my contribution, Mr. Chairman.

**THE CHAIRMAN:** Let us hear Hon. Migadde.

**MR. LUBULWA MIGADDE (Katikamu South):** Thank you Mr. Chairman. when you look at this item (h). The intention behind it is that at this time when we are writing down the functions to be carried out by the cooperating bodies. It is not possible to list down each and every item in which these districts could cooperate at this material time.

Mr. Chairman, I want to appeal to delegates to debate this constitution without emotions. We should realise that what we are debating is for the benefit of this country. If we are going to debate this constitution with suspicions, it might be very dangerous for our future. Mr. Chairman, there is nothing wrong with item (h). Because at this time nobody can tell me that he can sit down and list each and everything at this material time when we are writing this constitution which falls in the areas of culture and development. You cannot. Therefore, the provision is really to provide for such unnoticed areas where these districts could cooperate. Therefore, Mr. Chairman, I see no reason and I am appealing to delegates to leave this item in.

**THE CHAIRMAN:** Hon. Tumwine.

**MR. TUMWINE POLLY (Youth - Western Region):** Thank you Chairman. I have listened to members who are in support of retaining (h). Their major emphasis is on anything that we could not have envisaged today but is likely to come as a result of culture and development. But when you closely look in our schedule (a), It talks about culture and (g) talks about development. Now, what is that? I accept that culture and development are dynamic. They are not static but these two, (a) talks of culture. It does not restrict us to the culture today. It talks of even culture in future. Whatever form of culture it will take. Development, the same. So, what is there that you think is likely to come out in the aspect of culture and development that will not be covered in 2(a) and (g)? Again Mr. Chairman, Hon. Byarugaba's amendment does not even restrict us not to leave a proviso as anything that will be coincidental in what we have been provided up to (g). But I think (h) to me goes outside what we have provided for in 331 in matters of culture and development is likely to bring out problem which delegates are envisaging here. My argument is, if we are talking in terms of culture, it is well provided in (a). If we are talking terms of development for any form of development that will come in hundred years now, it will be covered in (g). So, to me (h) is uncalled for.

**THE CHAIRMAN:** Hon. Sendawula.

**MR. SENDAWULA GERALD (Bukoto South County):** Thank you Mr. Chairman. In good faith, the members of this committee which is presenting a report, deliberated exhaustively and discussed

how a problem of cooperation between districts can be solved. They did of course, go and list all those things that could be easily be listed. Finally, they concluded with (h) and say: "...such other matters as the cooperating districts may resolve to be handled in common." Certainly if we are accepting the cooperation in good faith, I do not see anything hidden in this. Otherwise, if someone feels that you are not in favour of the idea of districts cooperating, please say so and we do away with the entire list that has been put here. Because you know, Mr. Chairman, the way things are moving, we are suspecting each other so much. There has been so much, people are saying maybe this will happen, maybe that will happen. People will have come together at their own free will and will have joined together. If they see anything else more in which they would want to cooperate, then they would take that up and it is in that spirit. Now, what is there extra that one feels is going to come after this sentence which is very clear in the English that I have understood and learnt at school.

**THE CHAIRMAN:** Hon. Olega Ashraf.

**MR. OLEGA ASHRAF (Aringa County):** Mr. Chairman, I would like to oppose the Motion seeking to delete (h) in Schedule 6. Mr. Chairman, (h) actually makes the whole schedule complete because when you see reasons, you find that there are many issues in common. Mr. Chairman, Hon. Sebi told us that actually in West Nile we have the MAN (Moyo, Arua, Nebbi), meeting. In MAN meeting when we have that meeting, what we have in agenda is actually what is common, say, the road and the power. In these meetings we discuss as to how we can push this demand to the government. I think it will not do any harm if these districts are allowed to look into those areas. Mr. Chairman, I think when you see this (h) here, the Committee has rather done a very good job. According to me there is nothing ethnic in this (b). So, I think we should have in the list so that we have it completed. Thank you Mr. Chairman.

**THE CHAIRMAN:** Hon. Kandole.

**MR. KANDOLE CLEMENT (Kyaka County):** Thank you Mr Chairman. It is true that (h) is intended to address such matters which cannot be spelt out in the list. We cannot have the list exhaustive. However, Mr. Chairman, the way it is written, it does not address that specific problem. It is left

so open that it can address any such matters that are not related to culture and development. So, unless, it is defined, it addresses completely a different issue all together and is subject to a lot of abuse. I want to propose, Mr. Chairman, an amendment that (h) it reads as follows: "*That such other matters as the cooperating districts may resolve to be handled in common provided that such matters relate to culture and development.*" Unless we do that, then we are talking of something else and not the principle.

**THE CHAIRMAN:** Let us get Hon. Chebet Maikut, then Hon. Olet

**MR. CHEBET MAIKUT (Kween County):** Thank you very much Mr. Chairman. I rise to oppose the Motion moved by Hon. my friend, Alex Byarugaba. Not that because I hate the spirit in which it was moved but because Hon. Alex Byarugaba is trying to tie the *kandoya* style those districts which are attempting to cooperate together in wide field. *(Applause)* Mr. Chairman, if I may pose a question. Supposing two districts would wish to have a joint investment project, where else can they have the opportunity to be together to forge that kind of economic project? Because going through this, - *(Interjections)*- Mr Chairman, I could give another example because I am being misunderstood in that one. If supposing a disaster comes today and when you look at Page 23 of this report, 4th Schedule going through those services which are exclusively reserved for the Central Government. We do not have an element of a disaster maybe of a local nature. *(Interjections)* It is not culture please. However, let me make this point clear that if we are to be serious to make a constitution which is to stand the test of time, we have got to ensure that we provide for reasonable means of elasticity. It must be elastic enough to provide for circumstances which may come in future, Mr. Chairman. *(Applause)*

**THE CHAIRMAN:** Can I pose one question. Would the Members read (h) as enabling cooperating districts to cooperate in areas of arms, ammunition and explosives when the 4th Schedule says: "*Functions and services exclusively reserved to the government.*" Could they sent up cooperation in defence, security and maintenance of law and order? What I am trying to say is are we really not arguing about nothing?

**MR. CHEBET:** Mr. Chairman, however, today there is a popular saying that the demands, wishes and aspirations of man can never absolutely be met. We cannot tell the future. Therefore, in that spirit, I will wish to suggest that this Clause be retained to cater for what may be important in our future. *(Applause)* In that respect, Mr. Chairman, to allay the fears of Hon. Members who feel that this particular provision here may create some kind of problem. I will wish therefore, to suggest that we subject this clause to the provisions of this constitution so that it will read as follows: "*(h) Such other matters as the cooperating districts may resolve to be handled in common subject to the provisions of this constitution.*" Mr. Chairman, maybe that one may be better. Thank you.

**THE CHAIRMAN:** Let us first of all settle down a bit. People are getting a bit excited. My understanding was quite simple that even if you left (h) as it is, and if you adopted the 4th Schedule as it is, then their competence to cooperate in other areas would automatically be subject to the provisions of the schedule. But if you want to be specifically protective, then you can take the formulation: "*Such matters as the cooperating districts may, subject to the provisions of this constitution resolve to be handled in common.*" Can someone move it because the Chair is not competent to move. Hon. Wanendeya, what do you want to say? Do you want to move it?

**MR. WANENDEYA:** Mr. Chairman, first of all, before I move, I would like to make a bit of clarification. Mr. Chairman, being suspicious of our brothers and sisters in Buganda is not going take us anywhere. Mr. Chairman, if I am permitted to say so, some of these things may never arise of thinking that maybe our brothers and sisters in Buganda may decide to secede. Mr. Chairman, I say this with *-(Interjections)* all due respect. If delegates can bear with me so that I make my point. This is not a market place. Mr. Chairman, what I am saying is this -

**THE CHAIRMAN:** Hon. Wanendeya, I am taking the floor from you. You do not begin by attributing bad motives to people who are generally debating provisions which are in this constitution. *(Applause)*

**MR. WANENDEYA:** Thank you Mr. Chairman. What I am saying Mr. Chairman, is this. We have

got to be tolerant. Therefore in order to erase what would otherwise be suspicions in Hon. Delegates' minds, I would take the formulation that is made by brother Chebet that it should be subjected to this constitution as per schedule 4. Therefore, I beg to move.

**THE CHAIRMAN:** Hon. Members, I think let us not attribute bad motives to each other. For me, I took it that the Members who are pointing at (h) were saying that it is too wide generally. These provisions which we have here in this Clause do not apply to Buganda. I have not seen anything written here about Buganda. We are talking about districts which are coming together to cooperate. It could be JIK, it could be Ntungamo, Mbarara and Bushenyi. I do not know what you call those, or it could be MAN. It could be the district of Kaberamaido and Soroti, when Kaberamaido is made into a district. But I think let us now listen to the Motion. Has it been moved?

**MR. CHEBET:** Mr. Chairman, certainly, I think we should not impute wrong motives when we are debating here. We should all be very sober. The Motion I am seeking to introduce is to subject this particular clause to the provision so that it is restrictive and not very wide.

**THE CHAIRMAN:** You have to frame it. If we pass that, the Technical committee will do it.

**MR. CHEBET:** The Motion is: "*(h) Such other matters as the cooperating districts may resolve to be handled in common, subject to the provisions of this constitution.*" I beg to move.

**THE CHAIRMAN:** Now, is Hon. Byarugaba withdrawing his? If you have withdrawn yours, then we do not have two Motions on the floor because that was attempting to amend yours.

**MR. BYARUGABA:** Mr. Chairman, I thank you very much for giving me a chance to do exactly that. I hereby withdraw by Motion in very good spirit to have continuation this wonderful exercise. *(Applause)* I thank you very much Mr. Chairman.

**THE CHAIRMAN:** So, we take the formulation of Hon. Chebet Maikut.

*(Question put and agreed to)*

**THE CHAIRMAN:** Now, let us pronounce ourselves on the schedule - The recommendation that we have 6th Schedule as set out at Page 7 and 8 of the Committee report be adopted. Those in favour say aye, to the contrary, no.

*(Question put and agreed to)*

**THE CHAIRMAN:** 6th Schedule as amended stands part of the Draft Constitution. That brings us to end of Article 203 as recommended to us. I want to put the question on that one.

Hon. Kagimu, what is the problem?

**MR. KAGIMU:** Mr. Chairman, I can see a Motion here on Page of Hon. Besweri Mulondo. I do not know whether Hon. Besweri Mulondo is still interested in it or whether. It is on Page 4, Mr. Chairman.

**THE CHAIRMAN:** Yes, I can see.

**MR. KAGIMU:** Maybe because Mr. Chairman, if the Hon. is not willing, then I move it.

**THE CHAIRMAN:** Well, the Motion is not in your names, how do you?

**MR. KAGIMU:** With his due permission.

**THE CHAIRMAN:** Hon. Besweri Mulondo is going to react.

**MR. MULONDO:** Mr. Chairman, I have been taken by events because I definitely wanted to move this Motion and in moving it, I also wanted to taste the spirit of this House. I am not moving it yet but I want to do a little explanation, Mr. Chairman. In actual fact I had amended it Mr. Chairman, to include to those other grouped districts which may feel they are ready for the cooperation. I want the Members to help me, if they are going to help me have it through. Because if I was allowed, Mr. Chairman, to stand this over so that we do not declare ourselves as far as this chapter is concerned, tomorrow I may come out with a little bit changed version and having done little consultation, Mr. Chairman. These people do not seem to appreciate the situation at the moment. I do not know whether they are tired but it appears all my neighbours are a little hostile to me Mr. Chairman.

**THE CHAIRMAN:** Could the Members next to Hon. Mulondo not show hostility please.

**MR. MULONDO:** Mr. Chairman, if you can allow me to sleep on this so that tomorrow we shall have done a little improvement on it so that we do not throw it away now. So that we can come in with an improved version of the whole thing. Thank you very much.

**THE CHAIRMAN:** I am sure the House in their democratic spirit will allow so that we do not conclude on 203. This would come if it is moved as proposition to insert Clause 3 because we have got clause 1. Hon. Sekandi added Clause 2, we have just done the schedule. That will be actually Clause 3 to Article 203. Hon. Delegates, we shall do it this way I propose we do it this way. We allow Hon. Besweri Mulondo to go and think over his formulation and to come back tomorrow. If he is ready we shall start with it in the morning and then we proceed to do the Article 204 and so on. Therefore, I adjourn the Assembly to 9,00 O'clock tomorrow morning. We stand adjourned. Thank you very much.

*(The Assembly rose and adjourned until Thursday, 30th March, 1995 at 9.00 a.m)*