



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

R5748

CONTENTS

TUESDAY, 29TH NOVEMBER 1994

MOTION:-

Administration of Oath	[Pg 2513]
Communication from the Chair	[Pg 2513]
Reports from Committees	[Pg 2513]

Price Shs. 1,350

Tuesday, 29th November, 1994

*The Assembly met at 8.30 a.m in the
International Conference Centre Kampala.*

NATIONAL ANTHEM

P R A Y E R S

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

(The Assembly was called to Order)

ADMINISTRATION OF OATH

Mr. Stephen Saaka Ssemaala

THE CHAIRMAN: Hon. Ssemaala, you are welcome and I look forward to working with you as we continue making the Constitution for the people of Uganda. Thank you.

COMMUNICATION FROM THE CHAIR

THE CHAIRMAN: Hon. Delegates I do not have much, except to welcome you back from the Committees to the plenary. Now that we are back in the bigger House, we can work in a new situation where we shall be doing both Committees and plenary. A more detailed Report on this matter will come later on under the Item Reports from Committees. But at the same time, I think we need to congratulate some of our Members whose status have been elevated in their service with the people of Uganda and also pay tribute to those who have been redeployed in the process of further service to the people of Uganda. In a democratic society, you perform duties as and when the people require and where they require you and so I am sure everything is taken in that spirit. But we should also make special mention of the fact that Her Excellency, Specioza Wandira Kazibwe - we must pay special tribute to her because she has been the vehicle for implementation of some of the Clauses we have already approved in the earlier part of the constitutional making process. *(Applause)* I am sure our gender sensitivity has already reached various circles and they are being responded to even before we promulgate the constitution. Having said this, I think we should now proceed to other items and continue from there.

REPORTS FROM COMMITTEES

THE CHAIRMAN: This morning, a Document was to be circulated because I did direct that it be circulated, containing a Report from the Business Committee. The Business Committee met last week on Wednesday, and the contents of that Document are a reproduction of the matters they considered and decisions/recommendations they made. These are the observations from our sub-Committee of the Business Committee. The matters referred to the sub-Committee, as Members know, was chaired until last week by Hon. Stephen Kavuma, who has, since that time as we all know, been redeployed to be the Minister of State for Constitutional Affairs, and so that was his last Report to us. *(Applause)* I must, on your behalf, thank him for having ably served as Chairman of the sub-Committee of Business Committee. The Business Committee quickly redeployed Hon. William Kaberuka to become the new Chairman of the sub-committee and we should also congratulate him on accepting to serve.

We also note that three other Members of the Committee are going to be too busy, by virtue of their re-deployment, to continue participating as much as they could have on the sub-Committee having been made Ministers. The Business Committee appointed three other Members to serve on the sub-Committee in place of those who were elevated and they are Hon. Obua-Otua, Hon. Hope Mwesigye and Hon. Masalu Musene. Otherwise, the main point in the discussion that took place was that we noted from the Report of the Sub-Committee that having looked critically at our speed of work and the amount of work done and that is left undone, it was very clear that it will not be possible for us to discharge our functions within the time limit that was set for us namely, to complete by the 11th December, 1994.

The number of reasons which have been set out there were visited, but among those prominent, as you may see, is the fact that at the time when the Statute establishing this Assembly was passed, there was no definite experience or analysis of the amount of work really that was going to be done because at that time, we did not have the Commissioner in place and the secretariat that was in a position to analyse fully the amount of work involved. The question of seven months was arrived at, if I may recollect my position elsewhere was substantially on the Ghanaian experi-

ence, but other factors were not taken into account. It was assumed I think, and I think that is correct, that N.R.C would go in recess when C.A starts operations so that there would not be concurrent meetings. But that did not turn out to be the case and so, C.A. lost time having given time to N.R.C. Also, the question of our recess was not taken into account. Members will recollect that when we came here, not many of the facilities we have now were in place, and we had to spend more time on recess to enable the Secretariat to put in place, not only more tables but also the sound equipment and so on and so forth. So, all in all, we spent more time on recess than we could have and that actually took away five weeks from the total time we have or we were allocated, namely, one month and a half and many other reasons including in-House weaknesses like late coming which we are going to attend to in due course.

So, the Committee having viewed all these reasons, made the recommendations that the life of the C.A be extended for another six months being the maximum that we think is required but the work could be done in a shorter time and then we propose to improve on work methods, but not wanting to be visiting N.R.C all the time. We thought we better ask for a period of six months which we think would be sufficient for us to go through all the stages, regardless of the speed. But we hope that we shall be able to work faster and even finish before the expiry of that time if it is given to us.

The plenary will be sitting from today onwards in the afternoon until after 31st January when it is proposed that plenary should sit both in the morning and afternoon, and that if any Committee by that date has not completed their work, the Chairman and the Committee will have to find their own time, probably on weekends including nights, so that they finish and bring the Report to the plenary which will be in session at that time both in the morning and afternoon. Other administrative matters like the question of space will be looked into. We had rented the Committee Rooms here on the assumption that the Committee work would be finished by the middle of last month, but of course we went beyond. Now the management of this place had also entered into obligations based on the fact that we are going to liberate those Committee Rooms at that time. But as we know, it has not been possible. So we are engaging ourselves with them again to see that we can take back the rooms so that the Committees can operate without problems.

Now these are the recommendations as summarised on page 2. The last one is a proposal and I think a reasonable one given that Members have had a very short session starting in the middle of August to the current that, maybe we shall need some kind of break. So, the Business Committee suggests that we take recess from the 19th of December, 1994, and come back on the 10th of January, 1995, allowing for Christmas time, New Year and matters that people have to attend to during the early part of the year like arranging school-fees and so on and so forth. So, these are the recommendations and in absence of serious objection from the Floor, I would take it that they are taken and that we proceed from there. What I have done, I was authorised by the Business Committee to write to the Minister for Constitutional Affairs and officially inform him, since he does not know, that we are not in the position to complete our work on the 11th and that could he interact with the necessary organs to ensure that other steps are taken to extend the existence of this Constituent Assembly and we hope that the Minister, when he receives the letter, he will positively consider the contents of that letter which will have come from us and I wrote that letter which was delivered to the Minister this morning so that he can begin the process going and everything we put in place. Now if I do not see any objection, I will take it that it is agreed and it is hereby agreed that the Minister can proceed as proposed. Thank you.

Let me, at this stage, comment on the matter which is also before Committees. It does not appear on the Agenda but it involves the operations of select Committee 5. Members are aware that some time back, some Members of that Committee walked out following the disagreement that took place within the Committee. The Members, together with other Members of the National Caucus for Democracy wrote to me, communicating their dissatisfaction with the way things were handled in the Committee. I received a delegation from the National Caucus for Democracy pointing out to me the difficulties they had faced in proceedings of that Committee. I also did reply to their letter and pointed out that while the rules do approve or provide for reports, it would have been better if the Members went back and took part in the proceedings if they intended, as they had written to me, to submit a minority report. The Members nevertheless felt that their grievances were of such magnitude that going back would not help the situation. So, when they came to see me, and also in discussion with the Chairman of that Committee, we

agreed that these matters should be referred to the Legal and Drafting Committee for the Committee to advise whether in the opinion of the Committee - because our Rules say, the Legal and Drafting is the advisor on legal issues to the Assembly - the Chairman had applied the Rules and the Procedures correctly or not and make the recommendation to us. I have just received a note from the Chairman of the Legal and Drafting Committee that his Committee finally did meet this morning, they have developed a line of sorts. It is being typed. They will finally have a meeting tomorrow and hopefully, by the end of the day tomorrow, they will have an opinion on which we can then base ourselves as we address the question that exists in Committee 5. I thought I should bring up the Members of the Assembly to this situation so that we all move as one knowing that action is being taken and that the matters that were referred to the Chairman are not being ignored. It is just by way of a Report. Let us wait and hear from the Legal and Drafting Committee.

REPORT FROM THE SELECT COMMITTEE 3

MR. NEKYON: Mr. Chairman, before we proceed to that stage, I want to make a brief statement on the Reports we have already made if you allow me. First of all, I want to talk about our meeting venues. Quite a number of times, the Committees have been interrupted by various international conferences as well as national conferences. I am of the opinion that we should try to find a way of moving the remaining committees to Parliament buildings because there we have got a number of Committee Rooms plus the Parliament Chambers itself instead of just hanging around when Parliament is not in session wasting time and doing nothing. I would prefer our going to Parliament Buildings.

Two, the country is puzzled by the fact that while we are still writing a Constitution and we have not yet completed, there are people running around the country campaigning for elections. I want you to clarify to this country, are we going to have any election before the Constitution is ready or not? And if we are going to have elections, under what Law are we going to have that election? Mr. Chairman, we cannot sit here, when other people are working behind us.

THE CHAIRMAN: Yes. I can comment on both. Firstly, on the question of our sitting arrangements and particularly Committees, the ideal situation

would have been to renovate the Chamber down that Parliament Building, to house us and work from there as a plenary. When estimates were made, it became apparent that the amount of money required was prohibitive to be able to instal what we have here if we were to have sound system, the air conditioning apart from sitting arrangement in that place. (*Applause*). I welcome Her Excellency, the Hon. Vice President of the Republic of Uganda, but who is here in her capacity as C.A. Delegate for Kigulu South, and I had already made a few remarks of congratulations and I am sure when the record is transcribed, that will be made known to her. I would also like to thank Hon. Kawere for his gallantry and in assisting Her Excellency to take her Seat.

Hon. Delegates, I was reporting on the question of sitting arrangements and I had said the ideal would have been if we arranged down at Parliament, because it became rather prohibitive and therefore, the choice was made that we continue here although that has not been really announced as an official statement. I will be investigating with the Commissioner whether in view of our decision to seek an extension, they will be also pushing for the need to have that Chamber done. But finances maybe prohibitive. As regards Committees, yes, I have already personally sent the Deputy Commissioner Technical to Parliament to interact with the Clerk to find out if we can use the Committee rooms during the recess and we are awaiting a response from the Clerk on this matter. We feel that if we did that, we may be safer from interruptions that may arise as we continue sitting.

The second point relates to elections. In my view, the activity that we see taking place arises largely from the fact that under the present constitutional arrangements and given the mandate that was given to this Assembly, we should be completing our work on the 11th of December, 1994 to have the Constitution in place and under the other constitutional arrangements having brought this Constitution in force on the 11th or 12th, there was need to hold urgent elections so that there is Government in place by the 25th January, 1995, so that there is a new Government plus new Constitutional arrangement in place. But as we all know, those deadlines are unrealistic. But of course not everyone is exposed to this sort of knowledge and so there are people who still think that elections are coming in January - latest February, for them to be able to be elected and therefore, they are running up and down. I have carried out a

few consultations here and there and my understanding of the situation is that no elections will take place except when this Constitution we are making is in place and only under that Constitution (*Applause*). In other words, therefore, the date when the elections will take place will be determined by two things. First by the N.R.C agreeing to extend our mandate and two, the speed at which we shall work. If we finished on the 25th January, 1995, there will be elections may be within two months from there. But if we finished may be in April, May, June, then the elections will also be timed against that fact and therefore, people who are campaigning thinking that January or February is an election date, I can say without fear or favour that they are wasting their time. Given the timetable we have set, having looked at the work load left, there is no way we shall have this Constitution in place by January or February of next year.

I think Hon. Nekyon, I am sure I have covered your observations. Thank you very much. Could we go now to hear a Report from Hon. Kaberuka. But our Rules say that once a Report has been received - if I am not wrong - from a select Committee, that select committee ceases to exist. I seek to be guided on this one, but my reading of Rule 37 sub-rule (7) reads, "Except as the Assembly may determine, a select committee shall stand dissolved after its Report has been presented to and received by the Assembly". So, in absence of a determination to the contrary, upon the hearing of the Report by Hon. Kaberuka, it may appear - unless my interpretation is wrong, that Committee 3 will stand dissolved. Now in my view, that would be unwise because we may need the leadership of this Committee as we consider the Report in Consideration Stage and possibly, it may be necessary to make references back to the Committee for reconsideration of some matters should it become necessary. So, I need to be guided by the Chairman of the Rules Committee as to how he thinks we could proceed in view of the matters I have just outlined.

MR. OMARA-ATUBO: Mr. Chairman, as you have very rightly pointed out under Rule 37, sub-rule 7, a Select Committee stands dissolved when it presents its Report unless this Assembly decided otherwise. But I fully agree with you, Mr. Chairman, that apart from the Select Committee presenting its Reports in its entirety as it is compiled, there are some discussions in various Articles which they will have to guide us in during the Consideration

Stage like why they recommended a certain Article to be adopted or approved by this Assembly. Therefore, presenting its Report, merely the formality of presenting its Report to this Assembly is really not enough. The Committee will have to continue in existence until really the whole C.A itself completes its work. Even at the Reconsideration Stage, we may still need this Select Committee to guide us in a number of issues. So, Mr. Chairman, to fulfill the requirements of the Rule and the Law, after the Committee has formerly presented its Report to this Assembly, the Assembly may have, by resolution, to determine that the Committee continues in existence. Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you, Hon. Omara-Atubo, Chairman of the Rules and Order's Committee. We shall have to come back to that point after the Report has been presented by the Chairman.

MR. KIWAGAMA: Mr. Chairman, I think on this point. I would interpret that Rule in that when we receive the Report as we have received it, and the Chairman is going to present it, as long as that Report is on the Table and the Assembly is still discussing it, to me the Select Committee is still in existence until we have disposed of their Report.

THE CHAIRMAN: Well, your interpretation differs slightly from that of the Chairman. Hon. Omara-Atubo, what do you say to that?

MR. OMARA-ATUBO: Mr. Chairman, as I said, there is a formality of presenting the Report of the Committee, you recall there was a procedure here which we discussed with the Chairman. As a matter of formality, he will stand up and say, Mr Chairman, the Select Committee 3 has completed its work and we are honoured and pleased to present our Report and the Report becomes the work now of this Assembly. This is the way I was see it. Therefore, that Report becomes ours. But we are still going to discuss all their recommendations and this is why I was saying that that Select Committee really should continue because even if it has presented us with its Report in a formal way, there are various Articles of the Constitution which that Committee will have to formally now present and give reasons to why it was adopted. But my interpretation is that once the select Committee formally presents the entire Report to this Assembly, it becomes the Report of the Assembly Mr. Chairman, and therefore, the Committee would technically cease to exist, but we shall still

need that Committee to continue its work. I was looking at another provision but as soon as I get it, I will draw your attention to it, Mr. Chairman.

MR. DAMIANO LUBEGA: Thank you very much, Mr. Chairman. Mr. Chairman, I would like to agree with the interpretation made by the Chairman of the Rules and Orders Committee of this Assembly which Committee I am also a Member of. The interpretation here by the Chairman of the Rules is quite different from the interpretation which has been advanced by Hon. Eng. Kiwagama. Kiwagama's interpretation actually means that once a Report has been presented and received, the Committee would still continue as long as we are still discussing the Report. But that is not true. In fact presentation and receiving of the Report ends when the submission by way of supporting the Report of that Select Committee is through, when it has been done and he says, "Mr. Chairman, I beg to submit the Report", then Committee should be dissolved according to this Rule. But this Rule was constructed in such a way that the Assembly was given an opportunity of making a Resolution. Therefore, it is only by way of a Motion, after presentation has been made and after the Report has been received, it is only by Resolution through a Motion that this Assembly can resurrect the Committee. There is not any other way. I agree with the interpretation being presented by the Chairman of the Rules and Orders Committee. Thank you.

MR. OMARA-ATUBO: Mr. Chairman, I was looking at Rule 37, which provides for the procedure in Committees generally. If you look at sub-Rule 8, it says, "Every Committee shall report to the Assembly at such times as the Chairman of the Assembly or the Assembly may direct and the Report shall be accompanied by the minutes of the committee and shall be placed on the Table of the Assembly". Mr. Chairman, this is the formality I was talking of that once the Chairman of the Select Committee tables the Report on the Table, that Report becomes ours and consequently, the other provision also follows. Thank you, Mr. Chairman.

THE CHAIRMAN: Hon. Delegates I do not think we need to debate this any further. My understanding of procedures in Parliamentary Bodies to which we rightly belong is that a Report is deemed to have been distributed or a Documented upon its being laid on the Table, even before the Members have seen it. Then the Chairman of that Committee, if called upon

formally, presents the arguments or the various recommendations contained in it. In this case, we not having a formal Table like the one we have in the Parliament, I do not recollect where we laid, whether it was on the Centre Table or on the Clerk's Table. But Hon. Kaberuka will be required to have laid - actually a copy should have been received by the Clerk, not necessarily what he has now. The Clerk should have the copy which be laid on the Table so that the Chairman says so. Or otherwise he can come and lay it and then go back and say so.

MR. KANYEIHAMBA: Mr. Chairman, accepting your interpretation of the Rules as amplified by the Chairman of the Rules Committee and Hon. Lubega wanted to move the Motion so that it saves us all the problems. I wanted to say that to move formally that during the discussion and adoption of the Select Committee Reports, Rule 37, sub-rule 7 shall stand suspended in accordance with Rule 43. Then that would save us a problem of having to come back to this, Mr. Chairman. I beg to move.

MR. MALINGA: Mr. Chairman, I would like to remind you that you have just informed the Assembly that Hon. Kaberuka is now going to be the Chairman of the Sub-Committee of the Business Committee and he is only the Member of the Business Committee, so long as he is the Chairman of the Select Committee. So, I think we should formerly really suspend so much of Rule 37, (7), as we would prevent the continuous existence of the Select Committee until the end. I think we will need these Committees to see us through the discussion of their Reports right up to the end. Thank you. I support that we should suspend 37, sub-rule 7.

MR. NDEGE: Mr. Chairman, I support the first substantive Motion by the Chairman of the Legal and Drafting Committee, Hon. Kanyeihamba. The second one seems to imply that all the Committees will be in place until further notice whereas the first one, according to my interpretation, is that as long as we are debating the business of that Committee, it remains in force. Once we finish, it ceases to exist. Why I support that line of argument is that we should learn to come back as one unit. I think eventually, we could come back as one unit when we finish so that we are not seen as segmented. Some of us have been accused in the villages that we have segmented ourselves. We do not know what is going on. We are not giving enough attention to all the Chapters. So, I think once we finish with one Committee, let it cease

to exist and we come back in the end as one unit and finish our business together. Thank you very much.

THE CHAIRMAN: There was no difference between Hon. Malinga's position and that of Prof. Kanyeihamba. What Prof. Kanyeihamba was saying that we do not have to do so each time we come receiving the Report of each Committee. Let us suspend the operation of Sub-Rule 7 of Rule 37 so that, as we receive Reports, those Committees can be available and when we finish debating whatever they have presented and reach such time as we think is necessary to invoke sub-rule 7, we can do so, so that there is really no difficult at all as far as I can see it.

MRS. MATEMBE: Thank you, Mr. Chairman. For me, Mr. Chairman, I do not see the relevance of suspending that Rule. That Rule says, "*except as the Assembly may determine...*" and these powers of the Assembly may be through a resolution because if you let the Committee stand, stand to do what? It has done the whole work, submitted the Report and in accordance with what Hon. Omara says, what we may need from the Chairperson from time to time is to may be explain why such and such a provision was there. But otherwise, we do not need this Committee because this Report becomes ours and that at no time can the Committee go to discuss it at all. So, to the extend of an explanation why certain recommendations have been put there, why else do we need the Committee? Therefore, do we need to suspend this Rule for that sake? Because in my view, what would be appropriate is to make a resolution here as to what we expect out of that Committee. Just that one thing, but not to say that the Committee stands completely up to the end by dismissing this Rule. I thank you.

THE CHAIRMAN: I think you have not taken on the board the reasons which were advanced. The point was that technically, under Rule 37, Sub-Rule 7, upon the laying on the Table, and upon the presentation by the Chairman, we shall have received that Report and therefore the Committee should stand dissolved. But the argument was that as we go in our work Article by Article, Clause by Clause, we may have to be calling upon either the Chairman or any Member of that Committee to guide us as to why they arrived at a particular recommendation, and this will apply not only on this Committee but all the other Committees as they bring their recommendations to us. Now, either we adopt the method envisaged by the Rule to say that

each time after there has been presentation, we move a Motion to continue in existence that Committee in the basis of the wording of 37, sub-rule 7, or we use the Rule we have which says, you can suspend the operation of the Rule if the Members so wish so that the situation continues in a different way. Now the Chairman of the Legal and Drafting Committee was recommending that we should adopt the latter and was seconded and supported by Hon. Malinga. Now if we take that position, I do not see any problem. So, Rule 37 Sub-Rule 7 has been suspended and so we shall continue with the Committee until such time when we do not need it.

PROF. NABUDERE: Mr. Chairman, I am just raising a point of procedure. I remember that before we adjourned the plenary session, we had referred a number of Amendments on Chapter Five to the Legal and Drafting Committee. There was also a pending Report on Chapter 3. I do not know whether these matters could not have been cleared first before we start on Reports of Select Committee.

PROF. KANYEIHAMBA: Thank you, Mr. Chairman. I note the matter raised by Prof. Nabudere. In fact there were a series of references which were made, not only by the plenary session but by the various select committees. The business of the Committee, that is, Legal and Drafting Committee, has been such that we have not compiled our opinions together to be able to report to the plenary session of the C.A and when that time comes, Members will get notice and we shall report accordingly, Mr. Chairman.

THE CHAIRMAN: But of course, I think the concern of Hon. Nabudere was that we should mop up first before we begin electing new structures. But if we are not ready we are not ready. I think that is a reminder any way. Thank you.

DR. KABERUKA: Thank you, Mr. Chairman. Mr. Chairman and Hon. Delegates, Committee 3 was given two Chapters. One on Finance which had 14 Articles and another Chapter was on Defence and National Security which had 26 Articles and in all, we had 40 Articles. The Committee commenced its work on 6th October, 1994, and completed on 3rd November, 1994. In all, the Committee had 18 sittings. The Committee reconvened on 8th of November and 9th November, 1994, and considered the Minutes of the proceedings and also reviewed the recommendations made therein.

In view of the importance and vital nature of the Constitution, the Committee adopted the following guidelines: One, that the Constitution should be brief and concise and two, that it should be flexible to allow future Parliaments to operate within its framework without necessarily changing its basic Articles. On this basis Mr. Chairman and Hon. Delegates, the Committee carefully and diligently reconsidered the Draft Articles and ended up recommending only 27 Articles instead of the original 40 in spite of having introduced three new Articles. Chapter 11 will, according to the Committee's recommendation, have 12 Articles instead of the original 14, and Chapter 14 will now have 15 Articles instead of the original 26.

Further more, the Committee was of the view that where a body or an institution is constitutionalised, its composition, operational structure and functions could be spelled out where they are likely not to change and also if they can be sufficiently enumerated. For example, Hon. Delegates you will notice that in the case of the Auditor General, the Audit Service Board, and the Uganda People's Defence forces, the committee spelt out the composition and the functions of those bodies. But where it was deemed that the composition and functions were bound to change with the time and circumstances, such a body or institution was only established and the rest left, in part or wholly, to Parliament to handle. Such institutions include the Bank of Uganda, the Uganda Police forces, the Uganda Prisons Services and National Security council.

Hon. delegates, I want to turn to the high light of our report - finance, that is articles 178 to 191. In view of the need by government to improve taxation on one hand and the need to protect the tax payers from any exploitation on the other hand, the committee established tax tribunals for settling disputes concerning tax matters. This was done under Clause (3) of article 178. Under article 185, the powers of government to borrow were restricted to approval by Parliament and that such a loan would, if acquired, only come into operation after Parliament has approved by resolution. The committee considered this matter very seriously and at length while fears raised by the people in the Odoki report had to be accommodated. The committee felt that there was need to allow the government in place to borrow, under strict special circumstances, in advance of Parliament approval but in accordance with its regulations. Therefore, having allowed Parliament to scrutinize and approve government's borrowing, the commit-

tee made an exception for the President to borrow under emergency circumstances and report to Parliament within a specified period. Thus a new Clause (7) of article 185 which reads as follows, "*Notwithstanding provisions of this article but subject to Clause (8) of this article, the President may borrow, guarantee or raise a loan on behalf of government, public institutions or authority provided that he shall report to Parliament for ratification within 30 days if Parliament is sitting, or if Parliament is not in session, within 30 days after Parliament has commenced sitting*" was introduced.

On the Audit Commission, the committee felt that the Audit Report required high level of confidentiality, free from lobbying and not a document of consensus but accountable to an individual. In this light, the office of the Auditor General was preferred to the Audit Commission. The committee, therefore, introduced in the Draft the office of the Auditor General but with some modification to allow for independence and better performance. In this regard, the committee recommended the establishment of the Audit Service Board for the recruitment and setting of terms and conditions of service necessary for inducing high quality staff in the Auditor General's office.

On Defence and National security, those articles i.e. articles 231 to 256, other than the change of the name of the Uganda Armed Forces to Uganda People's Defence forces, Hon. Members should note the de-constitutionalization of the office of the Commander of the Armed Forces. The committee was of the view that since the office of the commander in chief is a constitutional one, creating under it that of the commander of the armed forces could create control problems and also in future, with expansion and other developments in Uganda People's Defence Forces, such a post may be subject to change thus causing a constitutional problem.

Lastly, a new article to strengthen the existing Firearms Act was introduced to read as, "*Parliament shall make laws to regulate the possession and use of fire arms and ammunition*".

Mr. Chairman, and Hon. delegates, attached herewith are four appendices. Appendix one contains the decision taken by the select committee (3) on Finance. Appendix (2) contains the decision taken by the select committee (3) on Defence and National security. Appendices (3) and (4) contain draft amendments prepared by the Technical Committee to give

effect to our select committee's decision on the two chapters dealt with by the committee.

At this juncture, Mr. Chairman, I think I should point out some corrections which Members should take note of. First of all, I should have had five appendices, the fifth one being a list of committee Members which should have appeared at the end but it was omitted, and I think we shall have to correct that. The other correction is on page 13 of the report under (l), there is what the heading called article 190. Now under that article 190, there is some apparent overlap, but of course, the Members of the committee know what was happening. Under (l), we recommended that article 190 dealing with the Audit Commission be reformulated as shown below so that the words which appear there, starting with recommended that the present article 190 up to the heading of (m) should be replaced by those words. In other words those words should not be there. So that we start with Clause (1) and continue as in the report.

THE CHAIRMAN: There, you are suggesting that we delete 190.

DR. KABERUKA: We delete the words below 190.

THE CHAIRMAN: You see the words - you see you have got (l) -

DR. KABERUKA: Yes, The words under (l).

THE CHAIRMAN: - should be deleted and substituted with the formulation you have just read, and then under is a reference to (m).

DR. KABERUKA: Then (m) goes so that what is Clause (1) now appears under article 190.

THE CHAIRMAN: I would suggest that you should have used quotes to indicate that they are not all at the same level, they are just the reformulation. Could I suggest that for the better guidance of Members, when we come to considering these matters, may be your committee can have this re-written and re-typed - this page, so that it comes out clearly.

DR. KABERUKA: You are obliged, Mr. Chairman.

THE CHAIRMAN: Okay, then maybe you can continue.

DR. KABERUKA: Then on page 17 from (f) to (i), you have Clauses instead of articles. You have the word Clause (2) 36, Clause (2) 37, it should be reading article 236, article 237, article 238, article 239. Instead of Clauses in the heading. Then on page 27, the last but one line, it should read "Parliament shall have powers" not "power". Page 27 the word there is "powers" not "power".

THE CHAIRMAN: Paragraph 24?

DR. KABERUKA: Yes please under 3. Lastly, Mr. Chairman, allow me to end by complimenting my deputy, the entire Committee (3) for its cooperation, zealous participation, guidance and the spirit of mutual respect within which we have accomplished our task. I also thank the support staff from the Clerk's office, the Legal and Drafting Committee and the Chairman of the Technical Committee and his team, without whose cooperation, our task would have been difficult. I thank you all. Thank you.

THE CHAIRMAN: I thank Dr. Kaberuka and Members of Committee (3) for the work they have been able to do on behalf of the Assembly and to be the first committee that presents their report to us. I may want to get a bit of guidance on how we proceed from here, preferably from either the Chairman of the Rules and Orders Committee or the chairman of the Legal and Drafting. But let us start with the chairman of the Rules and Orders Committee. Do we have to take a Motion that the report be adopted or we say we have received it and then we proceed to consider it in as against the draft of the constitution that we have?

MR. OMARA ATUBO: Thank you, Mr. Chairman. My view is that we do not need a formal Motion. Once the report is tabled and is formally presented to us and received, to me that is really enough and that becomes our report, we had given the assignment to a select committee. Now once it reports to us, we can now discuss - we can now decide that this report being ours, the matter before us can now be dealt with by us, Mr. Chairman. So we are now at the consideration stage of the Assembly.

THE CHAIRMAN: Okay, the Members will recollect that before we went into committees, we were relying on the Legal and Drafting Committee to come with a report such as this one having looked at various amendments and discussed with various

movers to be able to generate a proposition which we discussed. We have three (3) appendices here. Appendix (1) is decision is taken by the committee on Finance and (2) contains those taken on Defence and then appendix (3) and (4) contain draft amendments prepared by the Technical Committee to give effect to the committee's decisions on the two chapters. The committee met and considered the formulations from the Technical Committee as contained in appendix (3). We shall have either to proceed like we used to, where we would go on the basis of the report, now that we would be going from the chapter formulation. These articles are not necessarily - *(Interruption)-*

MR. KAWERE SEMPA: Mr. Chairman, now that this report has been presented, why don't we adopt it, turn it into our own document, then we debate it. Otherwise other reports would be presented, they are not adopted, and how can we debate them?

THE CHAIRMAN: - We would have a problem, we are required by our rules to consider the Draft Constitution article by article, and the best way we can do so is by picking a recommendation on the particular article and pronounce ourselves on it, whether we take it, or modify it, or we go back to the original. So we cannot adopt the whole document. Otherwise we will be tying our hands.

MR. OMARA ATUBO: Mr. Chairman, in support of your ruling that we cannot adopt a whole document, I think we should look at rule 37 (5) and (6). It was really made with that type of procedure in mind so that at the appropriate time, when we are discussing articles, those amendments should be brought in and we may use those amendments. So really, we cannot adopt the whole report as such. They have been presented and we have received it, it is now our baby and that is it. Thank you.

THE CHAIRMAN: Now, the committee's appendix (3) does not set out all the articles in that chapter. Am I right Hon. Kaberuka? You only set out those which you sought to change. So we have to use both this and the original text as we go along so that when we start considering the requirements - I mean the propositions in those chapters, we shall proceed in that manner. Where there is no comment or recommendation from the select committee, I will take it that they chose to keep the original article as it was in the Draft and therefore, we shall pronounce

ourselves on that one as it stands in the Draft and then we depart where they have got a recommendation appearing in appendix (3). But I think appendix (1) and (2) are the ones which indicate that some of the articles should be left as they are, or should be deleted. Now, Hon. Kaberuka which one do you think would be best for us to use if you take, for instance, on finance?

DR. KABERUKA: Mr. Chairman, appendix (3).

THE CHAIRMAN: But appendix (3) does not contain deletions, does it?

DR. KABERUKA: Yes.

THE CHAIRMAN: It has deletions in Clauses, but appendix (2) has deletions of full articles. I do not think you go on to comment on say, article 233 where you say it should be deleted. Did you go on to comment on it in the appendix (3)?

DR. KABERUKA: That is done in appendix (1) and (2), Mr. Chairman.

THE CHAIRMAN: That will make our work a bit slow -

MR. MALINGA: Mr. Chairman, I think proceeding under our rule 45, I would suggest, Mr. Chairman that you cause the committee to prepare a working sheet for each day taking out from this report what we will need to do so that the Clerk would be calling according to an order paper which has been prepared having taken into account what is proposed in appendix (3), cross-checked with appendix (1). And when we come to the other section, appendix (4) cross-checked with appendix (2), I think that would be the only way for us to move expeditiously. Thank you.

THE CHAIRMAN: I think there is need for a working sheet to be prepared because otherwise, we will be cross-referencing from appendix (1) to the other appendices giving effect and then some of the matters giving effect are not stated. Even some of the clauses which are assumed should continue in the main draft, if you look at the beginning of appendix (3) on finance for instance, you look at page 22 (1), we state we were to begin with 178 Clause (2), what do we do with Clause (1), what was the action on Clause (1)? It was presumed that it stands part of the

Draft Constitution. So, we would have to say for Clause (1), go to the Draft Constitution. For Clause (2), go to the appendix (3). I think we need to have a statement which says, appendix (1) Clause (1) - 178 Clause (1) no change, should stand part of the Draft Constitution. Clause (2) delete so much of the words so that we have one working sheet and then we can go down on that basis instead of having to change from one to the next.

DR. KABERUKA: Thank you, Mr. Chairman. If that is how we should proceed, I can see appendix (1) and (2) doing the same job because those two contain the decisions that were taken by the committees.

THE CHAIRMAN: But not the formulation which came from the Technical Committee. Now my suggestion would be, it has been suggested by Hon. Malinga that we should use the services of the Clerk's office to prepare daily work sheets. Which means actually imposing additional responsibility on the Technical Committee which is servicing all the other committees still working. Unless Hon. Kaberuka thinks it would be too onerous, would his committee be able to prepare the work sheets using the Clerk's office?

DR. KABERUKA: I think, Mr. Chairman, the technical committee is able to - is in position to do that better than us. But may be we could collaborate with them.

MR. MULENGA: Mr. Chairman, after looking at appendix (1), I do not see what better way can be put on that sheet that will make it better than it appears in appendix (1). Because appendix (1) is following clause by Clause, those which were recommended for adoption without amendment, then those which were amended are also in their series. If you look at page 1, Mr. Chairman, Clause (1) recommended that Clause (1) remains as it appears in the Draft Constitution and to read and it is repeated there. Then Clause (2) recommended that Clause (2) of article 178 be amended by deleting the following so that it reads as follows... and a text is put there. I thought that would be the best way to follow it.

THE CHAIRMAN: But that is on article 128. Then the next article -

MR. MULENGA: Then article 179 is there on page 6 then 180.

THE CHAIRMAN: Then what is the use of the other appendix?

MR. MULENGA: I was actually having difficulty to follow, because it looked like synchronizing the amendment - the third appendix.

MR. BAGUMA ISOKE: Thank you very much, Mr. Chairman. Although select committee (1) has not yet submitted our report, we are following a format of reporting a recommendation with a reason rationale for arriving at such a decision is also indicated in our report, and I would suggest that if a new working paper is to be worked out for us to follow, then there should be reasons also indicated in some cases for the decisions we took. We have indicated as many as the reasons that were given for such a decision. That way I believe a report is easy to be understood and decided upon one way or another.

THE CHAIRMAN: But in view of the observation made by Hon. Mulenga, that appendix (1) for instance, covers all the articles and the Clauses under those articles. Then it will be better for us to proceed in accordance with appendix (1), and only use the other appendix if the wording is a problem so that we take the Technical Committee's language. Because I had been misled to think that there was a difference between them, that there were some which were left out and we had to make reference to the main text.

MR. BAGUMA ISOKE: Mr. Chairman, there is vital information in the minutes of the committee meetings. In their minutes, they are indicating reasons for making such a recommendation and it would - *(Interruption)* -

THE CHAIRMAN: But although it is required of the committee that they should bring us their minutes, I do not think it is necessary for us to have their minutes tabled. What I think we shall do is that, when they come to an article, where we think we need an explanation, then we shall call upon the Chairman or any member of the committee to make references to those minutes and give the reasons why we have to take that recommendation. That way, we shall move faster than taking them back to go and re-write including the reasons why they arrived at each. But of course, yours would be different, so your format, when you come, may be of a different formulation so that the reasons would be given already. But at this stage, I think now we should just take what there is and proceed accordingly.

Hon. delegates we were just going over the way we are going to approach - because this is a new formulation in terms of the way we have been working. We will be proceeding in accordance, in case of Finance, appendix (1) and in case of Defence, appendix 2, and the technical formulation of language shall take advantage of the appendices so that - not articles but appendices - appendix (1) and (2) will guide us in the consideration stage and then the other appendices will be for reference purposes from the point of view of the technical formulation. Now let me ask the Members, are you fully acquainted with the report?

AN HON. DELEGATE: Thank you, Mr Chairman. Mine is to do with this chapter on finance. We are going to consider the recommendation of the committee which dealt with finance. And at the same time, I understand that committee number (4) is also looking at the finances of the local government. Supposing we take a decision on this - the recommendations made by the select committee No.3, and those decisions are contrary to what will be passed or considered in committee (4) what will happen, Mr. Chairman? I just seek clarification.

THE CHAIRMAN: Committee (4) is taking a narrower area that is finance of local government, but the recommendations from the committee (3) are in the overall context. Of course, should there be a situation where we find that a recommendation in one chapter either derogates or is inconsistent with the recommendation in another, that is when we take advantage of either having the matters sent back to the two committees in a joint session or we wait until the reconsideration stage then we see which one we take on. So, we still have room for manoeuvre to be able to polish the text as we go along. But the matter could, maybe referred back to the committee and we see how it comes out.

MR. DICK NYAI: Thank you, Mr. Chairman. I was going to agree entirely with your ruling in that if we are considering finances now and certain decisions were going to arise at and tend to, may be, prejudice decisions by committee (4), the Members of that select committee are also Members of the Plenary here, and I think they can help us to guide us to - I am quite sure your consistence will be maintained. Thank you, Mr. Chairman.

THE CHAIRMAN: Now, let me say that after the report has been presented as it has been ably presented by Dr. Kaberuka, I would like to give Members a chance to familiarize themselves with the texts so that tomorrow then we start the consideration stage. Unless I see serious objection from the Floor to this, Hon. delegates, tomorrow we start with the consideration stage based on the report of the Select Committee (3) and as I said, we are grateful to the committee for their work. So for the time being, I wish to adjourn the constituent Assembly until tomorrow 2.30 p.m.

(The Constituent Assembly rose and adjourned until 30th November 1994, at 2.30 p.m.)