



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

THURSDAY, 30TH MARCH 1995

MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 3698]

Thursday, 30th June, 1995.

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

PRAYERS

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

(The Assembly was called to order)

CONSIDERATION STAGE OF THE DRAFT
CONSTITUTION OF THE REPUBLIC OF
UGANDA

CHAPTER 13 - LOCAL GOVERNMENT

ARTICLE 203 - BOUNDARIES OF LOCAL
GOVERNMENT UNITS

THE CHAIRMAN: Hon. Delegates, when we adjourned yesterday, we had more-or-less completed Article 203. However, Hon. Mulondo requested that he would like to move an amendment. But if he is not there, then we can proceed to the next Article. We can always have that Motion moved some other time.

MR. KATENTA APUULI (Conservative Party): Mr. Chairman, I thank you. Hon. Delegates, Article 203 - Boundaries of Local Government Units. The Committees recommends that Clause I remains as it is in the Draft Constitution to read as follows: "*Subject to the Provisions of this Constitution Parliament may by Law, alter the boundaries of districts; (b) create new districts.*" Mr. Chairman, there is a minority Report to be presented as Paragraph (c) by Hon. Okullo-Epak if he is here. Mr. Chairman, I beg to move.

DR. OKULLO-EPAK (Oyam County South): Mr. Chairman, it is correct as the chairman of Committee 4 has reported that I had moved this Amendment in Committee 4. It was debated and it was defeated. Mr. Chairman, the Amendment I had moved was to the effect that we should have a Paragraph (c) which says that permission should be given for two or more districts to combine or recombine to form a district if in their view they are no longer able to continue as separate districts. Mr. Chairman, the spirit behind this Amendment is this. First, we are currently creating districts of former larger districts, and desire for the population to ask

for the new districts could be very convincing in the beginning. But in the long run, and as future generations come, they may discover that there was no wisdom in the original decision for new districts to be created. It should be possible for them at that time to decide that they want to go back to the parent districts. I think there is nothing dangerous to this Proposition, Mr. Chairman. Mr. Chairman, I also thought that since this very Article is permitting alteration of boundaries and creation of districts, I thought it was very logical that it should also allow combination and re-combination of districts. It would just appear to me that it was an inadvertent omission rather than a real issue. Mr. Chairman, it was my view that when my Motion was rejected in Committee, the temperature and the mood then, was so anti-federal. That those who rejected it and as it appeared even in statements, that Motions can simply be rejected on suspicions and on all sorts of other ideas like it has happened here in the last few days. Not on principles but that who has moved it or who are the people behind it. Mr. Chairman, precisely this is what happens that we are trying to bring back the idea of federalism through the back door. This sort concept and idea is still ruling in this Assembly, Mr. Chairman. My concern was what was the basic concern in Committee 4 and I thought that in the Plenary, better wisdom would prevail and see that there is complete justification and logic in allowing for two or more districts to combine. As a matter of fact the arguments we were having yesterday, that useless provision for cooperation among districts is almost coming to the same crux of the matter today Mr. Chairman. If we will not allow districts to cooperate which cooperation term, I find very difficult to accept a logical and reasonable constitutional provision. I do not see a possibility for enforcing such a provision in a constitutional context. We had it in the reconstruction and development corporation act. And it was most difficult to implement a provision on cooperation, Mr. Chairman. Now, it is possible to include a corporation Clause allowing several districts to cooperate, Mr. Chairman. I think it is even more logical and reasonable to accept that two or more districts which so wish could combine or recombine to form one bigger district, Mr. Chairman. I think Mr. Chairman, I do not wish to labour this Amendment seriously because it looks fairly sensible, obvious and a possibility. So, Mr. Chairman, I beg to move.

THE CHAIRMAN: Let us first agree on a number of things. We look at Paragraph (a), that is okay. Paragraph (b) that is okay. Now, Dr. Okullo-Epak has moved a minority position proposing to include a provision which would allow districts to amalgamate into one larger district. The only thing that I have not got from Dr. Okullo-Epak is the wording so that we know how it would read, then we can debate it in that form.

DR. OKULLO-EPAK: Mr. Chairman, the wording goes like this, Article 204 Clause 1 reads: *'Subject to the Provisions of this Constitution Parliament may by Law, (a) alter the boundaries of districts, (b) Create new districts, and (c) would be allow two or more districts to combine to form a district.'*

THE CHAIRMAN: Now, let us debate the Motion.

MRS. KULANY GERTRUDE (Women Delegate - Kapchorwa): Thank you, Mr. Chairman. I seek clarification from the Mover. What is the difference from what we passed on Article 203 that two districts which we want to cooperate?

THE CHAIRMAN: He is saying, once they agree, there will be no boundaries between the districts. But what we created yesterday is that districts remain distinct except that they work together.

MR. OWORI AGGREY (Samia Bugwe North): Mr. Chairman, I would like to agree with the Mover of this Motion, that this Amendment really does not differ in spirit from the position of the majority recommendation. Indeed the Chairman of the Committee has hinted that it does substantially differ from the majority position and yet when it was put to the vote, it was defeated and I think the Mover has attempted to explain that the rejection of this Motion was probably not well founded. I would like to argue, Mr. Chairman, that in spirit the majority position allows for the alteration of boundaries of the districts. Now, a wider interpretation of this provision includes the amalgamation of two or three districts into one. Now, if that is the case, then I do not know why he is going a step further and stating it as such begins to create problems. Because if we say the spirit of this position allows alteration in any form. Alteration could mean maybe cutting a district into two. Alteration may mean putting two districts into one. If that is

enough, I do not see why we should leave to ambiguity and possible interpretation which may preclude the amalgamation of districts. I really do not see, and this is what I think will clarify the position. We all know that among the things that will be considered when we talk about alteration of boundaries will be what I have just said, cutting parts of districts to form a new district. It may include two whole districts joining together and if that is the case, unless there is serious reason why it must not be stated as such. Secondly, Mr. Chairman, I think the amalgamation of districts is really supported by another provision of the Committee. I would quote that to prove. It would be necessary to alter districts if it is deemed to be good for effective administration. Two, If they find out there is problem with communication. Three, If they find out geographical features necessitated and then an Amendment was added if for economical viability.

Now, I would like to talk on the economical viability. It is very true that while a district wants to go it alone, maybe a county decides that they are large enough they can become a district, the lobby and Parliament allows them to form a district. Along the way they discover that economically it is not viable for them. Therefore they would want to join with another district in a situation where the economical viability of the district begins to take shape. I see this Mr. Chairman, as an Amendment or a Motion that will cater for such situations. Thirdly, Mr. Chairman, I do not see why people should be on edge about this because even their alteration of boundaries which includes the amalgamation of districts is still subject to approval by Parliament and this has to be done by Law. So, nobody is going to sneak in amalgamation of districts without the authority of Parliament. In that regard, Mr. Chairman, I say there is absolutely nothing wrong with this Amendment. There is nothing that could warrant any suspicion. There is nothing that should create any suspicion about the motive behind this Amendment because it is already carried in spirit of the majority Report. Mr. Chairman, I thank you and support the Motion.

MR. KULE MURANGA (Busongora North): Mr. Chairman, I stand to oppose this Motion with the following reasons. I wonder why one district, when it has been functioning should seek to combine with two or more? Why can they not be two only if one fails? So, I see that there is a snag they

want to bring in because if one has been functioning I believe two could combine. Why three or more?

Secondly, I believe people who want to have a district always sit down, discuss and get reasons as to why they want a district. Why should we live on the whims of people who change from time to time? I believe if some people want a district they should be sure that this district is viable and cannot fail to function. Therefore, I believe this business of saying now we are unable therefore, we should change is out. I therefore, would say that this business of emerging districts should be opposed because I do not see the rationale behind it. But the cooperation we have given I think is enough. Thank you, Mr. Chairman.

MR. PINTO EMMANUEL (Kakuuto County):

Mr. Chairman, my neighbour has gone to some extent to try to explain the difference between alter the boundaries of districts and the addition that is proposed. But the more he spoke the more I found that the reasons are superfluous. *(Applause)* Mr. Chairman, I think part of our confusion is that nowhere else have we received clear criterion on how districts are formed. This matter has been subject to questions I put up myself to the Minister for Local Government. I have tried to raise it here seeking explanation as to the criteria that is to be used in the formation of district. Is it population? Is it geographical? Considerations? Is it economically viable? Are these known to us? Maybe I could ask the Mover of this Motion to give us substantive reasons why there would be need for two districts to combine if this criteria was given. Because, Mr. Chairman, my neighbour and friend here has referred to the pages that are after this. Specifically he did refer to Clause 4 which says: *'Any Law or Measure for the alteration of the boundaries or of the creation districts or administrative units shall be based on the necessity for effective administration and the need to bring services closer to the people...'* Now, in altering, one can say that this is a matter that has already been provided for. If you went to Clause 3, *'Parliament shall by law empower District Councils to alter the boundaries of local government units within their districts and to create new local government units within their districts.'* I think for effective control in administration, this has already catered for. If you went further to say that any law or measure to alter the boundaries of the district or to create a new district shall be supported by not less than two thirds of Parliament. There is already flexibility that should there be need

to create new districts Parliament will be involved. So, the necessity to specifically bring here, allow two or more districts to combine to form a district needs us to receive substantiation from Dr. Okullo-Epak (Hon) why he has specifically moved this. Item (a) alter the boundaries of districts or create new districts sufficiently caters for these provisions. I thank you, Mr. Chairman.

MR. OKWAKOL NATHAN (Pallisa County):

Mr. Chairman, I wish to support this Amendment by Hon. Okullo-Epak for the simple reasons. As it has been argued already, this is an expansion. This is the reason why it is an expansion of (a) that altering boundaries of districts. It has been argued by some Hon. Members that the creation of new districts is one aspect of altering boundaries of districts. If that argument is correct, then we can go further and say that the allowing of combining two or more districts is another aspect of altering boundaries of those districts. Now, if that logic is correct, Mr. Chairman, if (b) is not questioned then I do not see any reason why there is not position to the Amendment by Hon. Okullo-Epak.

Secondly, Mr. Chairman, human beings have the capacity to change their minds. Those people who may have wanted to separate at one stage of history may at another decide that it was pointless to separate a need to re-group together for their own economic prosperity. The spirit behind this Amendment by Hon. Okullo-Epak is that a people should be given that opportunity to regroup if they so wish. For those two reasons, Mr. Chairman, I support the Amendment.

DR. KABERUKA WILLIAM (Ndorwa County West):

Mr. Chairman, I am a bit confused with reasons which have been given. First of all I do not know whether the Mover or the people who are supporting would tell us what we mean by creating new districts. To me you can create new districts by either dividing an existing district or by combining districts. So, unless they can really tell us what they understand by creation, I do not see the necessity of their difference. As for the alteration, I think the previous Speaker does not seem to understand what alteration means. Alteration is not creating a new district. Alteration would be relocating the boundaries between the two districts so that you say, this part which was in district (a) is part of the district (b). So, I do not think that (a) and (b) are the same. But caters for what they are trying to do. I thank you, Mr. Chairman.

MR. BWAMBALE WALEMBA (Bukonzo County East): I thank you, Mr. Chairman. Mr. Chairman, I stand to oppose the Motion on principle. It was just only yesterday under Article 201, 2 (b) that we passed the Principle of Decentralisation that Decentralisation shall be a principle applying to all levels of Local Government. In particular from higher to lower Local Government Units to ensure people's participation and democratic control in decision making. The essence of this Clause, Mr. Chairman, is to bring power nearer to the people and finally to bring the services nearer to the them. I really do not see the substance of the Motion on the Floor because it does not differ substantially from the Provisions that we have already passed and that we are about to pass. Already we have talked of alteration of boundaries. In my opinion, Mr. Chairman, this one includes either creating bigger units or smaller units. If I can also refer to Clause 4 it shows the criteria to be followed when we are forming new districts. Yesterday at the same time we also said two or more districts may during that cooperation if these districts feel that they should unite as we have already understood, they will tell their Members of Parliament who will forward the matter to Parliament. Parliament will see if there is a need for those two or more districts to unite into one viable district.

Mr. Chairman, I am Member of Select committee 4. In fact this Motion on Floor was brought after defeating federal and the regional tier. So, they formulated this Motion to see an alternative way of bringing back either federal or the regional tier. The spirit of uniting is catered for. I therefore, call upon the Mover of this Motion even to withdraw it because it does not carry any substance. I thank you, sir.

THE CHAIRMAN: Now, let us decide. The Motion by Hon. Dr. Okullo-Epak as a minority report is that we should add paragraph to 204 (1) so that we add paragraph (c) to read: *'allow two or more districts to combine to form a bigger district.'* Now, I will put the question.

(Question put and negatived)

MR. KATENTA APUULI: Clause 2 - the Committee recommends that Clause 2 as it is in the Draft Constitution, stand as part of the Constitution to read: *'Any Law or Measure to alter the boundaries of a district or to create a new district shall be*

supported by not less than two thirds of all the Members of Parliament.' Mr. Chairman, I beg to move.

MR. BYARUGABA ALEX (Isingiro South): Mr. Chairman, I do not have much of a problem with this Clause. Except that Mr. Chairman, I wanted to propose a very simple amendment an addition to this clause so that the Clause reads as follows: *'Any Law or Measure to alter the boundaries of a district or to create a new district shall be supported by not less than two thirds of all the Members of Parliament present and voting.'* Mr. Chairman I beg to move.

THE CHAIRMAN: This one as it is written to just take whatever number there is in the House and take it to be two thirds of all the Members regardless of whether they are in the House or not.

MR. BYARUGABA: Oh, thank you, Mr. Chairman, for that clarification. I did not understand that.

MR. ELYAU MIKE (Kalaki County): Mr. Chairman, according to me, I am scared of the two thirds. I think it can give a problem for some new districts which come. For example, this two thirds is a very big majority. I thought creating a district is a very strong struggle. If the district is recommended by a particular Minister found viable, at least even a simple majority should allow the district to be created because it is the wish of the people. Mr. Chairman, people do not need a district for the sake of having it. Some people have been demanding districts. They have died seeing no district even brought because they thought it is a centre place for services. So, I think Mr. Chairman, let us consider these two thirds. I want the Chairman to clarify to me how two thirds is required. I thank you.

DR. HIGIRO SEMAJEJE (Lwemiyaga County): Mr. Chairman, I join the Hon. Member from Kalaki to say that once people in an area have come together and they feel that they deserve to have their administration closer to themselves. They convince the Ministries concerned that they are viable and their cause is justifiable. We should not make it so difficult for them to have their way because being a separate district does not mean that there cannot be any cooperation. What it means is that they have genuine reasons which might be geographical, cultural and others. Mr. Chairman,

you see, this two thirds majority is definitely un-called for. I would prefer that we make it simple majority because once people have agreed that they want to run their affairs in their own areas, I think we should not prevent them through the Constitution. Mr. Chairman, I propose that we use simple majority rather than two thirds. Thank you.

MAJ. KATEREGGA LIVINGSTONE (Nakifuma County): Mr. Chairman, I do not see the reason why some Hon. Members should have some fears about the two thirds. Changing the boundaries or creating a district if it is not properly handled, it can be a source of conflict and problems in the area. For instance, people of Busia may need to have a district and by so doing, they may have some sub-counties from a neighbouring district chopped off so that they can create their districts. This one is likely to create local conflict and sometimes civil wars in that particular area. So, to me, Mr. Chairman, I think two thirds is enough - *(interruption)*-

MR. AGGREY AWORI: Point of information. Mr. Chairman, I want to inform the Hon. Delegate on the Floor that the matter pertaining to Busia District and some sub-counties of Iganga district called Bukooli. There is no danger of creating a civil war whatsoever. The people of Samia Bugwe particularly both north and south have never created any kind of alarm by threatening that unless their chief and king from those joining districts are joined with them to form a district, there shall be civil war. The state of the matter at the moment is that the people of Samia Bugwe North and South would like to form their own district without interfering with Iganga district. Further more, although they recognise that they have the Chief and King in Iganga district, substantially in their sub-county of Bukooli, they would rather those people join with their brothers in Busoga to form a new district of Bukiri in Iganga district. So, Mr. Chairman, I would like inform the Hon. Delegates that Samia Bugwe North and South have no claim whatsoever on Iganga district. They are demanding their own district in their own right to form Busia district. Thank you, Mr. Chairman.

DR. WANDIRA KAZIBWE (Kigulu County South): Point of clarification. Mr. Chairman, I seek your indulgence to get clarification from the Hon. Member from Samia Bugwe whether the Chief and King from the neighbouring county will

also want to curve themselves out and join the district that he is suggesting.

MR. AWORI: Mr. Chairman, we would very much love it. Not only in Kenya but also we would like to look at Tanzania where we also have our kin. But this being an international matter pertaining to inter-territorial boundaries, we are not all that ambitious yet. We submit that matter to Parliament for consideration. But definitely we would like to have our kin in adjoining countries join us to form even a republic within East Africa.

MAJ. KATEREGGA: Mr. Chairman, you can see how controversial it is. It is a very important matter. For me I am really opposed to the formula of creating districts based on tribal blocks. It can really disorganise us. We are trying to build a united Uganda, a new Uganda, a viable Uganda. But when we go back to create these districts basing them on tribal blocks knowing very well that most of the tribes in Uganda especially those ones on the borders, they were divided. This can cause a problem. So, Mr. Chairman, I think the formulation in the recommendation is good unless somebody wants to put a different provision if he is not satisfied with this one, it will get different case altogether. I support the formulation in the Report. Thank you, Mr. Chairman.

MR. MUKASA. MURULI: Mr. Chairman, I also feel that two thirds of all the Members of Parliament is a bit too big. It may make the formation of new districts extremely difficult. You see the word 'all' is not clear, Mr. Chairman. Does it mean all the Members of Parliament who are seated in that session? Does it mean all the Members of Parliament who are registered? Now if it is the latter, and I think it is, then it becomes too difficult. Supposing the Parliament is of 300 Members, some of whom are Ministers, others are ambassadors, others are army leaders, they are not likely to be there at that particular time when this issue is brought because of various engagements here and there. So, it might become extremely difficult. This Motion might be perpetually defeated to the detriment of the country, to the suffering and anguish of those areas which would like to be created into districts. Mr. Chairman and Hon. Members, a reasonable approach is there. If we only took the idea of a simple majority, we can say it shall be supported by a simple majority of all the Members of Parliament. This I think is a little bit reasonable and it takes into

account some of the fears which have been raised for instance, the other Speakers who opposed this. We have the Motion debated in Parliament and it gets majority support and then it is accepted. But two thirds is too much, Mr. Chairman.

MRS. MUKIIBI BENIGNA (Women-Kibale): Mr. Chairman, I also want to add my voice to those who are supporting the simple majority to determine a district. Determination of a district is not equivalent to declaring war. It is bringing services closer to the people and by the time such a Motion comes to Parliament there is a lot of ground work which has been done. By time the Minister takes this Motion to Parliament he is almost convinced that a district is necessary. Besides, the trend of things these days is that people express their wish for the district. It is not a top down arrangement. It is a desire by the people of that area who have seen that they are suffering. Services are too far from them and they would like services to be brought nearer to them. We have already declared ourselves on the principle of decentralisation. So, if an area wants a district, in most cases it is genuine. So, I think we should not make it too difficult for those people to get their services and I support a simple majority of Parliament. After all the Parliament is composed of so many people who may be far away from the area concerned and if we put the percentage too high, it will almost be impossible to create new districts in future. I thank you, Mr. Chairman.

MR. NABURRI LORIKA (Chekwii Kadam): Mr. Chairman, I would like to state very, very clearly that creation of a district is not a simple matter. It is a very, very serious matter. Sometimes a matter that can be overlooked by politicians. Mr. Chairman, if we went back now and carried out a referendum on districts that have already been created, if we went and asked the people whether they wish to have a district, we may get conflicting results. Mr. Chairman, the Article that appears here which recommends two thirds majority of Members of Parliament is a safeguard to the people of a given area who want a district. Mr. Chairman, I strongly support that in order to avoid problems two thirds of Members of Parliament present and voting would be the best option in creating a district. There are districts that have been created by a politician just going on a platform and pronouncing that this is now a district. So, the representatives of the people will discuss in Parliament and the message will go down to the area where a district is proposed

to be created. So, Mr. Chairman, I would very, very strongly support the recommendation of the Committee of the two third majority of Members of Parliament if a district has to be created. I thank you.

MR. LANGOYA TIMOTHY (Lamwo County): Mr. Chairman, districts are important levels of Local Government Administration. They are not simply local matters to be decided by local interests. I would want us to look at creation of districts as national issues and for that matter they should be decided by Parliament and by two thirds majority not by simple majority in Parliament. Thank you, Mr. Chairman.

MR. OCHYENGH MICHAEL (Kapelebyong County): Thank you, Mr. Chairman. Mr. Chairman, I would also want to support those who are in favour of a simple majority of the Members of Parliament. One of the reasons is that two thirds of all the Members of Parliament is too high because sometimes even there are tendency in Parliament as we have seen within ourselves, cannot even reach two thirds. So, to gather that two thirds may not be so easy. Now, I would also like to propose, if I will be supported by Members, that since the creation of the district must originate from the district itself. I would like to suggest that the two should be by Members of the district council and then by half the Members of Parliament so that if two thirds of Members of the District Council have agreed to a creation of a district, then Parliament will simply pass it by simple majority. So, I would like to move that we add the words, 'two thirds of the district council' so that the Clause reads: "*Any Law or Measure to alter the boundaries of a district or to create a new district shall be supported by not less than two thirds of the Members of the District Council and by not less than one half of Members of Parliament.*" Mr. Chairman, I beg to move.

THE CHAIRMAN: Has it been seconded?

MR. ELYAU: Seconded.

THE CHAIRMAN: Hon. Delegates, there is a Motion on the Floor by Hon. Ochyengh suggesting that we take two thirds of all the Members of the District Council and not less than one half of Members of Parliament. Now, let us debate the Motion.

DR. BYARUHANGA FABIUS (Kitagwenda County): Mr. Chairman, the Amendment now on the Floor is a very dangerous one because it is in very few cases that someone will willingly accept to be dismembered. We must always remember that there is a money factor in this whole scenario. When one or two or three sub-counties leave a district, it means that the revenues now available to the mother district are becoming less and that they will from now on, be operating on a smaller budget. This is often not very welcome to these district councils. So, should we accept the present Motion, we shall have told the people of Uganda that in future there will be no new creation of districts. You should never expect that, for example, the district council sitting in Fort-Portal will ever accept Kitagwenda and Kibale counties to become a district. Therefore, I would wish to convince the Mover of this Motion that he withdraws this Motion but we go with the request for an absolute majority of Parliament but do not involve the district councils in this scenario. The ground for formation of districts are in number four in this Article. The formation of districts will never come to Parliament as a private Member's Motion. It will always come to Parliament from the Government after a very thorough study because these grounds of the wishes of the people concerned. The grounds of the economic viability, the grounds of density of population, geographical features. Means of communications needed to bring people closer to the people and so forth can only be studied by a team of Government. So, since this Motion to create new districts will always come after thorough study by the Government and after due consideration of the needs of the people concerned. We should not bring in the district councils because we know for sure the district councils in most cases will be opposed. With those few remarks, Mr. Chairman, I beg to oppose strongly the Motion on the Floor. Thank you, Mr. Chairman.

MR. KIWANUKA MUSISI (Buikwe County South): Mr. Chairman, I have been listening to the Mover of the Motion and I thought that his intention is to make it easy for people who are dissatisfied in a district to be assisted to get their own separate entity.

MRS. BIKORWENDA IDA (Women-Bundibugyo): To me I see that it is the people who have the primary interest to have the district, and therefore, they should be reflected to their own

wishes. I propose, Mr. Chairman, that this thing must stand and remain in the constitution as proposed by the committee. Thank you, Mr. Chairman.

THE CHAIRMAN: I now put the question.

(Question put and agreed to)

THE CHAIRMAN: That at the end of Article 204, let me put article 204 that it stands part of the draft constitution. I put the questions

(Question put and agreed to)

THE CHAIRMAN: Article 204 as amended stands part of the draft constitution. Article 204, Hon. Katenta Apuuli.

MR. KATENTA APUULI: Mr. Chairman, Article 205, Clause (1): "*A 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 to be exercised in accordance with this constitution.*" Mr. Chairman, I beg to move

THE CHAIRMAN: Agreed, next.

MR. KATENTA APUULI: Clause (2): "*Parliament shall by law, prescribe the composition, functions and electoral procedures in respect of local government councils except that, paragraph (a); The person elected as chairman, of a local government shall be a member of the council.*"

THE CHAIRMAN: No, you just read the whole thing so that we see how it flows before we begin attacking.

MR. KATENTA APUULI: "*Paragraph (b); one third of the membership of each of local government council shall be reserved for women and, paragraph (c), any law enacted by virtue of this article shall provide for the affirmative action in favour of marginalised and disadvantaged groups.*" Mr. Chairman, I beg to move.

THE CHAIRMAN: Now let us go this way. We have before we go the paragraphs: "*Parliament shall by law prescribe the composition functions and electoral procedures in respect of local government councils,*" I do not think we have a problem with that.

HON. DELEGATES: No.

THE CHAIRMAN: Agreed. Then paragraph (a): *"Except that, the person elected as the district chairman of a local government council shall be a member-*

MR. OMARA ATUBO (Otuke County): Mr. Chairman, the way the sub-Clause is drafted may need some clarification from the chairman. It raises the person elected as a district chairman of a local government shall be a member of council. Are you saying that in order to be elected chairman of local government you must have been elected a member of the council? Or are you saying that after you are elected as a chairman of the district council, you are deemed to be a member of the council? Hon. Omara Atubo thought you were posting some mail or something.

THE CHAIRMAN: Let us get clarification from the chairman, because I do also find that it has that meaning, that double situation.

MR. KATENTA APUULI: Mr. Chairman, the Committee meant this. Before I tell you what the committee meant, let me explain how the district chairman is provided to be elected. We have provided that the head of the local government which means, RC III urban authority and District council should be directly elected. Now, by being directly elected by all the people of the area does not necessarily mean you are a member of the council because you are never elected to be a member of that council. You were elected only to be head of the local government. Therefore, this is an enabling Clause to make the head of that local government also a member of the council. Now the legal formulation may be difficult for us. Many of us were not learned friends. But the essence is, how does a person who has been elected to be the head of the local government also participate in the council? He can either participate as an ex-official or as a direct member. We preferred that he should participate as a direct member that is why we are providing this provision to make that person a direct member.

THE CHAIRMAN: Hon. Omara Atubo are you following up on that.

MR. OMARA ATUBO: Mr. Chairman have read the report of the committee. If it is approved or if

it will be approved that the head of the district will be directly elected by the people, which means he has really got a big mandate for the district. I agree he should be a member of council for him to function properly. So think the word here should be that the person elected as a district chairman of a council shall 'become.' Really that means by virtue of being elected directly by the whole district and he is going to be a head of the district he is going to be the head of the executive committee of the district, automatically he becomes a member of the council. Thank you, Mr. Chairman.

THE CHAIRMAN: So that is really for technical committee to take into account in drafting assuming of course, that we approved the subsequent provisions relating to the election of the chairman.

MR. KADAMA (Butembe County): Mr. Chairman, I have an amendment to make which circulated yesterday. I would like to know whether you have it on the table. With regard to Clause (2).

THE CHAIRMAN: I do not have it here, but can say what it is we see if it is not-

MR. KADAMA: Prior to my saying what it is, Mr. Chairman, I had sought clarification from the committee when you had already pronounced something about I think Clause (1). Now the point is, the committee under 201 which we passed yesterday made a slight amendment. What they called a slight amendment, to accommodate because of the Local Government Resistance Council Statute, 1993 which brought urban and sub-county committees to be corporate bodies. And right away under 205 they have still mentioned and changed from the district government to a local government, and explained under rationale the saying that they wanted to accommodate the urban and sub-county committees. The heading up there is still district councils. I wonder why they left it at that and just going to leave it be local council-local government. Just besides 205 you will find district councils.

THE CHAIRMAN: But don't you see you have got various situations, you can talk about a district government, that is the government of the entire district, and a local government which can be both the district government and government at a lower level. So the term sometimes has to change depending on the context, but may be the chairman, can give an explanation before you proceed.

MR. KATENTA APUULI: Mr, Chairman, the draft constitution as we received it meant to deal with this chapter specifically to deal with the district. Really the main objective in the draft was to deal with matters of the district. As you will see if you look for example, on page 92 here Article 204 of the original draft constitution says the district government. Up here on 93 it says local government. So this mix up did not originate from us we also found it there. We only went to deal with the substance of articles under Clauses, and did not bother about the headings. We thought that this could be a matter for the people who will be finally drafting the constitution to iron out and straighten out. We did not get into the details of the headings themselves. Because it is mixed up all the way as we go along.

THE CHAIRMAN: But that is really for the draftsman to sit down and introduce internal consistency within the document. It is not something that we should debate at great length here.

MR. KADAMA: After clarification, since it is a technical issue, I think I will take that as it is. Now chairman of the committee just re-affirmed what is said in 201 Clause (3), that the basis of adult suffrage will be used in elections of local councils. And directly elected will be the chairmen of the district, sub-county and urban councils. I would now propose an amendment to paragraph to include chairmen of those local government councils. That is what my proposal was yesterday, that instead of the district chairman as such, we said district chairman or chairman of a local government shall become a member of that council. Because the district chairman is specifically mentioned. Either we delete the word 'district' and leave it just as chairman of local government, or we leave the district chairman, and qualify also the chairmen of the local government that is the urban and sub-county to be included in that Clause.

THE CHAIRMAN: Anyway the thing is this, all this is based on the assumption that the assembly is going to accept the recommendation that chairmen be elected directly. I think let us leave it as it is, we can revisit it after we have decided on the other one. So I would argue you not to move your amendment. I can be consequential.

MR. BIDANDISSALI (Nakawa Division): Point of Clarification. Mr. Chairman I am just drawing

the attention of the Members to a point which if we pass (a), we should pass it when everybody is aware. Especially so, as the chairman has said that later on the committee is recommending electing the chairman directly by universal suffrage. Mr. Chairman, when we were debating I was just sort of filing a minority report. I do not intend to move an amendment, but the arguments which were for directly electing the chairman by some members was to sort of create a replica of the top to the district. And at the top, the President is not a Member of Parliament. Here at the district level by insisting that the chairman should be directly elected, we are making him a member of the council. But the responsibility and powers are like the responsibility and powers of the President at the centre. So we should be aware of what we are passing that really at the district level, at the local government level, we are not creating a replica of the separation of powers as we have done at the centre.

THE CHAIRMAN: But I think we are now debating the question of election those Chairmen. In that case why don't we stand over this particular paragraph until we discuss the other position.

MR. BIDANDISSALI: I was fearing because if we pass this and then this issue arises later on somebody will say but we have already passed that.

THE CHAIRMAN: But if we say before we go ahead that we shall come back to it, we shall be deemed to have weaved our own regulation, and that is how we continued with the Motion on Tuesday. So even if we passed it now, but if we passed it in the full knowledge that we can visit it if some other things happen elsewhere then we have a right. We reserve that right to come back here.

MR. MALIRO GASTON (Mwenge North): Thank you, Chairman. Mr. Chairman, the question of the mode of election of the chairman, especially, the chairman of the district council -

THE CHAIRMAN: But I think we should not be discussing that now. We are looking at a provision empowering Parliament to make laws prescribing the composition, functions and electoral procedures in respect of local government councils. It so happens that because of a recommendation elsewhere, we are discussing (a). What we do is an addition be recorded by the technical committee we

stand over. We do not finalize (a) until we come to that question, and then we can either revisit it, or leave it as it is. So now we go (b).

MR. MALIRO: Mr. Chairman, I am confused, do we have anywhere else where we are discussing the process of election of the chairman of the district.

THE CHAIRMAN: Yes, then you have not read your report. Now we are on (b).

BRIG. KYALIGONZA MATAYO (Buhaguzi County): Thank, you, Mr. Chairman. Mr. Chairman, having stood over our decisions on (a) and (b), - I mean (a), I propose that we delete (b) and (c). So that we remain with (b) which reads: "*Parliament composition, functions and electoral procedures in respect of local government councils except that the person elected as district chairman of a local government shall be a member of the council.*" Mr. Chairman -

THE CHAIRMAN: I think you leave (a) out because we have postponed it. Our debate is on (b), unless wait to come to (c).

BRIG. KYALIGONZA: I propose, Mr. Chairman, that we delete (b) and (c). Mr. Chairman now that the affirmative action is enshrined, in our constitution. There is no rationale set of one third of the membership of women, and women as their right should have equal participatory democracy. After all they are the majority, and in our national objectives, Mr. Chairman, national objective No. 9, if I could be allowed to read, Mr. Chairman, that national objective. It is already mentioned in Clause (3) that all the people of Uganda shall have access to leadership position at all levels subject only to this constitution and other laws of Uganda. It even goes further, Mr. Chairman, that the state shall eliminate and discourage all laws, policies, which promote encourage discrimination, and prejudice on grounds of place of origin, circumstances of birth, race, ethnical origin, language sex, religion, political opinion creed or colour. It even goes further, Mr. Chairman, to say that measures shall be taken to ensure reasonable access by all citizens. This includes women from all areas of Uganda and different background to all public facilities and services including public and Civil Service offices. So. Mr. Chairman the rationale of favouring this group the committee is regarding as marginalised, is unreasonable on the grounds that women or all

citizens of Uganda have equal rights to compete in all leadership positions. Women have even in this House and this Assembly sometimes they are elected in their own rights and have stood against men and defeated them. So, Mr. chairman, this participatory democracy should not be pushed too much in terms of favouritism, so people should stand on their own rights, and be elected accordingly. I beg to move.

MRS. NTABGOBA JENINAH (Women-Kisoro): Thank you, Mr. chairman, for giving me the Floor. I start with heartache talking in reply to Hon. Kyaligonza who hides behind the support of the marginalised group according to his references, and then he ends up abusing women's rights at the same time. Mr. Chairman, he is abusing women's rights which we are trying to promote. We are promoting women empowering them to come up and we are supported by our districts which delegated us here, in the local government. At times when they are meeting, some votes which are very important to pass, are not passed because men are not familiar with those problems. We are delegated to champion for women's rights. Is it in order, Mr. Chairman, for Hon. Kyaligonza who knows very well that nothing can progress without women's support, to hide behind supporting them at the same time ditching them? Mr. Chairman, I would like to support the amendment in the draft constitution and the report which has come out of our committee which we all chose. I am very annoyed with Hon. Kyaligonza and affirmative action should be supported by every progressive man who wants to develop the country at large, the whole of Uganda should be emancipated by encouraging women, supporting them at every formula and every group women must be there to champion for their cause. And I would like to inform the Hon. Kyaligonza that any forum without a woman will come out without sound results, therefore, this one third is not a big fraction to scare him. In fact I would ask him to increase the number. Thank you, Mr. Chairman.

MR. WAGIDOSO CHARLES (Bulambuli County): Thank you very much, Mr. Chairman. Mr. Chairman, I find this particular provision as an excessive and detrimental approach to what has been dubbed affirmative action. And consequently I must firmly support the Motion that has been tabled by Hon. Matiya Kyaligonza. I want Mr. Chairman, to make reference to Article 201 Clause (3) which reads as follows. "*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 may by law determine." Mr. Chairman, this particular provision granting one third of the membership of council to women has one major problem. The methodology that will be applied to obtain the one third. Because we have already agreed that to a Member of the council you must be elected. My question is, will this one third be appointed to the council? According to the local government statute which is going to be in operation in the next election, one person shall be elected from each sub-county go to the district resistance councils. Now my question is, will, delegates if it comes to election and we are saying that one third of the council must be women. Will male delegates be asked in certain sub-counties to stand down in favour of female delegates? And my question is, will female delegates be allowed to contest even the two thirds, and what formula will be applied to say in such and such sub-county let a woman represent you. I think we must at a certain stage accept that we are moving forward alright. We are talking of affirmative action alright, but we must give situation and circumstances where men and women are allowed to compete effectively together. We have seen situations where women have beaten men in hotly contested elections. I find it most unfortunate, Mr. Chairman, to give women special positions. The methodology that will be applied, I can't see it. Mr. Chairman, I firmly support Hon. Kyaligonza's Motion.

MRS. MASIKO WINFRED (Women-Rukungiri): Thank you very much, Mr. Chairman. Mr. Chairman, this amendment brought about by Hon. Kyaligonza I think should have a good intention. But practically, Mr. Chairman, we have realized that this participatory democracy he is talking about has not come out in real life. We know we are supposed to have this affirmative action because all of us here we know it has not worked out for women to come and compete equally with men and win. Mr. Chairman, when you are talking of participation, I am sure we are referring to the grassroot woman. It very crucial that we are here representing - we can have a woman in the Parliament. But that is not enough, we should go down to the local lower government and make sure that women participate. Because that is the only way we shall ensure that women have got the emancipation, that women have learnt, that

women have developed. Mr, Chairman if I could draw the attention of this House to already the heading for that Article 205, it says Local Government Councils. To my understanding, I take this to be at a district level and at the sub-county and even according to what you have already provided for. It should be as open as the system of local government in Uganda based on district as a unit under which there shall be lower local governments and administrative units as Parliament may by law prescribe. This shows that it is an open thing. So the Parliament may create more lower local governments in future. So, that is why it is very, very important that we state a proportion of women whom we think should come up and participate in whatever different units that might be created. Mr. Chairman, the district in the draft we have got two women per county to come to the district council. I am sure that is a position that most of us would really be happy with. But just because are heading talks of the local government councils that means it is not all embracing. It is, just refined to the district because once you get the women from the county level you take them to the district council, you will not have catered for the lower local government. And I, would like to convince this house that unless we look at the grassroot woman, at the parish level. When we are talking about development we are just playing around because we will not have effective development without involving the woman at the lower local government. Mr. Chairman, you might find that the mover of this Motion thought that may be proportion or fractions are a good idea to include in the constitution. But I would like to take this opportunity to draw the attention of this House to the provisions in the constitution of Morocco. Article 43 says two thirds of the Members of chamber of representatives shall be elected by universal suffrage and by an electoral college, comprising of communal councilors and by electoral colleges made up of the representatives of professional and trade chambers and representatives of the wage earners. These already have a fraction shown there, and I am sure it is important that they have this fraction because you cannot be sure of the future Parliament which we are putting all this burden to. What if it is Parliament that, will not be gender sensitive, then we shall go back to our original position. Second example of the constitution of Nepal, it says that the King nominates a quarter of the Members of Parliament. So you can already see that some other constitutions have already got fraction enshrined in the constitution

and those fractions would be a good example for us to copy. Mr. Chairman, you might find that some Members are worried. How does the one third - how can you arrive at one third? So we would rather delete it because you can't arrive on that one third. I would like to take this example for instance of my district, Rukungiri district it has got 18 sub-counties and in the draft they said that two representatives should come from the county level to form the district council. That means that you would have six because we have three counties. It is exactly the same as if you say one third of the 18 to be women, it will be six. So in fact in other districts, it will be less which I would move. We should move an amendment to have at least one third. Because that shows that you can have the two per county but even one third would be better. In which case if we have this an all embracing Clause, that means we will not bother to go down in the constitution here and say how are going to provide for the sub-county council? How are going to provide for other administrative units we have already put the 3 it is all embracing. It is easy other constitutions have got it and I am sure that we are all welcoming the affirmative action. This should not be a threat at all because it is the way we are going to develop our country if we are interested very much in development. Mr. Chairman, you allow me also to try to convince this House that this one third we are talking about is not a vague thing it can be worked out. It can be arrived at by the Parliament that is why we think we have it there then we shall leave the procedures and whatever functions to be created by the future parliament. Mr. Chairman, I strongly urge Hon. Members of this House to support the one third because it is the only way we are going to help all women to come up. Let us not only look at national level. We have already passed one woman per district, but we need to go down and penetrate the grassroot woman, and make sure that at least is represented. We know through representation a woman can effect so much change in her respective area. Thank you very much, Mr. Chairman.

MRS. SSEBAGEREKA VICTORIA (Women-Mukono): Thank you Mr. Chairman. I would like to oppose the deletion of this paragraph, I want to be taken correct. I am proposing, Mr. Chairman, that instead of one third we put up at least - Mr. Chairman, we have affirmative action. We must see that these women at least are pulled out from the norm of not participating in decision making and are brought up to be in the position of decision

making. Mr. Chairman know that most Members are worried here about the mathematics of how they arrive at one third I think that is the worry of most Members here. But I know that, that one third with all good will, will be arrived at. I concur with the previous speaker with Hon. Masiko that we can work this thing out and women, at least we arrive to the one third. Mr. Chairman, if we can't work it out now at least Parliament prescribe. But what I want to say that one woman should - there must be specific areas of the electoral college that a woman should be represented by. I know right now RC I up to RC V there is one woman representative and the ideas of women which are brought in those councils are normally suffocated because you have one woman against 8 men. But if they are 6 women or if they are 4 women at least the ideas will have - when a woman brings an idea and men are against it at least there will be more voices to support that idea. So strongly recommend that this deletion is not supported. I call upon all men supporting the women cause. Please do not let this go through. I thank you, Mr. Chairman.

MR. KAIJUKA RICHARD (Sheema County North): Thank you, Mr. Chairman. Mr. Chairman, I think no one in this House disagrees with the principle of affirmative action that is not in dispute I believe, Mr. Chairman. I think what we are addressing here is a question of whether or not if you have in your constitution provision (b) and (c) you are addressing the practical issues on the ground. One, I do not entirely support Hon. Kyaligonza's Motion because I certainly would like to remove (b) and retain (c). If you look at (c) it is saying any law enacted by virtue of this article shall provide for affirmative action in favour of marginalised and disadvantaged groups. You have incorporated women in general and that certainly will take care of women's concerns. We must avoid the issue of constitutionalising percentages. It is in fact against women if I may suggest. You may get to a council or to a lower council where you have actively these and they may want to choose 100 per cent ladies. They may even want to choose 80 per cent or whatever. A minute you have one third as a constitutional matter it means you will be limited to one third. I want to submit that it is against women to have Clause (b). It is in the interest of women that they enshrine affirmative action by all men embracing that as a principle but do not put down on a constitution one third as a provision. It will end up in the long run working against women

folk. As you know I support women action and I support them at every level. They should not let us down also by not seeing what is on the ground. Secondly, I wonder, Mr. Chairman why women are worried. We are talking about local administration layers from RC1 up wards after a district level that is what we are looking at. By sheer numbers, once women have a right to vote with universal suffrage principle, they will use their number to affirmatively be there anyway. Therefore, I want to recommend with the agreement of Hon. Kyaligonza that in fairness to our affirmative action which the House has already really agreed to that will retain (c) and I request that in the interest of women affirmative action we drop (c) and move. Drop (b), and retain (C). I beg to move. Thank you Mr. Chairman.

MR. BATEGANYA DICK (Bukooli Central): Thank you very much, Mr. Chairman. I wish to strongly oppose this Motion of deleting this Clause. And I would base my argument on this. The way I understand local government is that, it is going to address local problems. We want to solve problems at the point they exist, and if I tell you where I come from which is Bukooli central which is 10 per cent rural. The majority of the citizens there are women and these are the people who confront problems on a day to day basis. If we really want to solve problems in these areas, I think we should tap the experience the women in dealing, with these problems on a day to day basis. So on that basis, we even provide it for a smaller number in these councils. In fact we in the committee 4 we were at pains to lower the percentage from 50 per cent to one third. If we really want to promote the lot of women the ideal position would have been 50 per cent. But if we really considered seriously and lower this 36 I would really implore this House to accept that figure without any ado because it is actually a drop in the Ocean as far as the affairs of the women in this country are concerned. I would like to tell you of Pakistan experience. Pakistan is a Moslem country and in the Koran the Moslem woman has no part in the politics at all. But they have provided in their constitution that some seats have been reserved in the constitution for women both at national and local councils. It is because of this particular provision that the women in Pakistan have come up to play a very significant role in the affairs of that country. I do not need to emphasize the role that Benazir Bhutto and her mother Nusrat have played in the politics of Pakistan to even elevate it to the

level of a nuclear power. So, Mr. Chairman, I would like to appeal to Members to forget the figures as they appear if they are magical or if they are usurping the power of men. Let us look at women as our contemporaries, as our daughters, as our wives as our mothers who have to confront problems on a day to day basis. On that point I would appeal to you to ignore the Motion as moved by Hon. Kyaligonza and if even allow me to propose that we should shift the percentage to 50 percent. On condition that we also pass an amendment that is coming later on under (2) such that this percentage can be revised after every ten years and later on five years as we shall move later with Hon. Kadama. Thank you very much, Mr. Chairman, for giving me a chance to defend our women. Thank you.

MRS. LAGADA BEATRICE (Women- Apac): Thank you Mr. Chairman. Mr. Chairman, I would like to start by appreciating the work of Committee Four for providing for this clause, Clause 2. Mr. Chairman, I believe that in this Assembly we have the cream of Ugandan men who are woman friendly. I also believe that this particular clause is the test for the good-will of Ugandan men to make sure that the women do come up and participate in politics. I think, indeed we are testing the genuineness of our colleagues in the House. I believe that the people who do not only pay lip-service to the question of women emancipation but they really believe in it and they make a provision for it in this particular clause. Mr. Chairman, I am appealing to the Members that when they are thinking about the women, let us also think about what our culture, what our society for the last over two thousand years has done to the women. Women are just getting awakened, we are just getting awakened to the fact that it is our right to participate in politics. I believe it is these very few women in Uganda who are awakened to those rights. The people as you go down to the grassroot are more unawakened than we are. Mr. Chairman, I think the Hon. Women Delegates who are here who stood in this last CA Elections in the counties against the men will bear witness that they probably had to surmount a lot more odds than their male counterparts. When you are a woman and you are standing in an election you are not only going to be judged for yourself or for your sins, you are also going to be judged for the sins of your husband so that is already a problem for women. Then we have our own problems that the majority of the women at the grassroot who have

not been awakened still believe that men are the ones who are more fit for politics. It is just because our culture has led us to believe like that. Now, when you go down to the counties themselves my experience in the counties has been that when it comes to women programmes usually they will say there is no money. You only have to be at the county and the district councils to realise this. Where there are programmes which involve men the funds are there, when there are programmes which involve women the funds are not there but if these women were more to talk for their programmes. I think then they would also be availed the funds all we all know that these councils are where the powers lies because that is where the money is. Now, if we are going to insist that we remain only one person at lower councils then who is going to push for the woman activities? How are you going really to get these women to be properly awakened? To really mobilise them to participate in politics, to participate in economic development so that this country comes up? Mr. Chairman, I am appealing to men Delegates here to remember that they got the votes of the women to come here. I am appealing that please remember those women who voted for you and give a provision to enable these women to participate. But if they vote for you and then you come here and you are the same person who are saying, "No, the women are the same as the men, let them also stand, let us not put an enabling clause for them." Then I think you are being very unkind to your voters. Mr. Chairman, since I stated at the beginning I believe these men here are women friendly and we are now here to see the women friendly colleagues we have here. I thank you, Mr. Chairman.

MR. MAZIMA ELIPHAZ (NUDIPU): Thank you, Mr. Chairman. Mr. Chairman, I rise to oppose the Motion to delete (d). And I wanted to request the Hon. Delegates that they should not use emotions while debating this issue. Because some people have already been citing that it is very easy to manipulate the electoral colleges. I want to inform Hon. Delegates that even the adult suffrages sometimes it is rigged, we cannot get rid of it so what is important is to put measures in place to ensure that there is no manipulation. Mr. Chairman, the purpose of affirmative action was to redress the imbalance created by among others oppressive cultures. I do not want to suggest that there are still those cultures here but this is a problem which we want to address and people have not got enough aware-

ness so that they rectify the situation. Mr. Chairman, the issues that have been raised, how the third could be attained, I want to suggest that if we put a provision in (2) above which is allowed then it would actually work properly not withstanding. Then you put Parliament in Clause 2 then it would even allow organisations like NUDIPU. I was actually worried because what we are doing we are subjecting everything to adult suffrage, to universal adult suffrage - the elections to be by universal adult suffrage. The reason why I am saying this you might find that in one polling station there are only five disabled people who qualify to vote. While in others you find twenty or thirty. So that one, we are coming to the situation of women if we put that proviso. If Parliament finds that women need electoral colleges they would use it or they would give it to an organisation like NUDIPU or like the Army. So, Mr. Chairman, in order to rectify the situation allow me to move that on Clause 2 we add the phrase, 'not withstanding' provisions of Clause 201. Article 201 which provides for election by universal adult suffrage. That is Clause 3, Parliament shall by law prescribe the composition, functions and electoral procedure in respect of Local Government Councils except that at least one third of the membership of each local government shall be reserved for women and so on and so forth. This one will solve the problem and it does not mean that women are being subjected to electoral colleges. If we find it is okay they can use another method but what we are trying to do is to ensure that the imbalance is solved during a representation. Another point, I would also like to inform Hon. Members that I intend to move another Motion to state that this situation should be reviewed. This representation should be reviewed after ten years as we did on composition of Parliament for the representation of interest groups. So for the Hon. Members who are saying that may be we are more than favouring women, if we find a problem after ten years then we can delete - we can review and delete that one after ten years. But I would like to beg Hon. Members that we allow at least one third, we give it to women so that we see how we can redress the imbalance. Mr. Chairman, I beg to oppose the Motion.

MRS. RWABYOMERE JOAN (Presidential Nominee): Thank you, Mr. Chairman. I oppose the deletion of paragraph (b) and I strongly recommend for its retention for the following reason. Mr. Chairman, paragraph (b) reinforces in a very great

measure paragraph (c), the paragraph on the affirmative action. Mr. Chairman, justice must not only be done but it must be seen to be done. The principle of affirmative action is no longer an issue really for debate. Many Hon. Members who are arguing for the deletion of this paragraph have agreed that they support the principle of affirmative action. But like as I have already stated, paragraph (c) is here just to reinforce that principle which you agree to. Now, to support the principle of affirmative action in principle and then when it comes to the composition like we have in (b) of one third of the membership which is a political representation is like giving with the right hand and taking away with the left. It is true, Mr. Chairman, and Hon. Members there are those women who can compete with men but we must be sincere and ask ourselves what percentage? How many of those women can stand and compete against men and go through? I stand to be corrected but I am not aware in each of the districts that we have in Uganda. I am not aware of an instance where we have a District Chairman who is a woman. I am not aware of a district where we have a district executive apart from the Secretary for Women where you have four out of the nine women. Therefore the argument by our Hon. supporter, Hon. Kajuka today that you can have a hundred percent representation of women is just a speculation, we are not yet there. I am very surprised, Mr. Chairman and Hon. Members that those people, the Hon. Members, who always state the principle of affirmative action and tell us that they are supporting the principle of affirmative actions. When it comes to action they abandon the ship. I am more surprised that this amendment to delete paragraph (b) is moved by a friend like Hon. Kyaligonza. In spite of the time, in spite of the well reasoned arguments that were advanced during the discussions in the Committee Floor. I would appeal to you to read against the rationale for the recommendation by Committee Four to have paragraph (b) which is on page eleven. When you read the rationale it goes like this. Paragraph (b) was recommended to address gender imbalance in the decision making process. The Committee recommends that one-third of local government councils be reserved for women who constitute over 50 percent of Uganda's population. This affirmative step is in conformity with the Chapters on the Objectives and Human Rights and Freedoms. Mr. Chairman and Hon. Members I do not think it is our wish to contradict ourselves because we have discussed at length and acknowledged the objectives and hu-

man rights and freedoms. I would, therefore, appeal once again like my colleagues have done for Hon. Kyaligonza to reconsider his amendment. And in fact withdraw this amendment so we can continue moving ahead as good friends. Thank you very much, Mr. Chairman.

MRS. OKORIMOE JANET (Women - Kotido): Thank you very much, Mr. Chairman. Mr. Chairman, I should begin by saying that behind every successful man is a woman and behind every successful male delegate is a female delegate. Behind every successful amendment brought by a male delegate is a female delegate. Mr. Chairman, I oppose the Motion by Hon. Kyaligonza. Mr. Chairman, we should note that the position of women in politics has not been fully recognised. (*Interruption*). Mr. Chairman, protect me from Hon. Atwoma, I have even moved away from him but he is still harassing me.

THE CHAIRMAN: Order, order. Hon. Atwoma, leave the young lady alone.

MRS. OKORIMOE: Mr. Chairman, we should know that the position of women in politics has not been fully recognised. Yet some people have remained permanent traditionalist and have used their traditions and cultures to oppress the women and to oppose their women cause. We should also note that women who constitute the largest group in the country have always been marginalised as far as representation to National Councils is concerned. This has made women in most cases to fail to pursue their cause because they are ever a minority in many of the national councils. That is why we are arguing that women should be given at least a third of the representation in some of these bodies. Mr. Chairman, since we are not making this constitution just for the next five years but for many generations to come we should entrench this in the Constitution for future governments to follow. If women emancipation that has just germinated has to continue growing. Mr. Chairman, for those who are worried about the formula, I have heard Members advancing here that how will you arrive at the third? But my Hon. Friend, has just told us that many countries including Morocco and Nepal all have this fraction in their Constitutions and they have been handling matters concerning their representations very well. Therefore, I see no reason why Members should say here that it is very difficult to arrive at a third as if they do not know mathematics. Mr. Chairman,

I am urging Members not to oppose Motions or to oppose women just because of personalities moving it or personalities supporting it. Do not just oppose it because it is coming from a woman. There are people who are biased already about women even if a good amendment is brought in but because they think it is brought in by a woman they just oppose it. So I am begging Members to have this kind of feeling because already I have heard even some Hon. male Delegates echoing that the male Delegates who are supporting the women should go back and put on dresses. This is very wrong. Mr. Chairman, there are many very good amendments which we have always rejected on this Floor just because of this reason that I have just advanced because of the personalities and sex. We have ended up even bringing in volcanic amendments which may erupt any time we promulgate the Constitution. So I am begging the Hon. Delegates to support this amendment by the women, oppose the Kyaligonza amendment which is anti-women and throw it away completely. Sir, I thank you, Mr. Chairman.

MR. KOMAKEC LEANDER (Aruu County):

Thank you, Mr. Chairman. Mr. Chairman, I am a Member of Committee Four which recommended the provision as provided in (b). But having heard from the Floor I think the Committee might have really been too generous or too inconsistent. There are two reasons, the reason that we gave was that we wanted to redress an imbalance in discrimination against women but on closer examination this may not actually be true. We said that in an election in Uganda it will be by universal adult suffrage that means both women and men are equal at the time of voting. One person will have the vote. Now, considering that women in Uganda are the majority logically it could follow that in actual fact the women could outweigh men because men are in a minority in Uganda. May be this favour should go actually to the men but we are not doing it. Why? In spite of the fact that we do subscribe to the question of one man one vote we say for the next five or ten years we shall favour women only as a matter of principle. This one probably the women will have got their one-third through voting alone if they so wish. We are spoon-feeding, we are giving women too much. First of all we give them votes equal to the men and now secondly we give them in spite of their numbers they get one-third on top of what they get to the men. Therefore the favour in fact is a bit too much. So I would think that it is

better for the number, the women if they want to get their number elected they should use the greater number that they have than men in an election. So I think that the Mover of this Amendment, Hon. Kyaligonza, is probably right. I would go along with maintaining (c) for the sake of consistency in what we have provided because (b) does not in fact give us the favour that the women want. Too much of anything is not good. So I think (c) is good enough that we shall provide for that one and they will, after all, have women representation on the committee. So the 51 percent women get through numbers and the mere fact is that while we are voting we should be aware that women should not be forgotten. Women should not be looked down because of what they have done. We have seen already that in open competition women in Uganda have proved to be far, in many cases, far better than men. What else do they need? Let the women beat men on equal footing and use their number for the additional number they want in the country. So I beg to support now the amendment as proposed on the Floor. I beg to support.

MS. AKELLO GRACE (Presidential Nominee):

Mr. Chairman, I thank you for giving me this opportunity. (*Interruption*). It is not State House, Mr. Chairman. Protect me from Hon. Peter Akure, I am sitting on behalf of the women of Uganda and also on behalf of the men of Uganda because I am supposed to represent Uganda and not just State House.

THE CHAIRMAN: Hon. Akure please do not heckle the Hon. Member.

MS. AKELLO: Mr. Chairman, I would like to congratulate the men in this House. Especially the contributors who have spoken before who say they support affirmative action and they support the cause of women and would not like to see anybody subjugated in Uganda and especially the women. I would like to congratulate them but say to them that please while you may support the cause of the women in principle do not kill its realisation. Because as far as many of us the women are concerned and those who support us, we think that this particular clause adds to the realities. This is a realisation of the principles that you support affirmative action.

Now, Hon. Kyaligonza, the gentleman who moved the Motion to delete this article said that women are

the majority in Uganda. This is very true, women are the majority in Uganda but they are the silent majority. They are the most oppressed of the majorities in Uganda. They are the ones who are easily manipulated. What do I mean? If you go to stand as some of us tried to do in any elections in Uganda. You are a woman. The first thing that people think about is not the fact that you have actually offered your services as another Ugandan citizen and a candidate but the fact that you are a woman. That will be the first thing, how can a woman possibly stand? What can a woman possibly do for us? Therefore, the women are intimidated into thinking that they have nothing to offer at all to this country and yet this is not at all true, Mr. Chairman. Each one of us here knows that first of all they are mothers who work very hard in the villages they are the ones who tend the sick. They work in the fields very early in the morning apart from looking after the children, apart from looking for school fees and doing all kinds of things to support the first unit of the Ugandan nation which is the family. Therefore women in Uganda feel easily intimidated and do not speak out yet they are the productive majority. Yes, they are the majority. But when it comes to elections, when it comes to choosing their leaders they can be manipulated and told who to choose. And because they respect and women are known for this respect. The respect to the males whom they love and trust they can be told by their husbands who to choose even at the point of voting or they can be threatened and therefore recoil.

This is why we are saying, Mr. Chairman, that while we may have some of our women who want to stand no block should be put in their way. And if these blocks are put in their way, then we should let it absolutely clear to the women that there is a leeway for them to be able to participate fully in the politics of this country. Mr. Chairman, I do not know what some of our men folk and those who do not support this amendment are afraid of. I would like to give an example. Soroti District Council. When you consider the numbers, you have say seventy people at the district council, when we talk about one-third being women we are actually saying that there should be twenty-four women in a council of about seventy plus. Now, what is intimidating about having one woman to three men? I do not understand it. We all say we are a community, we like to have each other around. What is threatening about having one woman to

three men however brilliant or intimidating that woman can be? Mr. Chairman, I would like to oppose this Motion because I know that many men in this august House know that women are an essential part in building Uganda. In forging a new Uganda and without women we cannot actually all function. Therefore I beg all of us to really make sure that we do not create any bottle neck in the contribution of women to the political development and also economic development of this country. I thank you, Mr. Chairman.

MR. MASIKA GEORGE (Mbale Municipality): Thank you, Mr. Chairman. The issue as I see it in this Motion is really the one of pursuing affirmative action to its logical conclusion. If we appreciate the fact that women are disadvantaged and we have provided for them in the National Assembly, I think it is right to note the prejudices against women are greater at the lower level of government. And that being the case, in my view, Mr. Chairman I think women need more protection at that level than at the National Assembly. While I may not agree entirely, with the Committee's Report of a third I still think they need a meaningful representation at that level. I would, therefore, not support Hon. Kyaligonza's Motion to delete. I would instead persuade the Hon. Members to accept that not only men at the lower level but even women are against women and it is important - *(Interruption)* - yes. I have always told my friends that the worst enemy of a woman in our society is actually a woman. If a woman is proposed for a post, the other woman will say ah! she is just a woman. Now, that is a woman saying it and we recognising this defect should actually take a positive action to correct it. So, Mr. Chairman, I would while opposing Hon. Kyaligonza's Motion suggest that we amend later Article 201 Clause 3 and make it subject to clause 205 - subject to Article 205 clause 2 whatever (b) or (c). So that adult suffrage as such cannot be made to cover women at that lower level. If that is accepted, Mr. Chairman, I would go further then and propose that we find a formula for finding women to be represented on these local councils in some way. It could be, even if we do not like electoral colleges we should find some the method of doing it. Say one woman per county or two women per county but it has to be found a level at which there can be a meaningful representation by women. For that reason, Mr. Chairman, I oppose the Motion.

DR. NYEKO JACK (Presidential Nominee): Thank you, Mr. Chairman. I have all along been considering and putting up my hand. I would like to oppose the Motion moved by Hon. Kyaligonza. We have already earlier on agreed that at Parliamentary level every district will have a woman representative. At that stage we did not state that women will be one-third of the House. So if we are to be consistent along this line I would see at district level or at local government level we could say that there will be a woman representative from every county. This will tie up with what we have agreed in Parliament. So I would like to move an amendment to this that instead of reading one-third of membership of each local government councils shall be reserved for women. I would like to move that each county shall elect one woman representative to the local government council. I beg to move.

THE CHAIRMAN: Hon. Nyeko, there is a problem there. There is a problem with the proposition. The present formulation is not just talking about the district level. It is talking at all levels and that is why they are talking about one-third. Now, if you substitute with a county you lift it to the district and yet the whole formulation should go much lower. And therefore it would not be fair for us to debate that when in fact you would be putting out the sub-counties and the parishes and so on. Would you want to re-phrase it or is there someone who can assist.

DR. NYEKO: It is okay, from that explanation, Mr. Chairman. I beg to withdraw the Motion.

THE CHAIRMAN: It is okay. So now let us have two speakers, one against and one for the Motion, for Hon. Kyaligonza's Motion.

DR. KABAYO PATRICK (Kassanda South): Thank you, Mr. Chairman. Mr. Chairman, if the Committee by including this paragraph intended for us to address the issue of affirmative action as being gender sensitive then I think that their intention was misdirected. Because, Mr. Chairman, until we have made enough provisions to address those issues, those principles we passed in Chapters Three and Five. We have already provided that there shall be a Member of Parliament from each district who is a woman. And we also know that in the current practice there is a woman representative at all levels of the district councils. The issue of affirmative action or gender sensitivity, Mr. Chair-

man, in my view is in the councils. The issue is in practice in day today life in our society. I think the issue that should be addressed should be concerning mass mobilisation, should be concerning education so that we have more women enrolling in the schools and looking at fees and so on. Then we should look at issues affecting jobs so that the principles which we passed in the Human Rights chapter and so on are not violated. We should look at the traditions, culture and social practices which contradict the principles already passed. My concern is suppose there are not enough women interested to participate in the elections, in the councils, what would you do then? If we want a society where we regard women as full citizens of Uganda we should not regard their qualification where it does not arise. Because, Mr. Chairman, even men can advance principles in favour of women and Members of Parliament and all these councilors will be supporting women as well provided. We do not contradict the principles we have already passed. Besides, Mr. Chairman, we already know that women are more than men. And if they stand in these elections they should have more support. I was attracted by the proposal by Hon. Masika so that the representation is not as much as one third. I think if we say one-third of members of local government councils we will be carrying the concept of affirmative action to absurd proportion and we may even become sectarian in so doing. I would prefer however that on each council there could be a woman or two to pressurise for a proper understanding of the issues which concern us as gender imbalance but not as much as one-third. So I would request Hon. Masika to think again about his proposal because I felt that he had a worthwhile Motion if he could formulate it and include one or two women representatives at all levels. I think that would be much better than one-third and probably better than also the complete deletion of this paragraph. Thank you, Mr. Chairman.

DR. WANDIRA KAZIBWE: Thank you, Mr. Chairman. Mr. Chairman and Hon. Members, what we are debating today is not only a matter of semantics so as to come up with a beautiful constitution or to have people feel they are dishing out favours to others. Mr. Chairman, when we started this Assembly we were reminded that we are making a constitution to build and develop our country. We are not making a constitution only to manage the country. Mr. Chairman, the whole issue of gender and affirmative action is a subject

which as I sit here and in my other capacity as the Minister of Gender and Community Development. I feel that this body that is making the law, the ultimate and most important law for the management of our society. That this body needs to benefit from a lecture and a discussion so that we can all move together if we are to develop the community. Mr. Chairman, affirmative action go to redress imbalance. The argument here by Hon. Members that the women are getting too much. I want to submit, Mr. Chairman, that everybody all over the world who has been born a male gets affirmative action from the time they are in the womb of a woman. Mr. Chairman, it has been shown that in countries like China which I had the opportunity to visit where couples are given the option to have one child, screening is done. If the child is a female it is aborted. If it is born this is the finale you find in the homes where children are abandoned, they are mutilated so that these couple which is made up of a woman and a man can actually go ahead to get a male child. When a female is born in West Africa the husband may even opt not to come home that day. If a male is born he will come with *boo boos*, loaded with presents because a male child has been born. Mr. Chairman, boys get affirmative action from the word go. When it comes to growing up the male child is better fed than the female. Don't forget the taboo that we had in our culture here where we always had high protein diets in scarcity even when they are in plenty. A woman or a girl child in Kabale where I have been, was allowed to eat locusts which fell once in ten years but she was not allowed to eat grasshoppers which fell once a year. That is affirmative action for the male child. When it comes to getting children to school the boy gets affirmative action, he is educated better than the female counterpart. So, Mr. Chairman, I want to applaud this House which has seen the need to have us addressed and redress this imbalance which has been there since the time of Adam and Eve and we try to get our country moving. If we have to build and develop this country not only are we to be seen to understand the problems but we must put in place structures, laws, to make sure that we dress up whatever we want to do to get positive results. Mr. Chairman, this august House passed a clause in the Human Rights Chapter, in the Odoki Draft it is Clause 61 (3) which says women shall have the right to affirmative action for the purpose of redressing the imbalance created by history and traditional customs. History is still with us in this House today at the end of the 20th Century. Tradi-

tion is with us at the grass-root level, with this village woman, with this woman at the parish Level, at the sub-county level, at the while county level and at the district-Level. Mr. Chairman, there is the argument that this time women stood with men and beat them. I know Hon. Rhoda Kalema even in 1989 stood with men and beat them. So the argument is there is no need for affirmative action. Mr. Chairman, I want to submit myself, Dr. Specioza Wandira Kazibwe, as a product of affirmative action, I went into Parliament as a woman representative. Others did the same, we have seen women in Parliament who went on the affirmative seats and they have actually excelled as board members in international organisations. If this affirmative action had not been accorded to these women we would not be seeing what we see today. Mr. Chairman, many times, as leaders, we need to identify the right tool for us to be able to lead the people. In this country as we sat here when we were opening the Constituent Assembly there was a big outcry about division of the cake, division of jobs, division of distribution of resources in the country. Mr. Chairman, if we are all to sit at the table is it that only the men will be the ones to cut the cake? That cake should be seen to be divided among beneficiaries with equal opportunities and equal aspirations right from the village level up to the national level. Mr. Chairman, I would like to inform Hon. Members that Russia, a country which educated both its boys and girls equally and in every profession you find as many boys and as many girls. When they were practicing affirmative action, almost in every institution you had over fifty percent women in line with the population strata of USSR. Now the issue is different. You can hardly find even ten percent of women in any political organisation, any political institution in Russia. So the issue is not only because women are educated, it is the traditional values, the image that both men and women attach to the sex that one is born into. Mr. Chairman, I would like to add that Uganda is a signatory of the Convention on the elimination of all forms of discrimination against women. In this, Convention all countries, member states of the United Nations have agreed that they will move towards having at least thirty percent of women until the issue of discrimination is resolved. Mr. Chairman, as we speak now UN Agencies are restructuring towards that end. Mr. Chairman, we the people sitting in this House, are we not moving towards getting those tools to get our country move? Leadership is an instrument if given to

somebody they act as models of their kind. So that those people can also see themselves as people with the kind of stamina. The kind of spirit that can also push them to the top. This affirmative action will make sure that the fifty-one percent of our population which nurtures both men and women. Which is the first instrument and the first royal model a child sees in his or her life. Let this woman be seen to move towards leadership so that she can also nurture good leadership in this child both boy and girls that she is trying to bring into the world. Mr. Chairman, I would like to urge Hon. Members not to dwell on the issue of how shall we get thirty percent. Necessity is the mother of inventions. Once we realise as we have already done in the Human Rights Chapter that women need affirmative action the Electoral Commission will be charged with the duty to find ways and means of having us get that thirty percent from every level. And I believe that all people who will be asked to elect be it the disabled, NUDIPU, we shall find that they will also conform to this. I will give a very simple example that happened in the NRC recently when we took the youth to the NRC. Parliament said that at least fifty percent because the youth themselves, the people we are making this Constitution for, realised that there is no way they can move in this country if they have men politically overriding women. They said, madam when we go to that Parliament the provision of electing the two youth delegates must say fifty percent must be women and fifty percent must be boys and indeed it was. When we got there to have them elect they went ahead and said at least we can even go beyond and they elected three girls to the Parliament and one boy. So, Mr. Chairman, if the youth for whom we are making this Constitution because many of us have already had our day. If they realised that there is need for this imbalance to be redressed affirmatively through law and now we are making the foundation, the basis for all laws, why are we taking them back into the eleventh century? We are making a Constitution for many, many centuries to come. So, Mr. Chairman, I would like to urge Hon. Members to take heed of the wisdom of our forefathers. It is the woman for whom if you train her in leadership, in functional literacy, in every sphere, it is through this woman if you do, that you will be able to train the whole nation and the whole world. Mr. Chairman I beg to vehemently and I really want to vehemently oppose the Motion that is on the Floor. Thank you very much.

THE CHAIRMAN: Let us vote.

BRIG. KYALIGONZA: I am asking the Chair to give me permission for a reply, Mr. Chairman.

THE CHAIRMAN: I do not think it is necessary really -

BRIG. KYALIGONZA: It is necessary, Mr. Chairman.

THE CHAIRMAN: We have had extensive discussion on the subject. I am giving you one minute.

BRIG. KYALIGONZA: Thank you, Mr. Chairman. Mr. Chairman, I thank you very much for your indulgence. Mr. Chairman, I would like to call upon all Hon. Members to realise that I am woman friendly, I am a married man, my wife is the best friend of mine and I have all the love and care of gender. Mr. Chairman, I am only worried on one issue of constitutionalising this matter. For instance, we are going to create a big problem for the implementors of this Constitution and at the same time it is inconsistent with Chapter 201 (3), Clause 3 which we have already passed. It is discriminating men because we are already creating a situation, a scenario, where there is a feeling that men - *(Interruption)* - It is creating an impression that man has been oppressing woman but at the same time we have now given them the opportunity at all levels to compete. They have been allowed to go to the universities with a 1.5 mark and they have even been given a free woman representative at all levels. So, Mr. Chairman, I believe if we create an impression within this country that women are suppressed then the affirmative action which we are all clamouring about would not be properly understood because affirmative action does not mean numbers.

THE CHAIRMAN: Hon. Kyaligonza, you are now repeating the reasons you gave at the beginning. *(Interjection)* I think although someone is saying for emphasis, I thought that you are going to say that you had been misunderstood here or there but to repeat the argument you gave you are being unfair to the House.

BRIG. KYALIGONZA: Okay, Mr. Chairman, I want to reiterate that I am a woman friendly and I want every Member to understand that we are creating a Constitution that will be implementable. Thank you, Mr. Chairman.

THE CHAIRMAN: Okay. You know the Motion is to delete paragraph (b) as recommended to us on page 10 at Clause 2. The Motion is that the paragraph be deleted by Hon. Kyaligonza. I will put the question.

(Question put and agreed to)

THE CHAIRMAN: Well, Hon. Delegates, it is about lunch time but before we break, in view of the debate we have just had I would like to report affirmative action by a Member that Hon. Nankabirwa Sentamu has added to the population of the Constituent Assembly by delivering a baby boy at Mulago Hospital. We should send her congratulations and wish the two of them the best. With that I adjourn the House until 2.30 p.m. We stand adjourned.

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

THE CHAIRMAN: Hon. Delegates, before we went for lunch we had declared ourselves on a Motion by Hon. Kyaligonza regarding paragraph (b) of 205 and I take it that paragraph (b) is retained in its present form as recommended by the Committee. We go on to the next paragraph. I saw the hand of Hon. Masika, was it to propose some amendments?

MR. MASIKA: Thank you, Mr. Chairman. There is a conflict between Article 201. Clause 3 and the provisions under this Article and it is necessary to remove that conflict before it can be expressed on. I thought we would resolve the conflict by introducing a phrase to exempt Clause 205 - Clause 2 of Article 205 from the full application of Article 201 (3). That could be done in one of the two ways, either revisit Article 201 clause 3 and state therein that subject to the provisions of Clause 2 of Article 205 adult suffrage will be applied in all local councils. Or alternatively state under Clause 2 of Article 205 that notwithstanding the provision of Clause 3 of Article 201 of this Constitution a certain percentage of women shall be reserved and the same for clause (c) which may need a similar treatment. Clause 2 (c) of Article 205.

THE CHAIRMAN: But do you not think it would be safer to say in Clause 3 of Article 201 that subject to this Constitution so that we leave that safety situation?

MR. MASIKA: It would do the same.

THE CHAIRMAN: So that we do not have to do it in (b) and (c) and may be elsewhere.

MR. MASIKA: Right.

THE CHAIRMAN: Agreed that we introduce a provision in Clause 3 - I am proposing the question that we introduce a provision in paragraph 3 of Article 201 so that we prefix it with the words "*Subject to this Constitution the system of local government shall be based on ...*" and the rest remains as it is. This is a Motion by Hon. George Masika. I put the question.

(Question put and agreed to)

THE CHAIRMAN: Hon. Katenta Apuuli, we go to (c).

MR. KATENTA APUULI: Mr. Chairman, paragraph (c) - *(Interjections)* -

AN HON. DELEGATE: There is an amendment I have, to insert before (c).

THE CHAIRMAN: On which paragraph?

AN HON. DELEGATE: My Amendment was pending solution to the previous paragraph. So, I was saying that we should insert a similar Clause to 131, Clause 2 where after every ten years Parliament may review this representation of the ladies at the local councils.

THE CHAIRMAN: It comes after (c) or you think it -

AN HON. DELEGATE: It comes soon after (b).

THE CHAIRMAN: If I were to advise you it should come after (c).

AN HON. DELEGATE: Okay.

MR. KATENTA APUULI: Thank you, Mr. Chairman. Paragraph (c): "*Any law enacted by this article shall provide for affirmative action in favour of marginalised and disadvantaged groups.*" Mr. Chairman, I beg to move.

MR. MAZIMA: Mr. Chairman, I have an Amendment to clarify because we are introducing a phrase which we have not used, the word 'disadvantaged.' Then I would like to tie it to Article 61 which talks about affirmative action. So that my amendment reads thus I am deleting the (c) in the report and I am inserting a new clause (c). *"Any law enacted by virtue of this article shall provide for affirmative action in favour of all marginalised groups in accordance with Article 61 for this Constitution."* Article 61, Mr. Chairman, is the one -*(Interruption)*.

THE CHAIRMAN: Are you saying that these groups are marginalised in accordance with Article 61, or there are groups that are referred to in Article 61?

AN HON. DELEGATE: Mr. Chairman, Article 61 reads: *"The State shall take affirmative action in favour of groups marginalised on the basis of gender, age and disability or any other reason created by history, tradition and custom for the purposes of redressing imbalances which exist against them."* Now, it is not clear who these marginalised and these disadvantaged groups are. If we do not tie it to Article 61 maybe, the formulation can be improved on.

THE CHAIRMAN: I think what you mean is groups referred to in Article 61, but if you say groups marginalised in accordance with 61, it is as if 61 is marginalising them.

AN HON. DELEGATE: Okay, thank you for the formulation, groups referred to in Article 61.

THE CHAIRMAN: In other words, shall provide for affirmative action in favour of groups referred to in Article 61 of this Constitution. That is the Motion on the Floor, anyway, first of all. Is it seconded? It has been seconded by many. Now, Hon. Kanyeihamba and then I will come on.

PROF. KANYEIHAMBA GEORGE (Rubanda County East): Thank you, Mr. Chairman. I have no problem with that qualification, rather qualifying the groups. But Mr. Chairman, if I recall correctly, we have in some other article said that Parliament when reviewing these groups from time to time may add some more disadvantaged groups who many not been described in the article we have referred to. So, I do not know whether it would not

be even better to say marginalised groups determined in accordance with this Constitution in order not to leave out any one who may hereafter be designated a disadvantaged group.

THE CHAIRMAN: Let us hear from Hon. Mazima, what do you say to that?

MR. MAZIMA: Mr. Chairman, what I was after was that it should be clarified, first of all. What I needed was that we should have two things. The phrase 'disadvantaged groups,' either we define what we mean disadvantaged groups or we delete it. According to Hon. Kanyeihamba, I think there is a necessity of identifying more groups which are not defined in Article 61, I think, he is right.

THE CHAIRMAN: But was 61 exhaustive? Was it listing exhaustively or was it only saying disadvantaged on grounds of one, two, three, four, five, six? Therefore, it does not necessarily mean that is the end of the whole list.

MR. MAZIMA: I accept that one, I do not see anything wrong in accordance with this Constitution.

THE CHAIRMAN: Now, can we then get the formulation correct, because the Technical Committee -

PROF. KANYEIHAMBA: Mr. Chairman, the formulation would be: *"Any law enacted by virtue of this article, shall provide for affirmative action in favour of marginalised and disadvantaged groups as defined by this Constitution."*

THE CHAIRMAN: But I thought that argues against what you were saying. You were saying that Parliament may from time to time add to or remove. For instance, if the women take power and they are the majority in Parliament, of course, in their magnanimity have to declare affirmative action in favour of men, in which case they will delete women and put their men.

PROF. KANYEIHAMBA: Then, Mr. Chairman, I think the proper words would be 'as prescribed by this Constitution.' Because prescription in that case would include groups not hitherto described but which at future time Parliament may designate as disadvantaged groups. So, the word prescribed would be all encompassing because it

would include those that, rather, margin could be determined in future. So, if we said as prescribed by this Constitution, that term includes those yet to be identified and prescribed by Parliament, Mr. Chairman.

MR. WAGIRA MOSES (Kibuku County): Point of clarification. Mr. Chairman, I just wish to seek clarification in respect of the formulation in 61. Because, in my view I think that when you are talking about groups which are marginalised as - it goes to enumerate almost every factor that can disadvantage a group. For, instance, if men became marginalised tomorrow, so to say, it will be as a result of history. So, me I think that the clause is open enough to accommodate any group that may come in the future.

THE CHAIRMAN: Could Hon. Mazima read it back again to us, 61.

MR. MAZIMA: *"The State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability, any other reason created by history, tradition and custom for the purposes of redressing imbalances which exist against them."*

THE CHAIRMAN: I think that is broad enough to bring in everything.

MR. WAGIRA: So, that was my contribution that I think the clause is open enough to accommodate each and every group foreseeable now and not foreseeable in the future.

THE CHAIRMAN: Can we not leave the formulation as it was, Hon. Kanyeihamba, to say referred to in Article 61 and as there is a proposal to amend or to insert a review, then that matter can come up should that provision also be taken.

MR. AWORI: Mr. Chairman, I would like to put to the Hon. Mover of the Motion, would it be a better formulation if we had a preface subject to the provisions of this Constitution or subject to the provisions of this Constitution, then any law enacted by virtue of a, b, c, d, to cover the whole aspect

THE CHAIRMAN: No, but you see, that will be narrowing down the power of Parliament rather than narrowing down or expanding the area where

the Parliament has freedom to chose from. So, I would say that we take Hon. Mazima's formulation, because it logically brings us back to the groups under 61 foreseen and to be foreseen and coming on the scene later on.

MR. KIRENGA EMMANUEL (Mityana North): Mr. Chairman, I am wondering whether we should not leave it as it is, and merely say: *"in favour of marginalised and disadvantaged groups."* Because in 61, we defined them, and when we refer to them later, I think it is clear that those groups are the ones which are somewhere defined in the Constitution, especially, as the definition precedes this. Is it not clear that when we say marginalised and disadvantaged groups, when they are already defined, that those are the ones that we are referring to? I mean, to refer to them as those referred to in 61? After 61, I think, everyone knows what we mean by disadvantaged groups. So that we do not have to refer to that section whenever to these groups.

THE CHAIRMAN: But I think it is safer Hon. Okalebo, I think we should close this one.

MR. OKALEBO EPIIRAHIM (Bukedea County): Thank you, Mr. Chairman. Let us bear in mind that this is a people's Constitution, and when an average man is reading this Constitution he should be able to meet the requirements of what he is looking for at once. Because if you say leaving this one as it is now, he will have to go back and look for where the provision is. But Hon. Mazima's formulation is quite okay and makes it complete. When somebody is reading this article he will say, refer to Article 61 and find out the list of what is meant in this particular article. So, I am in favour of the formulation by Hon. Mazima, Mr. Chairman.

THE CHAIRMAN: I put the question for those in favour of Hon. Mazima's formulation.

(Question put and agreed to)

THE CHAIRMAN: Hon. Mazima's formulation replaces (c). Yes, Hon. Kadama you said you had something.

MR. KADAMA: Mr. Chairman, I had an Amendment to make, now I am presenting it in a slightly modified form to include part (c). I propose that we

create paragraph (d) to read more or like Article 131 Clause 2 reads, but to cater for (c) and (d) in particular.

THE CHAIRMAN: Could you read it?

MR. KADAMA: *"Upon the expiration of a period of ten years after the commencement of this Constitution and thereafter every five years, Parliament shall review the representation under Paragraph (b) and (c) of Clause 2, of this article for the purposes of retaining, lowering, increasing abolishing such representation and any other matter incidental to."*

MR. MAZIMA: Mr. Chairman, let me read my formulation. *"Parliament shall exercise similar powers of review as stipulated in Article 131, Clause 2 of this Constitution."*

THE CHAIRMAN: In relation to what?

MR. MAZIMA: It is (d) - in relation to what we have been discussing.

THE CHAIRMAN: Okay, then you state it, Parliament shall in relation to..

MR. MAZIMA: Marginalised groups.

THE CHAIRMAN: Or to the provisions of paragraphs (b) and (c)

MR. MAZIMA: Okay, in relation to provisions of paragraphs (b) and (c).

THE CHAIRMAN: And then could you read the rest?

MR. MAZIMA: Okay. *"Parliament shall exercise similar powers of review as stipulated in Article 131 Clause 2, in relation to paragraphs (b) and (c) of Article 205 Clause 2, of this Constitution."*

THE CHAIRMAN: The rest is drafting. Now, Hon. Member for Butembe do you accept that?

MR. KADAMA: Yes, of course.

THE CHAIRMAN: Okay, Hon. Delegates, do we need to debate that? Okay, I put the question.

(Question put and agreed to)

THE CHAIRMAN: Hon. Mazima's formulation creates another paragraph which gives a power of review of the provisions of (b) and (c). Now, Hon. Katenta Apuuli.

MR. KATENTA APUULI: Clause 3. The committee recommends that Clause 3 as it is in the Draft Constitution stand part of the Constitution to read: *"A person shall not be a member of District Council unless that person is a citizen of Uganda."*

MISS. KALIKWANI IRENE (Women Delegate - Kamuli): Thank you very much, Mr. Chairman. Well, I have nothing really very wrong with the provision, except that in my opinion by the time people get to the District Council, they would have already been eliminated at the RC I level, because *-(Interjections)*

THE CHAIRMAN: Give her a chance to complete her formulation.

MISS. KALIKWANI: Yes, I have something in mind. By the time we get to the district level, because first of all whoever is elected must be a member of the RC I council *-(Interjections)*- Yes, there is a difference, because to be a candidate is different from being elected. The people who are electing you are all over the district, but you do not come from the blues and present yourself as a candidate. You must come through some system before you can be identified as a possible candidate to qualify for candidature at these other levels. You must have gone through RC I, and RC I requires that if you are an executive of RC I, you must be a citizen. So, I do not think it should come in at the district level. By that time, that question would have been answered, Mr. Chairman.

THE CHAIRMAN: You see, we do not know the procedures that will be enacted by Parliament. If you look at 205. 2. Parliament shall by law prescribe the composition, functions and so on, and procedures. So, we cannot assume it will be the structure that we know today.

MR. LIIGA ALOYSIUS (Buvuma Islands): Thank you, Mr. Chairman. Mr. Chairman, when you look at the rationale I get a bit worried about the representation of non-Ugandans at RC I and RC II

stages. I think the RC Statute, even when we were voting or rather lining up to elect our leaders did not allow all non-citizens of this country to take part and also to be elected to these councils. Mr. Chairman, I would be more comfortable if we deleted the word 'district' from Clause 3 and substituted the same with Local Government. So that from a Sub-county, the Urban Council right up to the district we have no room for doubt that these people are citizens of this nation. But if you leave it as it is here, it might as well say that okay, in my place where we have quite a number of people. Okay, non-citizens, they could very well dominate the RC III and turn the whole thing to their advantage. So, if the formulation I am suggesting does appeal to the Chairman of Committee 4, I would move that we substitute 'Local Government' with the word 'district.' I beg to move, Mr. Chairman.

MR. KASAJJA: Thank you very much, Mr. Chairman. Mr. Chairman, I support the Amendment brought by Hon. Liiga, because if we leave the formulation as it is here which reads: "*The person shall not be a member of a District Council unless that person is a citizen of Uganda.*" We are implying that the lower councils other than the district a person who is not a citizen can be elected to be a member of that council. But, I think, Mr. Chairman, in order to give credibility and support to a person at a local council he needs to be, I think, a citizen. I think it is proper that we do as consistence requires that we get a person at whatever lower council that we shall be having in Uganda to be elected as a citizen. After all we have given categories of citizens. We have citizens by birth, we have citizens by registration. So, we specifically say here that he has to be a citizen, I do not think whether we shall be really requiring too much. The only thing we want is to affirm that these councils are people's councils and, therefore, they have to be manned by the people of that area who are born or registered as citizens. So, I think Hon. Liiga's Amendment is a noble Amendment which should by all means, I think, support. So, with that I think I strongly support this Amendment that we delete the district and put there the local council.

PROF. KABWEGYERE TARSIS (Igara County West): Thank you, Mr. Chairman. I have a different view. I think, it is important to insist that to be a councillor at district level you should be a citizen. But I think that at a lower level we may not need to be so pure as to insist on citizenship again.

Because, Mr. Chairman, we are going to have evidence who will have permission to be residents in the country. Many of them for so many years, and in the local council you know, people talk about, actually, issues relating to the local area. You think of a council in any of our villages, or even in Kampala here, I would myself not be so worried that this foreigner or non-citizen is going to influence the destiny of Uganda by being a councillor in a small urban council or at a sub-county level. But, I think the policies that are handled at the district level, may require the national outlook and all that. So, I believe myself that it is not absolutely necessary that we seem to hound non-citizens who may be legitimate residents and possibly contributing to development. And we also ask them to pay graduated tax and all other taxes, so why would they not participate in the matters of a local area as councillors. Now, in a case where councils recruit from lower councils he or she may not go higher up to be at the district level, but I think, at local level he should be able to operate within the law and within his rights or her rights. I thank you, Sir.

MR. MALINGA IGNATIUS (Usuk County): Thank you, Mr. Chairman. Now, Hon. Delegates, we are dealing with a specific article here 205 the marginal lot of which reads district councils. So, we cannot smuggle into these provisions, the provisions relating to the lower councils. We will come to deal with lower councils later. But it is important for us to have only citizens at district councils for the reasons that we have devolved down to the districts a lot of functions in which people who must be implementing must have Uganda at heart. So, it is important that we exclude non-citizens. But at a lower level, as Professor Kabwegyere has said, it is not necessary to exclude non-citizens, because take, for example, there may be a person who is residing in Uganda and is waiting to qualify to apply for citizenship. He may have been in Uganda for 18 years or more. We should not exclude him from going to the sub-county council, because he may be making a very important contribution in that locality. He may be, in fact, an opinion leader in that area because he spearheads development in that area. Maybe, to cite a few examples could be sufficient. Suppose we had say Kinyara Sugar plantation started by an individual a non-Ugandan, and then he establishes such a big estate which employs a number of people in that locality. Definitely when it comes to electing people to the sub-county, to which he will be contributing by way of

taxes a lot of revenue we should not exclude such a person from a county council. So, it is important for the development of that area to have those people identified with that area, to let them participate in the local councils. So this article is only dealing with district councils, let us just say what we want to see about these councils at this stage, let us not confuse ourselves, Mr. Chairman. In any case I do not think that Hon. Liiga's Amendment has been properly moved, I think we are not discussing it, but what we are discussing really what the Chairman of committee 4 has moved. Thank you.

MR. KABUGO MESUSERA (Nakaseke County): Thank you very much, Mr. Chairman. Mr. Chairman, I stand to support the proposal made by Prof. Kabwegyere. Mr. Chairman -(Interjection) I am supporting the views as expressed by Prof. Kabwegyere. Mr. Chairman, I represent a county, Nakaseke, by itself, where you find the majority of local settlers are people from different neighbouring countries. These people have lived into these areas for several years, though they were never encouraged to register as citizens of Uganda. So, in this case, I take it that since deliberating on matters affecting their local interests, these people should as well be allowed to participate as full members of their local councils. Mr. Chairman.

MR. ADYEBO COSMAS (Kwania County): Thank you, Mr. Chairman. I am in support of the Amendment to replace the word 'district' with the 'local councils.' This is because, Mr. Chairman, if we allow even foreigners to take part in the election, we are regularising very serious risk. For example, Mr. Chairman, at the moment if you go Moyo you will find that there are over 180,000 to 200,000 refugees from Sudan, and if you go to Arua the number is about 150,000 to 170,000 refugees from Arua. Now, put the case that we allow such influx-well, our brothers and sisters from there to take part. Which means we are going to have almost constituencies of refugees in only two districts of Arua and Moyo, but there are other elsewhere. Well, we are here trying to say citizens, a refugee is not a citizen. This is why I am trying to give you statistics to back up why I want to support the Amendment. Mr. chairman, it is important for the citizens at the local level to be protected against these other brothers who also come because of different problems they have in their countries. I know, I have ever been a refugee, but while I was there, I was not

allowed to vote. In fact, I was prohibited from taking part in politics. There are some of you who have been refugees as well, but I do not think you were allowed to take part in politics and in that matter take part in voting. I, therefore, Mr. Chairman, request my colleagues to accept the Amendment to replace the word 'district' to the word 'local councils' to read: "*A person shall not be a member of a local council unless that person is a citizen of Uganda.*"

THE CHAIRMAN: Okay, Hon. Ngobi and then I will come here.

MR. NGOBI MATTHIAS (Presidential Nominee): Thank you very much, Mr. Chairman. I would like to support the view that we exclude non-citizens right from the bottom to the top. Because the base of our society is at the bottom, and if we say for lower councils it does not matter, you can include anybody even if he is not a citizen. I think we will be making a mistake because decisions at this level are decisions that will affect the rest of the decisions at high level. We are not short of personnel, we are not short of Uganda citizens, I think we should accept the Amendment that not only at district councils but also at lower councils. Nobody should be a member unless he is a citizen. I have lived out of Uganda for some time. But in most cases although I was welcome in some countries, when it came to making decisions, especially, political decisions, or even social decisions at councils. I was never allowed to participate. Not that I was negative, but that was the principle, and I think here we better stick to the principle that we are making this Constitution for our people in Uganda who are citizens right from the bottom to the top. I, therefore, support the view that we should not only restrict citizen to district councils, but also to lower councils. Thank you.

MR. KIMERA VINCENT (Bukoto East): Mr Chairman I am rising up to support the Motion by Hon. Liiga. Where he suggests that the word district be removed and instead local councils be inserted. Mr. Chairman, if this amendment is properly conceived and accepted, it may save us a situation whereby non-citizens have always been elected to our local councils. Mr. Chairman, I have heard one Member saying that if a person is a non-citizen but if in case he is developmental he should be elected to assist that area to continue developing. Mr. Chairman, this is not a good argument because our

country has been for sometime a dumping ground and we have suffered because of these ambiguities. Mr. Chairman, the argument, as I am saying, does not arise, because if it is from the lower local councils that we elect district councils. How do you expect a local council whereby a non-citizen is elected and it is from where you derive district councils for such a system to work? So, Mr. Chairman, I wish to fully support this Motion as brought by Hon. Liiga in that it will save us a lot of embarrassment as the case has always been.

MR. KIRENGA: Thank you very much, Mr. Chairman. I have two comments to make in respect of this Motion. One, is that this seems to be a qualification for a member of a district council. I am wondering why we have not made the same qualifications as we made in respect of a Member of Parliament. We are only saying we are only dealing with citizenship. Should we not say, for instance, what should be the educational qualification of the candidate, who should stand and maybe sit in a district council? Should we not prescribe residence and things like that. In respect of a Member of Parliament we put some conditions, but here we are only restricting it to the qualification of citizenship. I wonder whether the Committee ever thought of qualifications for being a member of the district council, as we did in respect of Parliament?

THE CHAIRMAN: But, I thought Hon. Kirenga that with regard to Parliament, it is the very nature of the institution that was necessary to put all those within the Constitution.

MR. KIRENGA: For instance, Mr. Chairman, will the deliberations be in a local language in a district council?

THE CHAIRMAN: But just a moment. When you look at Clause 205.2, Parliament shall by law prescribe composition, functions and electoral procedures. In my view they could go on to say you cannot be a member of that body you want but I think the question of citizenship was considered important to be brought out here. But the other matters are -

MR. KIRENGA: Okay, thank you very much, Mr. Chairman. Then I go to the second aspect of it, in that restricting - I am saying that restricting the composition of a lower council to citizens only is too restrictive and unnecessary. I will bring an

example of some areas in Mubende, I think, and Kibaale which were unsettled and which later were open to some immigrants who may come and live there for so many years. And they have their own RC 1 committees, because there are no citizens there. I know some of them now, will you exclude those villages which do not have a citizen from having RC 1? So, I think, councils like RC 's they are dealing with matters of locality. They should be restricted only to those people who are there, irrespective of whether they are citizens or not. Because if they fail to get a citizen in that area what will happen? The whole village will not be able to carry out its functions to regulate itself in respect of the matter pertaining to that particular village. So, I think for a district council that restriction is alright, but for lower councils, I think it will be going too far to restrict them. Then thirdly, I would not think that it is proper for offering as a reason for excluding non-citizens, the fact that some of us also suffered in exile. Because a wrong does not make a right. If you think that the laws of your neighbouring country were discriminative, do not make the same laws. Make good ones and teach them a lesson. On the other hand I also remember some laws of other countries which allowed voting of people who are not even citizen in that country. For instance, in my case I was a student in Britain in 1964 and I voted because I was a member of the Commonwealth. And I remember voting for the Labour Party in 1964. So, there they were no insisting that a voter must be a White Briton, but any member of the Commonwealth could vote. I do not think that all other countries are so restrictive in the matter of voting, because I took part myself in voting, although I was not a Briton, but a mere member of the Commonwealth and was qualified for that matter.

MR. BAGEYA: Thank you very much, Mr. Chairman. Mr. Chairman, to the best of my knowledge I am here to debate a Constitution for the Ugandans. And if we are having visitors who are non-citizens they will be privileged to enjoy whatever we have decided. But, Mr. Chairman, I would strongly urge my Colleagues to put everything into account and realise that the moment you open up any particular council for non-citizens, time will come when they get to a stage where you cannot stop non-citizens participating since you have already left them in. We already have laws that when you are a non-citizen and you come into the country, if the laws are still working, you are not even supposed to take up any form of employment. So,

since we are working for the Ugandans per se, I would strongly recommend that for a person to be a member of a any local council, inclusive of the district council, you should be a Ugandan citizen. Because the laws are for the Ugandan citizens, the visitors come and go, they do not mind whether the issue is good or bad. If it is good they will stay, if the situation is bad they have a choice to go out, but the Ugandan does not have the choice. I, therefore, urge my colleagues to go along with Hon. Liiga's Amendment reading that: *"A person shall not be a member of a local government council unless that person is a citizen of Uganda."*

MR. KANDOLE CLEMENT (Kyaka County):

Thank you, Mr. Chairman. I support the Amendment by Hon. Liiga, because first of all I come from a refugee infested area. And I would like, Mr. Chairman, to inform the House that at one time the population of the refugees in Kyaka was higher than the population of the nationals. So, given an opportunity for these people to belong to the committees, chances are we would have the refugees ruling the nationals. And Mr. Chairman, we have not allowed these people to participate in any form of elections and even in the RC systems. At least, these people in the refugee settlements were given opportunity to form their own committees which were named welfare committees. So, in the case of Hon. Kirenga, if he has areas where we have people who are not nationals, they could be provided with that kind of committees which are not councils as provided by this Constitution. And, Mr. Chairman, we have already provided in this Constitution that these people have stayed in the country for 20 years and more, can register for citizenship, they can apply for citizenship. So, I do not see any reason why the people Hon. Kirenga is referring to would not qualify as citizens and, therefore, participate in the local councils. But it would be very dangerous, especially, in areas where we have refugees who have gone out of their settlements and settled among the population. If we allowed these people to participate in councils then we are running the risk of having non-nationals ruling over the nationals in this place. I beg to support, Mr. Chairman.

MR. BWANIKA BBAALE (Katikamu North):

Thank you very much, Mr. Chairman. Mr. Chairman, we are discussing representation at a district level, and I think that is how we have been proceeding. When you look at page 10 of the report of

Committee 4, the sub-heading there is district governments. So, I suggest, Mr. Chairman, that we restrict our discussion to representation at the district council. Mr. Chairman, I think it is very important that we have only citizens at the district council, because as we have agreed earlier on that giving them a lot of powers, a lot of responsibility and they are going to be in charge of a district. So, the matters of a district must be handled by Ugandan citizens themselves. But when we move to lower level, I think we should really see how we can utilise the other people who live in the localities. For example, if you have a village and you have a village council and you have somebody a non-Ugandan who might have developed. Who must have invested in that village, and who could be employing even the citizens and would like to come and assist in running the village affairs, why do you lock him out? My view, Mr. Chairman, is that let us restrict the citizens at district council level but at lower level, for example, at village level we can allow non-citizens to remain at only village council and not beyond. I request my Colleagues here to support the idea of allowing non-citizens at village level, but district council we should have only citizens. Thank you very much.

THE CHAIRMAN: Now, the Hon. Member raised a question as to location of the proposed Amendment. What we have here is - yes, the heading is district councils and then we talk about composition. But when it comes to other councils - local government councils - the Constitution is silent. My understanding was that it was silent on local councils because that was supposed to be left to the discretion of the Parliament. When they prescribe the composition under the powers granted to the Parliament under clause 2, so that it was to be left permissive. Nothing stops the Parliament saying that councils in the urban areas where there are foreign investors. Foreigners may be members of those councils, but in the rural setting only citizens may be members of those councils, under Clause 2 as it stands. If you go ahead now and insert that Amendment it means that the flexibility which may be available to Parliament as it prescribes the composition would not be available. In the Constitution we have said only citizens must be members of councils at all levels. Yet if you go in many of the towns, of this country they take the advantage of the presence of the big investors to let them to be members of their small council. Such that they may spend their money on education. But anyway, this is all for you to decide.

MR. KATUMBA MATTHEW (Kiboga County West): Thank you, Mr. Chairman. I will not accept non-citizens to be members on lower local government councils for just only one reason, Mr. Chairman. We are saying that these councils should be the ones to recommend non-citizens to become citizens, Mr. Chairman. Supposing some of these councils are dominated by non-citizens? They are going to recommend wrong people to be citizens! Secondly, these are the people who are going to leak the information to the outside world. So, that is why I reject these people to be on lower councils.

MR. MULONGO SIMON (Bubulo East County): Thank you, Mr. Chairman. I just wanted to bring out the point Hon. Katumba has brought up. The issue of security. There is no way we can guarantee security of information with non-citizens. I come from the border myself and recently some dual citizens who leave at the border with Kenya have been confusing the Kenyan side and confusing the Ugandan side. As I contribute now, there is a lot of trouble with those people who have been confusing agents. So, there is no way we can say these people should belong to the councils. The councils form a very important segment of local government, and when you discuss the government issues, citizen issue it means we have to handle these things by the citizens themselves. If one wants to be a very good councillor, a very active one, then let him be active to contribute to the wealth of the area, but not necessarily being on the council. We are talking of the Executive. So, I think, Mr. Chairman, that is not proper. Secondly, we have outlined the obligations, the duties, the rights of a citizen. This may not apply to a non-citizen. So, dual loyalty and so on may not qualify this person to be a good executive councillor. So, Mr. Chairman, I oppose that Motion.

THE CHAIRMAN: Let us now decide this matter. We have an extensive debate. It is a Motion moved by Hon. Liiga and seconded by Hon. Kasajja Patrick that we delete the word 'district' and insert 'the local government,' so that it reads: "*A person shall not be a member of a local government council unless that person is a citizen of Uganda.*" I put the question.

(Question put and agreed to)

THE CHAIRMAN: Clause 3, is amended in terms just read out. Hon. Delegates, we cannot

pronounce ourselves on Clause 205 because of standing over paragraph (a) of Clause 2, relating to the status for the Chairman of the District to the council. So we leave it at that until we have come to other provisions. Now, we come to Article 206.

MR. KATENTA APUULI: Article 206, the former 205. The committee recommends that Clause 1 as it is in the Draft Constitution stand part of this Constitution to read: "*A district shall be divided by the Electoral Commission into electoral areas which shall be demarcated in such a way that the number of inhabitants in the electoral areas are as nearly as possible equal.*" Mr. Chairman, I beg to move.

(Question put and agreed to)

MR. KATENTA APUULI: Clause 2, the committee recommends that Clause 2, as it is in the Draft Constitution, stand part of this Constitution to read: "*The number of inhabitants in an electoral area may be greater or less than other electoral areas in order to take into account of means of communication geographical features and density of population.*" Mr. Chairman, I beg to move.

MR. MULASSANYI JOHN (Rubanda County West): Thank you, Mr. Chairman. Clause 2, seems to negate Clause 1 of Article 206. While clause 1 says that inhabitants of any electoral area should as far as possible be equal, Clause 2 says they can be less or more. According to me, Mr. Chairman, it seems the two are contradictory. Clause 2 is contradicting Clause 1 and I do not think they should stand side by side.

THE CHAIRMAN: I do not think so really. Clause one is saying shall be as merely as possible equal. Clause 2, is giving the grounds on which they may not be equal. Because the other one has said as nearly as possible equal. Now, they can be more or less, but on what basis do you make them more or less? It is on basis in 2.

MR. MULASSANYI: But, Mr. Chairman, do we mention it here?

THE CHAIRMAN: Yes. Otherwise, how will the Electoral Commission act? In fact, you could even give a formula for purposes of departure whether it is ten or minus, depending on those factors.

MR. RWABITA DEO (Ibanda South): Thank you very much, Mr. Chairman. Mr. Chairman, the importance of Clause 2 is indicated in the last two lines in order to take account of means of communication, geographical features and density of population. Mr. Chairman, and Hon. Members, we are talking as if we do not know Uganda. Some areas in Uganda are so remote, they are so mountainous. We have several islands on lake Victoria, and some of these islands are so many but with few people. Now, by area they are so large that unless you give a special area, a consideration of having an electoral area. It might even be too difficult for a candidate to traverse all those islands. That is why Kalangala despite having 16,000 people or more is a district, because of this geographical feature of those islands. So, it is important that we consider this, and I remember in Kigezi there are some areas which are very difficult to reach. If you are to tell somebody to move over 15 mountains to come to another electoral area, you will never have even the candidate being able to visit those areas. You will never have the officials holding the elections to reach some areas. So, the area which is difficult geographically can be small but as long as it has a reasonable number of population, then this will be in order, Mr. Chairman.

THE CHAIRMAN: Really, I do not see what we should be arguing about this one. This one is just giving the grounds on which the formula in 1, can vary. Hon. Malinga, do you have a departure from that position?

MR. MALINGA: No, Mr. Chairman, I am not departing from it. Rather I just want to inform the delegates that we took this provision directly from the provisions of Article 88 Clause 4, of the Draft dealing with Parliament which says: *"For the purpose of clause (3) of this article, the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, density of population, area and boundaries of districts."* So, Mr. Chairman, the point I wanted to raise was this, whether we are talking about being greater or less than in another constituency, or the quota. I do not know which should be talked about, that is the only thing I would want to -

THE CHAIRMAN: In clause 1, they are talking about lesser or greater from one to the next. They are not fixing a quota like you would have that it will

be 70 plus or minus ten per cent. Here they are saying whatever they will decide as the average for the general, then you can plus or minus taking into account. In fact, in some countries the disparity is so large, like in the Australian context where in a town you need 30,000 voters in a constituency. In some of the areas they have 800 and they campaign by way of helicopters. So, I suggest that we pronounce ourselves on this one.

(Question put and agreed to)

MR. KATENTA APUULI: Clause 3. The committee recommends that clause 3, be slightly amended to read: *"The demarcation of electoral areas shall ensure that each sub-county and an urban authority is represented at the district council by, at least, one person."* Mr. Chairman, I beg to move.

THE CHAIRMAN: What is an urban authority?

MR. KATENTA APUULI: An urban authority is an urban area designated as municipality or, maybe, the expert is here he can explain that one.

THE CHAIRMAN: Let us get clarification from Hon. Bidandi Ssali.

MR. BIDANDI SSALI: Mr. Chairman, with all due respect, I am not an expert, but I have the idea. An urban authority is a local government's urban authority. It is an urban authority that has legislative powers and recognised as a level of local government. Such as -

THE CHAIRMAN: So, the tiers you do not consider trading centres to be but town board, town councils, municipalities. But is a city an urban authority?

MR. BIDANDI SSALI: But somehow, the committee is saying that, a city will be equivalent to a district. So, there is no question of now a city being represented at another district when itself has got the status of a district.

THE CHAIRMAN: But here, they are trying to say that, an urban authority is equivalent to a sub-county. Unless I misunderstand it. The demarcation of electoral areas shall ensure, each sub-county and an urban authority.

MR. BIDANDI SSALI: Yes, in my own understanding which can be put better by those family fellows is that - Mr. Chairman, we are recognising that fact that, in the district there are lower local governments. And one of the lower local units, the family, is Urban Local Government Units. Now, we are making sure that, at least one person must represent an Urban Local Authority, just like we are saying, a sub-county. Whether too small, too big, whether that population or whatever the case may be, as long as it is a sub-county, should be represented by at least one. In which case a big one can have more. But this Urban Authority which can be brushed by the technical authorities we are talking of, the legally constituted local government, but in the Urban context as opposed to the sub-county context.

DR. KABERUKA WILLIAM (Ngorwa County West): Thank you, Mr. Chairman. We would be helped may be in this case, if we vote an equivalent of a sub-county, in an urban area, I think that is what the committee was interested in.

THE CHAIRMAN: Yes, Hon. Okullo-Epak, may be has the answer. He has been dealing with demarcating towns all his life.

DR. OKULLO-EPAK: Thank you, very much Mr. Chairman. I think the situation we are facing here, Mr. Chairman, is that it is assumed a sub-county will be a constituency for election to go to a district council. That is basing. But then, we have Urban Authorities, some of which may even have sub-counties in them. That is not strange. Which are different entities. And the argument was that, there should be a way for Urban Authorities to be represented in district councils. But the basic problem is that, the Urban Authorities are in hierarchy, and they vary so much in size. And you stated Sir, a town board is an Urban Authority. A Town Council is an Urban Authority. A Municipal Council is an Urban Authority and the City Council is an Urban Authority. And we think in future, we may have a City Council which is not a district and there is nothing peculiar about that. Now, a City Council which is not a district could even be having counties and sub-counties in it, just as there are counties and sub-counties in Kampala City. So, it is that entity which if it is not at the same time a district, should be able to send representatives to the District Council. And there will be a range therefore, in the number of representations sent to the

district council according to the size of the Urban Authority. I would imagine that, in this case, a Town Board will have to send the minimum of one. And where there are town councils, they could send more than one. I think this is the argument. The probability of there being four categories of Urban Authorities in a district is very small. The probabilities are that, you will have a town board, you will have a town council in most districts. In some districts, you will now have, municipal councils. So, those are the categories which are called, Urban Authorities.

THE CHAIRMAN: So, you are saying that, Busia for instance and the constituency of Hon. Mwendha. Has it got two town boards or one? The Town Board of Busia, is it a Town Council now?

DR. OKULLO-EPAK: Busia is a Town Council.

THE CHAIRMAN: And Malaba?

DR. OKULLO-EPAK: Busia is a Town Council. Is it a Town Board?

THE CHAIRMAN: I think it is a Town Council now.

DR. OKULLO-EPAK: I thought Busia was a town Council. And I am out of the operations now, Mr. Chairman.

THE CHAIRMAN: But the problem is, if we are saying by constitution that, whatever Urban Authority called, it has a constituency for purposes of going to the district. Who determines the status. Because someone can take a trading centre and give it a status for purposes of ensuring the more votes.

DR. OKULLO-EPAK: No, Mr. Chairman, an Urban Council or an Urban Authority is a statutory declaration. It is not by assumption. All Urban Authorities are properly declared and gazetted.

THE CHAIRMAN: Is there a population quota because I do not want to infer improper motives on the Minister of Local Government who is not here. But you will find that, as at present, I am sure Hon. Lote is hearing, Moroto is a Municipality with 11,000 and Jinja is a Municipality with about 78 - 80 thousand people. Now, how was it decided to declare municipalities? Was it based on population quotas or is based on -

DR. OKULLO-EPAK: Mr. Chairman, the practice is that, from Town Council up wards, it is a political decision. Usually made at parliamentary level. So, I do not see how a minister on his own is going to declare an area town council or municipality or a city without going to Parliament. It is only the Town Boards which probably do not have to go to Parliament for declaration. Trading Centres obviously will never find the way unless they have been declared Town Councils or Town Boards. They are normally called, administration towns. They may also be gazetted in that peculiar arrangement, but they are not urban authority statutorily.

THE CHAIRMAN: Thank you.

MR. MWONDHA PATRICK (Bukooli County North): Mr. Chairman, I think we still have a problem here really. Before the decentralization process, the Urban Authorities were reporting at the same level of hierarchy with the Local Administrations. And the structures of the Urban Authorities would compare and correspond the structures in Local Administrations. Where you have say a parish, you would possibly have a parish in the Local Administration. You would possibly have a ward in the Urban Authority. Where you have a sub-county or gombolola you probably would have a zone or something, a division for that matter. I think the problem we have is that, we want the district Council to be the overall in the District. And therefore, every entity in the District must somehow find its pool at the Council. And this provision is now saying that, once you are Urban Authority, we shall keep you as a Sub-county. And I think that is where the problem arises. And yet, it is possible, to have an Urban Authority which in the whole structure, will have more than one sub-county. So, I think we could probably cure our problem by being specific and say it is the Urban Authorities, the Town Board, then it is a sub-county. If it is a town Council, then it is a county. If it is a Municipality, it would have then to have more than one county. It is not only that. We are likely to have a situation whereby, the Urban Structures in the District will be under represented. Yet they intend to have a lot more activities they are more on the move than the Local area. They have peculiar problems, peculiar urban problems. And if their representation is not adequate, will be creating a suppression of a kind.

THE CHAIRMAN: Is Hon. Matovu, trying to clarify? Okay, let us get clarification from the

Chairman of the Committee, and then we go to Hon. Matovu.

MR. KATENTA APUULI: Thank you. Mr. Chairman. I would like to help the Hon. Delegate on the Floor, by informing him that levels of Urban authorities he is talking about have got their own Local Government Councils. But the Committee thought it prudent that since they are in a particular district, they should be represented at the Council of that district, so that they know what is going on around them in the district which they find themselves. We thought that, it was prudent to do that. So, that is why he is providing all their representation here. As you note in the Odoki Draft, we only talked about the sub-county to be represented at the District Council. But we introduced the idea of the Urban Authority also to be represented, so that they know, what is going on in the district. I thank you.

MR. BIDANDI SSALI: This one should also be seen in relation to what we passed earlier. Where we say, the system of Local Government in Uganda, shall be based on the district as a unit, under which there shall be such a lower Local Governance. Now, these Lower Local Governance, have a right to be represented in the district. Because it is the district which is overall. Overall planning, over whatever the case may be, that we want here to make sure that, if Local government is represented by at least a person. So that, there is no question of combining so many of them in order to be represented by a single person. This is where it really originates.

DR. MATOVU: Thank you, very much, Mr. Chairman. Mr. Chairman, we have got a bit of a problem. We took time before some of the Urban Authorities could be regarded as an entity - as a county in the district as such. So, I am just wondering whether the Chairman of the Committee could consider making an amendment. Whereby we have the demarcation of Electoral areas shall ensure that, each sub-county, and its equivalent in the Urban Authority, for instance in the Municipality of Entebbe, we have two zones, and each zone is equivalent to a sub-county somewhere outside in the ordinary county. So, I was just thinking whether this formulation could be considered sub-county or its equivalent in the Urban Authority so that we avoid the kind of situation where the Urban Authority is considered as just a sub-county in the district.

MR. KATENTA APUULI: Mr. Chairman, I do not think that, it is really necessary to do that. Because where these Urban Authorities are Municipalities, in which case, they have more than one sub-county. It is already recognised that there is more than one sub-county, in that particular urban authority. And those sub-counties, are not necessarily called sub-counties. They are called divisions. But they are equivalent to a sub-county. Sub-county of say, Kituvulu or whatever - Mutubatu in Entebbe, is known as a gombolola in the Local Language. But here, when it comes to English, we call a rural one, a sub-county and an Urban one a Division. It is really not necessary to go down to make those break downs. Because in the Local Language, they are already recognised as Gombolola.

DR. BYARUHANGA: Thank you, Mr. Chairman. From the explanation of Hon. Okullo-Epak, I realised that, we created a problem in our formulation here. Because Hon. Okullo Epak told us that even Town Boards are Urban Authorities. Now, taking it further, it would mean that now, a Town Board is going to have representation as the District Council. Now, considering most of our Town Boards in the Country, considering their sizes and population. Considering that now, there are populations which are usually much less than even rural parishes. I feel it would be unfair for these Town Boards to get representation in the District Council. In the past, we have had town boards to parishes. So, usually in the RC system, they have usually stopped at RC 2 and have been represented as RC 2 as Parishes in their mother sub-county. It is the Town Councils, that have been equivalent to sub-counties and the municipalities have been equivalent to counties since they have had zones. Which zones have been represented by two Councilors in the District Council as sub-counties in the rural areas has been. So, my request to the Chairman, is to change the formulation somewhat so that, the Town Boards will not have this direct representation to the District Council.

MR. LOKERIS SAMSON (Dodoth County): Thank you, Mr. Chairman. Mr. Chairman, we are now getting a bit bogged up from this issue. I feel when we see in this definition that Electoral Areas shall ensure that, each sub-county and an urban authority here you find an urban authority will be expected to send one Member of the council. To me, I think if we modify it in the following manner,

it may try to assist us. I was proposing that, it would read as follows: "*The demarcation of electoral areas shall ensure that, each sub-county and an urban authority other than municipalities and cities is represented at the District Councils by at least one person.*" Because here now, we are trying to qualify that, it is in a sub-county and urban authority where one person is sent. While in the Municipalities, where you may find three sub-counties also will have to send may be three people. And then in Cities it is different. So, I do not know how Members could see that?

THE CHAIRMAN: Hon. Delegates, I think we are going round in circles. Let us agree on principle. The principles are what we are thinking really is that, the equivalent of a sub-county in an urban situation should send one representative to the District Council the equivalent of a sub-county. No, if it is a sub-county and you are saying that, a sub-county is going to be the unity of election in a district. Then the equivalent of a sub-county whether the whole of a town is equivalent to a sub-county or you have a municipality with two sub-counties each one of them should send a @person to the district. Not at least. Because do you have a situation where we shall have to send more than one? You mean there is a variation in sizes of sub-counties? Okay, I think I am being corrected, it is only question of population. So, the argument is, regardless of population. If an area has been designated a sub-county whether in town or in rural setting, it should send at least one person.

MR. BIDANDISSALI: Mr. Chairman, one of the precautions as you know and everybody knows, is to avoid this gerrymandering when you are demarcating electoral areas. Here the idea is to make sure that, there is no question of somebody going in a sub-county, and taking a Parish and so on somewhere. That is one point. The second one is that, whereas your sub-county is composed of about 70,000 people and mine composed of 30,000 or rather 400. The present situation where Hon. Ssendaula represents a county and has a population of 360,000 in the NRC and me or somebody from Kalangala which is also a county, represents just below 3,000 people. Now, in the opinion of the Electoral Commission and in accordance with what we have passed, the representation will be more or less depending upon the circumstances. So, here we are allowing a situation where on one hand we say, every sub-county or equivalent should have at

least one, so that it should not be disqualified or two should not be combined on ground that, one has got 7,000 and another one has got 20,000. Therefore, because of population we combine. We say, on your own right as a sub-county, you are represented. But if a sub-county has got more population, and the Electoral Commission has set a certain quarter and your sub-county has two quarters or three quarters. Then they should be allowed to say, okay we demarcate parishes X and Y to be one constituency and B and E in the same sub-county to be another constituency for the purposes of electing to the District Council. So, that is why we are saying, at least make sure that one is not qualified as long as it is a legal sub-county, and a legal urban authority on count of population. But at the same time, one is not disadvantaged because of the fact that, it is a sub-county also. So, that is why we are saying at least.

THE CHAIRMAN: But I think the way this thing is written is partly causing us problems.

MR. BIDANDI SSALI: Okay, I mean the technical fellows can -

THE CHAIRMAN: If we agree that what we are saying is that, subject to the population quarter. Because what we say could also mean that, we could have a sub-county with more than the agreed quarter but because of communication and other features as to return at least one. So, we are saying that, a sub-county is really a basic unit and must return at least subject to the question of population to be determined by the Electoral Commission. Now, if we agree on that, the rest will be drafting. As it is now, it causes some kind of problems as if you are equating the sub-county in the rural to the urban and so on and so forth.

MR. MALINGA: Thank you. Mr. Chairman, I think we should look at this problem together with proposed Articles 232 on Page 40. Which defines what we mean by a Local Government. A Local Government means a District Council and Urban Council and a Sub-county. Then over lease on Page 41, we said that, subject to the provisions of this Constitution, the Urban Authorities in existence had come in to force of this Constitution under the Local Government Resistance Council Statute 1993. Other than the City of Kampala shall constitute Lower Local Government Units under this council within which districts they fall. Really, what we have done here is to say that, Urban Authorities

have to report to the Central Government through the District Councils in which they are situated. And then, secondly we want Urban Authorities to be represented in the District Councils of the Districts in which they are located. Now, there are several kinds of Urban Councils under the law at the moment. We have Townships, that is Local Administration Trading Areas. These are not to be constituencies for this purpose. Then two, we have town boards. They too will not be constituencies for this purpose.

THE CHAIRMAN: But according to Dr. Okullo Epak, a town Board is a Town Authority.

MR. MALINGA: I just wanted to explain to you what we said; that is not what we said, I want to tell you what we mean; and then we see how we put it in words. Then we have Town Councils - non self accounting town Councils which will not have town councils. They too, will not be constituencies. You know, if you really combine the Statute and this, they will not be. But a Town, a Council with a complete Council of his own will be a constituency which can return at least one member to the District Council. Then you have municipal councils which may have more than equivalent of one sub-county within them will return for each division which is equivalent to a sub-county one council to be a District Council. This is apart from the election to the Council of the Urban Authority itself. I think we stop there, since in Kampala we have only city as of now. So, what we obtain later on would depend on what parliament would prescribe. This is what we are trying to say, whether we have completely said that, in what we have said here. I think if we passed the principle Mr. Chairman, we could refer the whole thing to the Technical Committee, to put in exact formulation what we want. So, I would rather invite that, we discuss what we want to see happen, and then decide that, and then this should be re-drafted. Thank you, Mr. Chairman.

THE CHAIRMAN: So, we are saying, a subcounty and a town council shall return at least. Because the Town Council could be this. It had not yet been made a Municipality but on population basis it could return more than one person. But understand it may return one. A subcounty on base of numbers may return more than one. But minimum, it must return at least one. Once we agree on that, so that now the technical can write it and we leave out these other urban authorities which do not qualify by

virtue of their status as described by Hon. Malinga. The Municipalities are divisible. So we are saying, starting with a Town Council. Actually we are looking at Town council and Municipalities. Those two really. Because the City has its own divisions. I do not know whether I am being clear. I had given the Floor to Hon. Atwoki, then we proceed from there.

MR. ATWOKI AMBROSE (Youth Delegate - Northern): Thank you, Mr. Chairman. Mr. Chairman, the kind of confusion we are in, is because we are motivated by our interest to use Local Government Councils or Lower Government levels in order to demarcate our electoral areas. Because of the convenience. But we find ourselves trapped when we try to equate a subcounty, to an urban authority. Because in an urban authority, you can have, for example the municipality, you can have divisions of which divisions, the population might be equal to or nearly equal to the population of a subcounty. So you find that, it will be impossible to equate an urban authority to a subcounty. Mr. Chairman, I was thinking that, the proposal which was made by Hon. Matovu was quite important in a sense that here the electoral areas will not be permanent features in the administration of justice. They are just demarcation for purposes of election. So, I believe in order to give room for flexibility, we can accept to use the basis of a subcounty. Then state very clearly that in cases of urban authority areas will be demarcated by electoral commission which must be as far as possible equivalent to the basic unit of a subcounty for the purposes of elections. Immediately after elections, we revert to the Original Local Government levels which we normally use. I think this one will help us clear the confusion. Mr. Chairman, I do not know how you look at that one. Thank you.

THE CHAIRMAN: I was trying to think of some formulation. Supposing we said, for purposes of elections to a district Council, to a subcounty or its equivalent in an urban authority, shall return at least one equivalent to a district council. *"For purposes of elections to the District Council, a subcounty or its equivalent in an urban authority, shall return at least one representative to the district council."*

MR. BIDANDI SSALI: Mr. Chairman, I entirely agree with your formulation but I want us to be very clear. Especially I want a comment from Hon. Okullo Epak. I know that, in a municipality, it is

definitely stated legally that, a division within a municipality is equivalent to a subcounty. It is legally stated and recognised. What I am not very sure, one should really mind about, is whether it is clearly stated that, a town Council will be equivalent to a subcounty. In which case, if it is not stated, and it is not even stated that, any component of it is equivalent to a subcounty, we are leaving a lacuna there which could be subject to manipulation. But I am raising it so that, we all hear it. Though it is clear for the Municipality because has equivalency there. But as far as the Town Council is concerned, it is not at the moment clear that, any portion of it or the whole of it is legally equivalent. So that, when you say subcounty, and any urban authority equivalent, there is need to relate what of the Town Council is equivalent to a subcounty. Although it is obvious in the case of the municipality. I just want that clarification from Dr. Okullo Epak.

DR. OKULLO-EPAK: Thank you, Mr. Chairman. Mr. Chairman, unfortunately, a Town Board and the majority of Town Council do not incorporate a whole subcounty. As someone said, a Town Board is hardly parish in coverage. Most of them are hardly equivalent to a parish in coverage today. A number of Town Councils do not cover more than a subcounty. And it should be so awkward as to be that even the headquarter of a subcounty is not within a town council boundary. It could be that awkward, that the Headquarter of a subcounty in which a town council is located could be outside each boundary. So, I think Hon. Bidandi Ssali is right, in the sense that, except even in some municipalities, it would be difficult to confirm that, all of them have more than a subcounty. For instance Lira, if I remember correctly. Lira Municipality honestly does not cover the entire area of Lira Subcounty. So, you have that peculiarity. I think what was the basis for discussion here which was really a compromise? Because the original intention was that, representation at the District Council would come from Rural Lower Local Government that is subcounties. But due to lobby from the urban authorities, and by the fact that, District Councils would be dealing with budgetary and planning matters of Urban authorities, they needed representation. And also, by the fact that, even at the moment, municipalities have representation in District Councils, that is why they became necessary to incorporate in a more generate term urban authorities rather than to be specific and mention municipalities. It would appear, Mr. Chairman,

that, although Hon. Matovu had given us the most innovative formulation, in order to cover this spectrum of different sizes of urban authorities, the technical team may have to be rush a formulation, or what Hon. Atwoki was trying to say that, we refer to a situation whereby -

THE CHAIRMAN: Are you trying to introduce a new Member into the House?

DR. OKULLO-EPAK: I see Ambrose putting up his hand, may be he wants to correct me that it is actually Atwoki. But, I think I am used to either.

THE CHAIRMAN: Hon. Atwoki, do you now want to be baptised at this late hour of the proceedings of the House?

MR. ATWOKI: Mr. Chairman, thank you very much. Mr. Chairman, I am trying to raise my hand.

THE CHAIRMAN: No, in connection with the name but not with the substance.

MR. ATWOKI: No, I want to contribute in the substantive debate.

THE CHAIRMAN: No, he is still on the Floor. Because you see for purposes of our record, are you Atwoko or Atwoki?

MR. OKULLO-EPAK: As Hon. Atwoki was trying to suggest that, we recognise the fact that, urban authorities shall send representatives to district councils. The demarcation of constituencies in Urban Authorities should be decided by the Electoral Commission. Otherwise, to me an all embracing provision in the constitution by the variation of their nature now and in future, would be a little bit difficult, Mr. Chairman the way I see it. Because these boundaries are bound to expand, and today some of them are hardly the size of a parish. So, Mr. Chairman, I think we could agree on the principle that, urban authorities will send representatives to the District Council and the demarcation of the constituencies in Urban Authorities should be the responsibility of the electoral commission.

THE CHAIRMAN: Okay, I think let us arrive at some formulation and then we can polish up the ideas. I think we had accepted roughly a formulation to the effect that, for purposes of elections to the district council, a subcounty or its equivalent urban authority or part of urban authority shall return at least one representative to the district council. So

that, we have said, its equivalent town authority or part of the urban authority. Taking into account that, if a town council is equivalent to a subcounty fine. But also it could be an area or urban authority which has more than one subcounty, then that covers both. Hon. Bidandi Ssali. Now you are proving an expert on these matters although you denied.

MR. BIDANDI SSALI: Mr. Chairman, it is not the expertise that I am giving, but clarification so that we are very clear. Now, legally once an Urban Authority has been gazetted as Town Council, all these such Urban Authorities have the same legal authority as town Councils. Now, my fear is that, the way you are putting it now segregate the Town Council. And the purpose here, is the right of the Town Council to be represented at the District Council. The right of that entity to be represented at the District Council, because while it is dealing with its peculiar matters within its Town Council, the District Council has authority in the overall planning and certain aspects of direction of a Town Council. That is why, it has to be represented regardless of the size and so on. So, those who argued for inclusion of urban authority and the basis of which the Committee agreed, argued in the basis that, we have a right to be represented at a level where decisions will be taken affecting us. So, I had more-or-less bought your earlier formulation when if we talked of subcounty, town councils or municipal councils, and we avoid the encompassing urban authority. Because according to Dr. Okullo-Epak, and according to somebody else, these are the units really, under the district which we are talking about. The town council and the municipal council. In the Municipal Council it is obvious, where there are demarcation equivalent to subcounties, then they will have more than one. Where a municipality has not got the division that are each equivalent to a subcounty, then it will be one representative. So, when we say, subcounty, town council and municipal council, by at least one person, then we have taken care of it. That is why I was saying that, if people could formulate it to encompass either right now or later on so long as we have agreed on the content.

THE CHAIRMAN: But why do we not say directly? A subcounty, a Town council or part of a municipality, they will ensure that, each is represented by at least one person. Then we do not have to go through all these Urban Authority arrangement which bring us to town Boards.

DR. MIYINGO KEZIMBIRA (Bukoto Mid-West): Thank you, Mr. Chairman. Mr. Chairman, the intention of putting in Urban Authority was intentional that some of these authorities, some of Town Boards, have got their own administration. They are bound to expand with time if they are not represented and town boards also, are not limited. They do not have only to take exactly where the town is stopping. But they are expensive in demarcation. And if they do not get represented at the district, they are bound to be strangulated in income and remission of funds to them. And they will never be able to grow. So, while put in Urban Authority, I think would cater for these, so that they also have a voice and are enabled to expand and grow because they are represented. The criteria is, population eventually if the demarcation can allow for that population which accounts for the subcounty, then they should have representation, so that they can be able to grow because they are represented. That was the main purpose of using urban authority so that, we do not limit it to town councils or municipalities. Thank you, Mr. Chairman.

THE CHAIRMAN: Because what we had now come to was that a subcounty for purposes of our technical committee. That a subcounty, a town council or an appropriate part of a municipality is to be represented by at least one person, then the rest are question of demarcations within there. But now Hon. Miyingo Kezimbira is saying, we should lower it even to the Town Board. So that in case of say, Bukooli where Hon. Mwendha Patrick is a Member, we would have also a Member for Naluwerere and positively a Member for Bugiri or possibly both and such other smaller places. Because like as you came to my own Gombolola. If you forgot the municipality, I also have got a gombolola called Buwalasi. Where we have got a small township called Sironko. It is quite small, but active. But under the arrangement of Hon. Kezimbira, my Sironko would send someone to the Gombolola. When in fact his population was much smaller than the parish in which it is. But let us hear the Chairman of the committee because it is stated that, this was deliberately done by the Committee first.

MR. KATENTA APUULI: I thank you, Mr. Chairman. The choice of words here, Mr. Chairman, to say that, we say an urban authority was to limit who sends a delegate to the district council. In discussing this whole matter, we realised that, there

is an expense and a cost to sending a delegate to a district council. We took for example in our consideration the district of Mpigi which is full of all sorts of little towns, medium towns and big towns. And we said, if we open a tap for every little town to send a delegate to the District Council, the District Council would not be able to afford the expense of having to cater for all these delegates. That is why we came to a very carefully made choice of words to say Urban Authority. Because when you talk about urban authority, we eliminate the use of these words, 'certain towns.' I would like to appeal to Hon. Delegates we had also expert advise over this matter. It was very well considered, I would like to appeal to Hon. Delegates to accept the formulation as improved by the Chair so that we move on.

AN HON. DELEGATE: I wish to agree with Chairman of Committee that, the words 'Urban Authority' have special meaning and they should remain in Clause 3 of 205. But I thought we had come near to an acceptable formulation, and I had some slight difference with you, and this is what I wanted to read. The Amendment should go as follows: "*The demarcation of electoral areas shall ensure that, each subcounty or its equivalent in an Urban Authority is represented at the district council by at least one person.*"

THE CHAIRMAN: I started with that, and it had problems with Hon. Bidandi Ssali, because of the equivalencies.

AN HON. DELEGATE: Because Mr. Chairman, I am coming from a district that is Ntungamo District where the Urban Authority has been upgraded that, will have a representation at the district. Therefore, we had to use the equivalent of a gombolola by way of enumerating the tax payers in that Urban Authority and our average gombololas have got something like between 3 and 4 tax payers. When we found out that, the small town itself was not equaling the gombolola, we encroached only neighbouring mulukas, try to bring the number to almost 3,000 tax payers. This experience could be used if we say, or its equivalent to all Urban Authority. In other words, where an Urban Authority falls sort of tax payers equivalent to a Gombolola. It does not have a representation.

THE CHAIRMAN: Are you saying that, Ntungamo is not a Town Council?

ANHON. DELEGATE: It is a Town Council, but in size it is smaller than a Muluka and in population, it was even much smaller. But by encroaching only neighbouring Mulukas, we managed to raise a number to an equivalent of a gombolola and we gave it a representation at the district. So, the word 'equivalent' in an urban authority I thought it was a bit acceptable in that, where for instance you have an Urban Authority which can raise tax payers who are equivalent to say two gombololas, then you would give it two councilors at the district. Where they are equivalent to one gombolola, then you would give it to just one person and so on and so forth.

THE CHAIRMAN: The thing is that, if you go by tax payers, we may find that we may have 100 tax payers who pay more money than 1,000 by virtue of economic arrangements they are in. But that is a different matter.

DR. KABAYO PATRICK (Kassanda South): Thank you, Mr. Chairman, in my view in today's terms, a subcounty is a geographical expression. We cannot therefore, talk about its equivalent, because you do not know whether you are talking about area or population. I think the formulation as it was proposed by the committee would be fine. My only problem with it is the term again of subcounty. Because if it is a geographical expression today, we do not know what it will be in future. I do not know how we can tie ourselves to something that is meaningful today, but in future, may not have the same meaning carries today. Because if in future a particular subcounty is taken over by a farmer and the whole of it becomes a farm or a sugar plantation or what. I wonder whether, we could still be restricted to have one representative of people who may be about 20 in the whole subcounty. In that case, or if there is an epidemic and people are swept and so on. My particular concern with this formulation, is the usage of the word 'subcounty' which retains a contemporary meaning, but which in future will not be applicable. Otherwise, the formulation by the committee is better particularly if you substituted the word or instead of and or an Urban Authority.

THE CHAIRMAN: But I do not agree that, it is just a geographical expression. It is both geographical and administration unit. And so, it is definite with a gombolola chief, with his boundaries, and his subjects. It is like Uganda but on a small basis.

You cannot say, Uganda is a mere geographical expression. I would say that, let us close it this way, if it is agreeable. The rest will be polishing up. That a subcounty, a town council, i.e. Demarcation of electoral areas shall be ensured that, a subcounty, a town council, or an equivalent part of a municipality is represented by at least one person. Then the rest is going to be polishing at. So that, at least one person comes from a town council, or at least one person comes from a subcounty as we know it or in case of a municipality. The equivalent part of that municipality which could be described as they do in some places, others call them divisions. Because if we use the word 'division,' we have a problem, because some of the Members here represent divisions which are equivalent to counties within Kampala here for instance. If you say the Nakawa Division, there is-

MR. BIDANDI SSALI: Your formulation, does it accommodate a situation where a municipality as a whole could be equivalent to one subcounty? It does? If it does then it is alright.

THE CHAIRMAN: But now, if we go on discussing this because of other small interests, I do not think. The rest will come by way of drafting. I can see, there are very serious concerns because of Makindye Division. Okay, I will listen to two.

MR. KAJARA ASTON (Mwenge County South): Thank you, Mr. Chairman. Mr. Chairman, I would like to suggest that, instead of saying that, each subcounty and an Urban Authority, we say *(interruption)*

THE CHAIRMAN: But we have already moved beyond that.

MR. KAJARA: No, we have not moved beyond that, Mr. Chairman. Because we still have the problem of Urban Authority which includes many other units other than Town Council, City Council, Municipal Council. Mr. Chairman, I would like pay attention to Local Government Resistance Council Statute, which defines an Urban Council, which includes City, Municipal and Town Council. Which necessarily leaves out these small town boards and small towns. So, if we called it urban council here, it would carry better meaning. And where they are saying that, can be at least one person, that provides for the City Council which has division councils, board councils and so on. So, Mr.

Chairman, that is why I was saying that, instead of using the word 'an Urban Authority,' it should be 'an Urban Council.' Because the word 'Urban Council,' is already defined under that Local Government Statute, which sets up all those Councils.

THE CHAIRMAN: Of course that one cannot define our constitution. That is subsidiary legislation.

MR. NSAMBU NSUBUGA (Makindye Division West): Thank you very much, Hon. Chairman. I would like to get clarification from Hon. Bidandi Ssali or the Hon. Members of the City Council. Because I am really confused. The subcounty has been made equivalent to an Urban Authority. And yet you find the subcounty in the City Council, is really very big with even bigger population. And you say that it can be represented by at least one person. At the moment, you find it has been represented by about nine people to the district council. So I find that it is really so confusing that the equivalent you are giving will make the city council be underrepresented.

THE CHAIRMAN: No, I think let us read in sequence. You read 206 (1). It says that the electoral Commissioner will demarcate the districts into electoral areas and that you will ensure that each one is more or less equal to the other except for reasons which have been set out in two where you have plus or minus. But they are saying regardless of this, at least every sub-county should have a person representing it. In case of Makindye Division, this has several Subcounties or even if it was just one sub-county called Makindye division, then it would have to return as many people as the demarcation under 206. But at no time should Makindye division be denied a representation to the district council or merely because they say it is a very small sub-county. However small a sub-county is, it must have a representation of at least one. If it is highly populated, then the population formula arrived at by the Commissioner by virtue of 206 (1) and 206(2), that will have to be used. I think we leave it at that and the rest will be polishing up.

MR. KATENTA APUULI: Mr. Chairman, clause 4. The committee recommends that clause 4 be amended by substituting the word 'three' with the word 'four' to read: "*All Local Government Councils shall be elected every four years.*" Mr. Chairman, I beg to move.

THE CHAIRMAN: Agreed. Next.

MR. KATENTA-APUULI: Clause 5. The committee recommends that clause 5 be amended to read: "*Elections of all local government councils shall take place at least 60 days preceding the expiring of the term of the existing council but shall not coincide with Presidential or Parliamentary elections.*" Mr. Chairman, I beg to move.

THE CHAIRMAN: Agreed.

MR. KATENTA APUULI: That brings us to the end of that article Mr. Chairman.

MR. KIRENGA: That you very much Mr. Chairman. I am perturbed by the fact that we have not made a provision regarding qualifications for elections when standing as a candidate and sitting in any of these councils apart from citizenship. Because the other section we read about Parliament empowers Parliament to make laws regarding composition. Composition means numbers Mr. Chairman. It does not mean qualifications, the functions and electoral procedures. Electoral procedures do not regard qualifications. Mr. Chairman, I am thinking of somebody who does not know English. Should he sit in a district council? I am thinking of somebody who is mad. Should he sit in the district council? I am thinking of somebody who qualifies to be in the district council but then later, he becomes mad and starts fighting everybody. So Mr. Chairman, I would like to put in a clause saying that Parliament shall make laws regarding qualification and profession of members of the councils.

THE CHAIRMAN: Can I hear brief arguments on the interpretation of Clause two of 205?

MR. MALINGA: Mr. Chairman, in my humble opinion, if we say Parliament shall prescribe the qualification, that is sufficient also to say Parliament also should name these qualifications. Because if they say the qualification and you do not meet the whether at the beginning or during the course of your tenure in Parliament, then you become disqualified because you no longer have the qualifications. So I do not think it is necessary to add these qualifications.

THE CHAIRMAN: He is saying that there are no qualifications?

MR. MALINGA: Okay, well if it is to provide qualifications, that is okay, that is agreeable to me.

THE CHAIRMAN: But do we have to detail them or we can say Parliament shall by law prescribe the composition, qualifications of membership

MR. MALINGA: No. We do not have to detail them. We just say, give Parliament the power to -
(*Interruption*)

THE CHAIRMAN: In other words, we can actually on his prompting revisit this paragraph two and expand to include the power to Parliament to prescribe qualifications instead of making them part of the constitution. So the technical committee will redraft two to include giving power to Parliament to prescribe qualifications which also will of course carry the qualifications under that one. So we do not have to take that motion separately. Thank you. In view of that, now shall I put the question on 206? That 206 as amended do stand part of the draft constitution.

(Question put and agreed to)

THE CHAIRMAN: Hon. Delegates, I think the Chair may need a small break. Then when we come back, we continue with this. No, let us put it this way that we have done quite a number of good articles. Then tomorrow, we start on a very interesting subject of revocation of mandate and then we go on to the chief executive. Could we do 207. Is it contentious? Hon. Katenta Apuuli, can we try 207?

MR. KATENTA-APUULI: We can Mr. Chairman. It is only saying that Parliament will make the arrangements. It is a very straightforward article. Former 206 is 207 now - Revocation of mandate. The committee recommends that Article 206 be amended to read: "*The mandate of an elected member of a local government council may be revoked by the electorate as Parliament shall by law prescribe.*" Mr. Chairman, I beg to move.

MR. OWORI: Mr. Chairman, thank you. Mine is I think just a recommendation which we should make to the technical committee. Because the way it is written, it could mean that before an electorate can revoke its mandate on Dr. Mugenyi who is their elected member, Parliament must prescribe that the mandate should be revoked. I thought what the committee meant was that Parliament will

make regulations or it meant that the manner in which this mandate could be revoked shall be prescribed by Parliament. I tend to think that the way it is written can have double interpretation which is not healthy.

THE CHAIRMAN: I do not have that understanding.

MR. TIGWEZIRE JOHN (Bunyangabu County): Thank you very much Mr. Chairman. I think what we need now Mr. Chairman, is maybe to alert the technical committee to formulate it in such a manner that they provide a general principle under which any person can be or revocation can be applied. I think we agree on what is recommended but it can be reformulated to apply to everybody, not to apply to a person as and when people want him to be recalled. I thank you Mr. Chairman.

THE CHAIRMAN: I think now I do follow what the Hon. Member is saying, that we shall say, the mandate and then formulate in such away that we are not saying that every particular time they want to. Anyway, let us approve it in its form and leave it to the technical committee to look at it and see if it raises problems of construction and then it can be refined.

MR. DICK NYAI (Ayivu County): Thank you Mr. Chairman. I quite agree with the suggestion of the Hon. member. But I think in recasting it, it would be easier to start by saying Parliament shall by law prescribe and then go on to prescribe about the revocation of members. It would be very straight forward Mr. Chairman.

THE CHAIRMAN: Okay, the members of the technical committee must have taken your position. That being so, I would like to put 207 that it does stand part of the draft constitution.

(Question put and agreed to)

THE CHAIRMAN: Tomorrow, we start on the District Chief Executive - Article 207 in the draft but 208 as per the report of the committee four. With that, I would like to adjourn and we resume tomorrow morning at 9.00 o'clock. We stand adjourned. Thank you.

(The Assembly rose and adjourned until Friday 31st March at 9.00a.m.)