



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

MONDAY, 6TH FEBRUARY 1995

MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 2931]

Price Shs. 5,620

Monday, 6th February 1995.

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

NATIONAL ANTHEM

P R A Y E R S

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

(The Assembly was called to order)

**CONSIDERATION STAGE OF THE DRAFT
CONSTITUTION OF THE REPUBLIC OF
UGANDA.**

CITIZENSHIP BY BIRTH:

THE CHAIRMAN: Hon. delegates when we adjourned, we had approved the text of article 41 paragraph (a), we were now considering the schedule which is referred to in that constitution. In that article, the Chairman of the committee had indicated that there were some amendments to be made to the schedule as indeed, there was also an outstanding case which had yet to be resolved, namely the question of whether Bahima are separate from Banyankole. So, I will give the Floor to the chairman of the committee to refresh our memories and then we proceed from there. We are considering the second schedule to the Draft Constitution.

MR. KATENTA APUULI: Thank you, Mr. Chairman. Hon. delegates, when we parted at our last meeting, we promised that we would get together with my committee to try and take a decision on the issue of the Bahima. Today, we sat and we were unable to realize a critical mass of necessary members to be able to make that decision. So, I am not able to report that we took a decision, Hon. Mr. Chairman.

THE CHAIRMAN: But is it a matter which can be left to the plenary to decide?

MR. KATENTA APUULI: It may be better here, Mr. Chairman, because the committee is having difficulties in dealing with this matter. My committee is divided over the issue

THE CHAIRMAN: What I suggest we do is that we proceed with the schedule as it is and whatever amendments you have agreed on to be moved. The question of the pending matter can be reopened at consideration stage should it become necessary, so that we do not hold up in doing out work.

MR. KATENTA APUULI: I tend to agree with you, Mr. Chairman.

THE CHAIRMAN: So to proceed, we discuss what we have, that matter can be left until such a time as it is resolved.

MR. KATENTA APUULI: Shall we assume that we have dealt with the schedule, therefore I move on to the next stage?

THE CHAIRMAN: No, you had suggested some amendments. Members raised queries, for instance Hon. Obua Otua was wondering how does he create his own tribe and put it on the schedule.

MR. KATENTA APUULI: The number of amendments that we requested to be attended to is in respect of No. 12 - Bakonjo, which I think that it should be a straight forward amendment and should be accepted because it is a question of spelling.

THE Chairman: But did you read out 49-50?

MR. KATENTA APUULI: Yes I did from 49 to 58.

THE CHAIRMAN: Here on the typed schedule we have 56.

MR. KATENTA APUULI: Because Bukusu was added to the list.

THE CHAIRMAN: Then what makes it 58, which is the other one?

MR. KATENTA APUULI: Bahima makes it 58 Sir.

THE CHAIRMAN: Okay, Bahima we leave it out. Now these are the Bukusu of Kenya?

MR. KATENTA APUULI: I was reliably informed that there are Bukusu Ugandans as well, and I stand to be corrected on that.

MR. KAMURON (Kongasis County): Mr. Chairman, thank you very much. I was the one who raised the issue of the Bukusu people who are Ugandans. Incidentally, they are people who live in my county largely, and also scattered around the district, and they also live in North Mbale in Bunambutye area and South Karamoja particularly in Upe county, and we discussed it with Hon. Kiyonga and also admitted that there are people of the Bukusu tribe of Uganda and one of them is actually even a Gombolola chief of the area - Gombolola chief or Saza chief somebody like that. So we thought if we did not include these people in our schedule, these people might become stateless in future because their number is increasing every other day, and if we do not consider it now, we do not have any other time to do it. So thank you very much Mr. Chairman.

MR. KIYONGA: Mr Chairman, I concur with what has been said by the Hon. Member on the Floor. Our problem earlier on, we have been thinking that the tribe Bukusu - we thought they were the Bagisu, but when we researched and found that they were different in language, their language was different, the way they even do their cultures, customs, these circumcision ceremonies, we found, Mr. Chairman that these people were different. And it is important that they be treated as a different tribe - ethnic group. So I concur, it is true that these people - most of them happen to be on the other side in Kenya. We found that these people were in Uganda as far as 1926. Mr. Chairman, thank you.

MR. CHANGO MACHYO: Point of order! Mr Chairman, the point of order I want raise is, is it in order for the speaker to mislead the House by saying that the Bukusu have a dialect different from Bugisu? Because Lusamya, Lubukusu are not different languages.

THE CHAIRMAN: I think that is more of clarification, really you have clarified it for the benefit of members.

MRS. KULANY: Mr. Chairman, I was also trying to raise the same issue like Mr. Chango Machyo that what is the difference between

Babukusu and Bagisu of let say Bubulo? Because to me, they speak the same language and are the same people.

THE CHAIRMAN: Hon. Mulongo is not here but his dialect, I am sure, is no different from that of Wamalwa Kijana. The difference is very tenuous.

MR. WANENDEYA: Mr. Chairman, the Babukusu who left Bugisu in Mbale district as it is now called, crossed Bwakaka, then the British came and drew up the boundaries of Kenya and Uganda. So the Babukusu - because they left a hill, Hon. Wanjuzi's electoral area, and there is this hill there called Bukusu - so they crossed Bwakaka and when the boundaries of 1884-1885 were designed, these Bagisu who are in Kenya became Bukusu. They got their own identities, just like my brother Machyo and even the Banyole and the whole host of other people originating -

THE CHAIRMAN: Hon. Wanendeya do not claim Members here because you may cause us -

MR. WANENDEYA: Mr. Chairman, what I mean, Mr. Chairman is that the origins of these people is the same. So it will not be fair to say that Bukusu is a different tribe, but even some of our customs, even if they are in Kenya, although they have slightly modified them, they are essentially the same. I thank you.

MR. BYAKIKA: Point of information! I wanted to inform Hon. Wanendeya that *Banyole* actually did not come from *Babukusu*, *Banyole* came from the end of Mt. Elgon and the person who came was called Nanyumba, a Muniyole. He never went through the hills he is talking about, but they came and settled in Bunyole from there. Some of them went to Busoga and others stayed around. Thank you.

MAJ. KATEREGA: Mr. Chairman, although I am a Member of committee four, I understand this came out of Committee Four. But for me, I am opposed to this House to sit here and start deciding which tribe is to be added on the schedule. I have got the 1991 census figures here. Some of the tribes which claim to have been left out, they were not indicated. Some people really have been fearing to mention out their real tribes. For instance, in Mukono - the book I am holding here

is for Mukono 1991 Census - I have seen the *Banyala* also to be considered to be added on the schedule. But when the census was carried out, they never mentioned that the Banyala were existing. They call themselves Baganda and if you go into that, Mr. Chairman, I know the Butagwenda are also going to raise-

THE CHAIRMAN: He would like to inform you so that we proceed.

MAJ. KATEREGA: Mr. Chairman, I am not ready to get his information.

THE CHAIRMAN: Okay he is not being informed. Please go ahead.

MAJ. KATEREGA: So, Mr. Chairman, we have got some other tribes, some minor tribes. For instance, I am from Mukono, I am a *Munakyaggwe* we used to have our language. If we start considering small, small minor tribes to be added on the schedule, the *Banakyaggwe* also may come out and say, for us we want *Banakyaggwe* or *Nabuddu* and in Luwero there is small tribe called *Baparajoti* so we shall end up in a mess. So, Mr. Chairman, I think it will be wrong for this House to sit here and start considering some tribes to be added on the schedule.

Secondly, Mr. Chairman, you know the boundaries of Uganda have been shifting during colonial times - so many times. The *Bafumbira* my brothers here, once they were part of Rwanda and then I think - I have forgotten the year, it may be 1914, these people were added to Uganda, these people were just fixing boundaries here and there. If we start looking into that, I do not want at this material time for Uganda to have a problem with our neighbouring countries.

This question of *Bakusu* we have been talking about, I have been to that part of the region the majority of them are in Kenya. So, when you put them in the constitution of Uganda, then that will mean Uganda wants to extend its boundaries and it will be very very dangerous, Mr. Chairman.

MRS. NTABGOBA: Point of order! Mr. Chairman, is it in order for the Hon. Member on the Floor to talk on behalf of *Bafumbira* when we are waiting for our turn?

THE CHAIRMAN: Hon. Katerega there is no point. Their turn will come.

MR. KATUREEBE: Thank you, Mr. Chairman. I rise to seek clarification, hopefully may be from the Chair. What exactly are we doing on this article, are we enumerating the tribes or the ethnic communities as existed at a particular point in our history in the year 1926, or are we creating new ones or naming the ones that were listed in some colonial statute or some colonial schedule in 1926? Because if it is a question of writing the tribes or communities that exist in Uganda today, then there are so many other small ones including the *Banyaruguru* whom we should put here.

THE CHAIRMAN: We are talking, about 1926.

MR. KATUREEBE: Even if you are talking of 1926, the schedule that we are referring to is a matter of historical records. We must leave it as it stands.

THE CHAIRMAN: He was saying if we are talking about 1926, the people to be or the community to be enumerated would be a question of historical records. Therefore, the question which has to be answered is whether when you seek to add this group, were they there within the boundaries of Uganda as of 1st February in 1926 as distinct communities?

MRS. BWAMBALE BIIRA LOICE: Mr. Chairman, the subject on the Floor is very important. We are trying to correct errors that were made in the past. And errors in records, in documentation, and ethnic composition. Ethnic groups are some of the very grievous errors that have been made even by the documents that are being referred to. For example, the 1991 Population and Housing census dumped the *Batoro* the *Batuku* and *Basongora* into one ethnic group yet there has been contribution on the Floor of this House and the representatives from Nyabushozi like Hon. Karuhanga, myself and other CA delegates from Kasese have ably stated that the *Basongora*, many of whom live in Kasese now, feel that it was a historical omission to have mentioned them and dumped them together with the *Batoro*. They have their own ethnic composition. They have written documents, we have done a research Mr. Chairman, I have the research with me. So it is not a question of just brushing off the

issue and saying that some ethnic groups here mentioned from this committee are just claiming to be there as of now. Many of them were there even in 1926, 1991, but they were ignored and this is a question of violating their human rights.

On this Floor last week, we said that the boundaries of this country were arbitrarily made and some communities were forced to be divided into two. The *Bakonjo* community for example, is one such community. In Uganda the *Bakonjo* are known as the minority group simply because the boundary just got a quarter of us and fixed us in a country called Uganda. But the majority of the *Bakonjo* are living in Zaire and I do not see why the *Bakonjo* of Zaire called *Banandi* should not be registered as a *Banandi* group in Zaire and the *Bakonjo* get registered as *Bakonjo* group as an ethnic group in Uganda. So the point here is, perhaps the committee - I seek clarification from the chairman of the committee to tell us how some of these ethnic compositions were accepted by his committee. And those which are genuine and have records like the *Basongola*, I am talking for now, should be included. Those who are making just a claim -

THE CHAIRMAN: Hon. Bwambale, you are now making a speech on something which is already done. If you read the schedule they read to us, in the proposed amendment, there are *Basongola* there, are these different from the ones you are talking about?

MRS. BWAMBALE LOICE: Mr. Chairman, thank you. I was reacting to a comment made by neighbours behind me. Hon. Bat Katureebe was saying that if we just take names for the sake of it, then the *Banyaruguru* can as well claim. Now since the *Banyaruguru* did not go to the committee to try and claim a different ethnic composition, they should not be added here. This is the point I am saying that there are some who do qualify to be considered by this House and there are others who may be just appearing to bring in. We must draw a distinction, Mr. Chairman.

MR. SAKWA NANYWAKA (Bungokho South): I think, Mr. Chairman, it is important to analyse this issue carefully. The schedule which we are trying to put in the constitution is a result or an appendix to Article 41 Clause (a) which says: "every person born in Uganda either of

whose parents or grand parents is or was a member of any of the indigenous communities existing and living within the borders of Uganda..." and says and are set out in this schedule. So if we say that we just look at the historical listing of ethnic groups, then we are indirectly saying that we might end up making some genuine Ugandans stateless today. Because if the *Babukusu* for example, or any other ethnic group has been living in Uganda and we are saying that we should not list them because historically they did not appear in the schedule, then they automatically fall out of the category of citizenship by birth. So we are going to ask people who should have otherwise been Ugandans to end up applying for registration in order to become Ugandans. So I think much as we fear that the list may become longer and longer, we are dealing with a sensitive issue of citizenship which has raised a lot of dust during the time we were campaigning, and I would, Mr. Chairman, think that, it would be wise to take this matter to the technical committee to look at the different ethnic groups and list them out properly. Thank you, Mr. Chairman.

MR. MURULI MUKASA: Thank you very much, Mr. Chairman. This issue of citizenship by birth is indeed very important and the list here which was recommended by Committee Four to be added on to the list which The Constitutional Commission put as at 1st February 1926 is indeed important. It is a correction of a historical omission which was made on that date - on 1st February, 1926. Mr. Chairman, I do not think the list here is just a concoction. The communities referred to on this additional list as are there, the people are there, the communities are there, they have languages they speak and even here some of these communities - these communities have representatives. So I think it would not be far fetched for somebody, it would not be right to say that may be people are trying to form up new groups, or they are just coming up with something different or that people have not been mentioning what they are. Even that is a very important point why they have not been mentioning what they are. It would be very interesting to look into it. These groups might be very small but I think that should not prejudice anybody, that should not stop them from being put on this list of indigenous communities of Uganda. They may be may be 100,000 people or 200,000 people, but since they are

there, they are a community, they are a group, I think it is proper, it is within their entitlement also to appear on this list.

People have been talking of tribes which are lost, I do not think this is the issue here. For instance, somebody mentioned the *Banakyaggwe*, that is a group which has just remained in name, but in essence, those are Baganda. So nobody has come up to say the *Banakyaggwe* should also be included because effectively, that group really no longer exists but these groups which exist, these ones which were pointed out by Committee Four, I think should be included without too much argument really. It is just a question of adding these people, there is nothing really the matter with it. I would appeal to Members really to add these groups on, and we continue with the rest of our business.

THE CHAIRMAN: Okay, we have I think really exchanged a lot of views on this one. I do not think that we are going to add anything new unless Members do not feel that we should take the recommendation of the committee. The committee is recommending that we add to the list, *Bafumbira*, *Basongola*, *Banyabindi*, *Baruli*, *Bagungu*, *Batagwenda*, *Babwisi*, *Banyala* and *Babukusu*. And I see no objection, I take it that the schedule is adopted with that. Agreed.

HON. DELEGATES: No, no!

THE CHAIRMAN: But we agreed that the question of *Bahima* would be left to be resolved through various circles until the matter comes back to us.

MR. BATEGANYA: Thank you very much, Mr. Chairman. I would like to get some clarification as to the difference between *Banyarwanda* and *Bafumbira* who are going to be in this schedule. If somebody could give me that difference, I would really vote with a clear conscience. Thank you very much, Mr. Chairman.

DR. MATEKE: Thank you very much, Mr. Chairman. It would seem some of the Members here have not done enough research about the historical origins of the peoples of Uganda. As regards *Bafumbira* who live in Kisoro district, they have been there for very many centuries. Some centuries back, this area was conquered by

the King of Rwanda. Towards the end of 19th century, the Belgians, the Germans and the British scrambled for the same area. Now in 1911, the British made effective occupation of this area. From that date onwards, after the establishment of this effective occupation, the *Bafumbira* were under the British rule up to the time we got independence. And the people who live in this area, the *Bafumbira* have been evolving their own culture, their own values, their own traditions so much so that it is really an integrated community, integrated ethnic group. So the people who try to mislead others that because at one time the Rwandese Kings ruled *Bafumbira*, therefore, we are Rwandese is wrong. It is like saying, since the British conquered Uganda, therefore, we became English men. So I would like to enlighten my Colleagues here that the *Bafumbira* have always been there, will always remain there, and they are not *Banyarwanda* as some people are trying to claim. Those who are claiming to be *Banyarwanda*, we do not object, let them be called *Banyarwanda* and they are already in the schedule, but all we are trying to say is that, history was distorted, the *Bafumbira* were not put in the Third Schedule. So we are trying to correct this error which was made. Thank you, Mr. Chairman.

THE CHAIRMAN: Okay, the clarification has been made. Now the point is that the schedule has been carried as amended. Now what we do is, I call upon the chairman of the committee. Hon. Katenta ApUuli, let us go to the next because if we begin discussing what we have approved, we can never finish. Let us now go on to paragraph (b) of 41.

MR. KATENTA APUULI: Thank you, Mr. Chairman. Article 41 has a paragraph (b), and the committee considered this paragraph (b) and found it properly formulated and recommends to the Plenary that it should be adopted into the constitution as it is in the Draft Constitution to read: "Every person born in Uganda, either of whose parents was at his time of birth a citizen of Uganda." Mr. Chairman, I beg to move.

THE CHAIRMAN: Agreed. Next paragraph.

MR. KATENTA APUULI: Paragraph (c); the Committee wishes to recommend that paragraph (c) be slightly amended because of the following reasons. Article 41 acknowledges the automatic

right to the citizenship of all the citizens at the time of coming into force of this constitution including those born up to the time it comes into force. The qualification has been added, and it reads; "*Every person born outside Uganda after the commencement of this constitution one of whose parents was at the time of birth of that person, a citizen of Uganda otherwise than by virtue of this paragraph.*" Mr. Chairman, I beg to move.

MR. KABUGO: Point of clarification! Mr. Chairman, I seek to be clarified or given more explanation about the last sentence. "... *a citizen of Uganda otherwise than by virtue of this paragraph.*" I do not really understand that. What is the intention behind the whole text.

THE CHAIRMAN: Chairman, I think the Members are still confused about the import of this particular recommendation. "*Every person born outside Uganda after the commencement of this constitution*" fine, "*one whose parents was at the time of the birth of that person the citizen of Uganda*", fine. Then you say "*otherwise than by virtue of this paragraph*". So they are saying, if you are a person born outside Uganda and one of your parents was a citizen of Uganda at the time you were born outside Uganda, then the child of that person could not also give rise to another Ugandan who is born outside. I do not know whether it is logical. Chairman, could give us - any Member of the committee -

MR. KATENTA APUULI: I will need technical help, may be I should ask my legal adviser Hon. Malinga to help.

MR. MALINGA: Mr, Chairman, I think on reflection, we should take it as far as "*Uganda*", and leave out the expression "*otherwise than by virtue of this paragraph*".

THE CHAIRMAN: Otherwise the effect of it would, for instance, okay, I think this appeared in another constitution somewhere either the 1967 one which means that say, just for argument's sake, I am not saying that this is the case but say, supposing one of Hon. Kanyeihamba's children was born outside Uganda, he would be a Ugandan by virtue of the fact that Kanyeihamba is a Ugandan - I mean by birth by virtue of this. But the child of his child would not be a Ugandan by birth if you follow this logically. Because you are

saying "*otherwise than by virtue of this paragraph*".

MR. OMARA ATUBO: Mr. Chairman, I just seek clarification Mr. Chairman, if I could help with the interpretation. The effect of adding "*otherwise by virtue of this paragraph*" would be like this, Mr. Chairman. If we do it mathematically, if in 1972 for example, a female Ugandan got married to a male Indian outside Uganda, and they give birth to a female Indian who gets married to a male Japanese and Mr. Chairman and that is in 1990, the female Ugandan in 1972 is married to a male Indian outside Uganda and they give birth to a female Indian, that female Indian would be called by paragraph (b) - she could be entitled to citizenship by birth. And she is still out of Uganda and that female Indian, over 18 years now, gets married to a male Japanese and she gives birth to a male Japanese in 1993, at the age of 3 years Mr. Chairman. without "*otherwise than by virtue of this paragraph*", that child born in 1993, would be a Ugandan by birth. But if you add "*otherwise than by virtue of this paragraph*", that offspring of the female Ugandan and a male Indian would not be a Ugandan.

So, Mr. Chairman, if we take it mathematically by giving this marriage factor and it climbs up, you may become clearer why "*by virtue of this paragraph*" is added. It is exactly to disqualify the offspring of Ugandan and a non-Ugandan who are outside Uganda and therefore, would otherwise be entitled to be a Ugandan by birth.

THE CHAIRMAN: What do you say of the example of the case of say, Prof. Kanyeihamba's

MR. OMARA ATUBO: But Mr. Chairman, I was in a way extending your argument by really giving practical example.

THE CHAIRMAN: No but I think you quoted the most extreme examples of marriage to Indians and Japanese, but because some of those will become Indians and Japanese anyway. So this issue may not arise because the other provisions which say once you knock, you have to make a choice. But we are taking a case where a Ugandan resides outside Uganda and whether his wife is a Ugandan also or not, the issue does not arise, but they produce a child who by virtue of this one -

because the father is a Ugandan by birth, but you are saying otherwise. Then it means the case I gave of the child of Hon. Kanyeihamba, the child of that one will not be eligible to be a Ugandan by birth. Unless Hon. Kanyeihamba thinks I am stretching the example too far.

PROF. KANYEIHAMBA: Thank you very much, Mr. Chairman, One point of procedure because I thought that the legal Member of the committee had conceded that this was badly worded, and therefore, he had suggested that we remove the last, I think, five or six words which would be acceptable to everybody. But while appreciating the example given by Hon. Atubo, and I agree with the Chairman that these are people who will have to choose when they become 18 whether they want to be Ugandan citizens or not, but if you take the example you gave of mine, when my son is gone outside Uganda then he comes here and then he is given a job, he marries a Ugandan and he is given a job perhaps as First Secretary at the US Embassy, and he produces a child, now by virtue of this provision, that child would be precluded from being called a Ugandan by birth. Even though really he is a Uganda by birth. So, we should not, in covering the foreign aspect exert the extreme execution that Hon. Omara Atubo has given. We should not defranchise people who are genuinely born Ugandans. So for that reason, I would suggest that we accept the proposal from Hon. Malinga that the last qualification should be deleted and then the clause would be passed. I thank you, Mr. Chairman.

MISS GRACE AKELLO: Mr. Chairman, may be I do not understand it but the way I read this, I thought the Clause, "*otherwise than by virtue of this paragraph*" would cater for these people who were not born Ugandans but had registered as Ugandan citizens and then they gave birth to their children but were living outside the country. Then those children would have a right to claim Ugandan citizenship. I thought that is what it caters for but I may be wrong.

THE CHAIRMAN: No, it was catering for the situation that Hon. Omara Atubo tried to explain. But where it is saying that we would have a practical effect, although of course, there was a small difficulty with the example given by Prof. Kanyeihamba, with regard to his son working with the Uganda Mission, because that will be a

different thing. Because that is a diplomatic mission. There is a whole horde of Ugandans. I think that provision essentially was aimed at the Asian community who had left. Some of them were citizens and they were hoping that they may begin pursuing the situation of Hon. Omara Atubo. But given that there are many Ugandans who are living within the boundaries of Uganda but they do not loose their citizenship, you will find that if we adopt this, you are going to create that difficulty of the child of the child becoming a non-Ugandan by birth.

PROF. KABWEGYERE: Thank you, Mr. Chairman. I am looking at the problem this way and if we may be allowed to use the example you chose, if we are looking at an example of a Ugandan married to a foreigner who by virtue of the marriage she becomes a citizen or he becomes a citizen, but lives outside and a child is born outside. That child according to this provision is a Ugandan by birth. Now if this Ugandan by birth remains outside and marries someone else, say for this argument now, that person is not a Ugandan, and now marries somebody outside who would automatically also become a Ugandan by marriage, the child out of that marriage cannot automatically become a Ugandan by this Clause. Because I see the distance we are moving away from birth, acquiring citizenship by birth is now going further and further away as distance is defined as outside Uganda. Because, if that person is likely to be a President of Uganda, he may after having been born outside - one of the parents was born outside, and he was born outside, and a child out of that marriage is outside, he could even be somebody who has no knowledge of what is going on in Uganda. I think this is where this Clause modified or implied would cater for that situation. That is the message I was trying to get out of this. And I think this is what he possibly had in mind.

THE CHAIRMAN: Yours is just like Hon. Omara Atubo's.

DR. MAGEZI DAUDI: Mr. Chairman, I would like to seek your indulgence in this matter. Because we are now defining the categories of people who are citizens of Uganda by birth and my understanding of this is that there has to be some Ugandan genes in that offspring to qualify to be a Ugandan citizen by birth. And I would not

want to see a person who acquired Ugandan citizenship by registration but without any Ugandan genes in their offsprings, the third generation becoming Ugandan citizens by birth. Therefore, this word of "otherwise than by virtue" is - I do not understand it. I would like to seek your indulgence to simplify this to assure me that what I am saying is what this Clause is going to do to exclude people to be citizens by birth, when they do not have any Ugandan blood in them.

THE CHAIRMAN: What is Ugandan blood if a person is already a Ugandan citizen?

MR. MALINGA: Mr. Chairman, may be let me explain what we had in mind when we provided this provision. What we had in mind was this. That you can get a person who comes here, applies to become a Ugandan citizen. And having acquired Ugandan citizenship, he goes back to his former country of origin. Now he is a Ugandan citizen because he has registered as a Ugandan citizen. And so while he remains outside, which may be in his native land, he then gets children there. Because he is a Ugandan citizen and so long as he has not renounced his Ugandan citizenship, his offsprings will qualify to be Uganda citizens. What we are really trying to do in this amendment, was to try to discourage those people from being considered to be citizens of Uganda by birth because their father was not born here, and having come here and acquired Ugandan citizenship, he or his father or grand father or grand mother has not associated himself to ourselves continuously with Uganda by living here, goes to live outside, gets those children out, and they have no Ugandans in their - they have not identified themselves with Uganda except on the register book as far as citizenship is concerned. So really this is what we are saying that such a person should not be considered to be a Ugandan citizen by birth, and therefore, qualifying to hold certain sensitive offices in the Republic of Uganda. This is really what we had in mind, we were trying to legislate.

THE CHAIRMAN: But, Hon. Malinga, do you think this wording brings that out? I think that is where the weakness is.

MR. MALINGA: That is the problem we were trying to get a solution to, Mr. Chairman. So really this is what we wanted to get at.

THE CHAIRMAN: But the wording here does not bring that out. It could have been if at the time of birth of that person, he was citizen of Uganda by registration.

MR. MALINGA: If I recall - I think we borrowed this from previous legislation. The wording, we took it out from another piece of legislation which is already existing. But I do not have my notice here, so I cannot help it.

MR. BASALIZA: Thank you very much, Mr. Chairman. Mr. Chairman, I find this amendment extremely ambiguous and therefore, Mr. Chairman, this amendment - even the wording to me, it is claiming - it may be claiming citizens of other countries. A Ugandan may go abroad and get married to a European and the result of course, the offspring might be a citizen of Britain, but this amendment, according to my understanding, is that that fellow or that offspring can come here and claim that he is a citizen of Uganda. And this, according to me, might encourage also criminals to come and claim that they are citizens of Uganda. Therefore, Mr. Chairman, I would like to request, Mr. Chairman, through you that the Legal and Drafting Committee should draft this and bring out a clear meaning to us. Or you assist us as you did sometime ago to have this amendment drafted or come out clearly, to us and to Ugandans, for that matter. Thank you very much, Mr. Chairman.

THE CHAIRMAN: Yaa, but I think the question of people who become citizens because of marriage and become citizens of other countries, there are subsequent provisions relating to how they should renounce their citizenship of Uganda and how if that marriage is broken they can regain. I think there are some provisions here, so that is no problem. The problem is, if you have a Ugandan living abroad, his child is born abroad, by virtue of what they are proposing, that child is a Ugandan by birth. But if you tag on that little thing at the end, then the child of that one, of the one who has claimed through his father to be by birth, will not be a Ugandan by birth. But then, he will be a Ugandan by what? Because he will not be a Ugandan by registration, so what is he?

MR. KASAJJA: Thank you, Mr. Chairman. I am not going to answer the question that you have put but I will just have to point out something

which I find inconsistent here. Mr. Chairman, let us take a situation where we get a female marrying in another country, and he marries and they produce a child. Now that child will be entitled to the citizenship of the father. Now here we are saying that child also should be entitled to the citizenship of the mother because the mother comes from Uganda. Mr. Chairman, I am seeing a problem here, because we are talking of the automaticism of a person becoming a citizen by birth. So such a person has already been registered in a country where the female has married, are we giving a lee way to come here directly and say, I want also to be a Ugandan! Mr. Chairman, because I am seeing an inconsistency there, we are talking of dual citizenship. Now if we are going to talk of this person being a citizen, may be it would come clearly under the dual citizenship. But to come under automatic citizenship by birth, I am finding a lot of inconsistency there. So, Mr. Chairman, for me I would not really go by this

MR. BASOGA NSADHU: Mr. Chairman, I have been listening to all arguments here, and I have also taken the trouble to look at what we have in the Draft Constitution and compared it with what the committee had come out with. Apart from the words "*after the commencement of this constitution*" and "*otherwise than by virtue of this constitution*", we seem to be carrying what was contained in the Draft Constitution, and I really do not know why the committee deemed it necessary to amend what is here. So I thought you should clarify to me what is lacking in parts here as presented in the Draft Constitution. If there is anything that is lacking here, I do not mind whether for purposes of clarity, it can be added or we reintroduce another Clause. Otherwise, what we have here is very ambiguous and obscure and it seems like all Members here that have contributed against the Motion have indicated, it seems not to serve our purposes. So, why don't we stick to what is within the Draft Constitution and ignore the recommendation from the committee.

DR. BYARUHANGA: Thank you, Mr. Chairman. I am a Member of Committee Four. When we considered and came out with this position, we first looked at what had been provided for in the Draft. And when you look at it, Mr. Chairman, you will note that it virtually gives some form of perpetual claim to citizenship of people whose fore fathers were at one time Ugandans. So we

thought we were being too lenient with our citizenship by birth. Since in this Draft - although we have not yet confirmed it - we are leaving certain offices to be filled by only people who are citizens of this country by birth. So we are not denying people who have been born to citizens by registration the right to become citizens by birth. Because in (b), we have already said that even if your parents were citizens by registration, but you are born here, then you become a citizen by birth. But what we would not wish to see is the type Hon. Malinga talked about, a person who just comes, picks up our citizenship, goes back probably to his country of origin where he was produced, marries there and produces children who continue to live there, and when these children are mature, they come back to this country and have got a claim to citizenship of people whose forefathers were at one time Ugandans. They come back to this country and put a claim to our citizenship and then we say they are citizens by birth and, therefore, qualified to fill even the highest office in the land. But what we failed to cater for, Mr. Chairman, is what you also put forward. We failed to cater for this person after we have refused to give him this citizenship by birth, what type of citizen will he be if he does not have the citizenship of any other country? Will he be a stateless person? So instead of getting rid of this clause as Hon. Basoga was suggesting, we only need an addition to provide for this person whom we are not denying citizenship but we do not want him to be a citizen by birth. Thank you, Mr. Chairman.

MR. SABIITI (Rukiga County): Thank you, Mr. Chairman. I think this amendment is intended to deny children, grand children and great grand children of the parents and grand parents referred to in 41 (a) because if we have agreed that every person born in Uganda either of whose parents or grandparents is or was a member of any of the indigenous communities existing and residing within Uganda, if we pass this amendment, we shall be contradicting 41 (a). I would suggest that since we have already passed 41 (a), all the grand children, it does not matter whether they have not been living in Uganda, surely they should be entitled to being Uganda citizens by birth. Now, if these children attain the age of nineteen or twenty-one, as it is stated in other countries they decide not to be Uganda citizens, they opt for another citizenship they can opt to that but you cannot stop a grand, grand child of a parent who

is a Ugandan by birth not to be a Uganda citizen by birth. I think we should, as Hon. Basoga put it, adopt this existing amendment in the Draft which I think clears the air. It makes all the grand, grand children to have the benefit of being Ugandans by birth and if they do not like it later, they can denounce if they want to be citizens of other countries. Thank you, Mr. Chairman.

THE CHAIRMAN: But I wanted to be clarified on the point made by Hon. Byaruhanga. What would happen, how do you cure the situation in the case stated by Hon. Malinga, of a Ugandan who picks up a citizenship, he goes back to whatever country it is, he has been here by registration and he gets his wife pregnant and makes sure that they fly out of here, they deliver the baby in Mulago and fly out two weeks later? The child has been born in Uganda but never lives in Uganda. Would that cure - would they have Ugandan citizenship merely because he was born at Mulago and stayed there for two weeks?

MR. MULENGA (Democratic Party): Thank you, Mr. Chairman. Mr. Chairman, that extreme situation of a man who takes trouble to come here, gets registered as a citizen, goes out to live there and comes back or sends his pregnant wife back for purposes of the child being born in Uganda is intriguing because in fact that child now being born in Uganda of a Ugandan is not under (c) because at Mulago, he is in Uganda, it is under (b) I think. Now, Mr. Chairman, I think that is an extreme situation where somebody wants citizenship but he does not want to live here. It can be seen as an extreme, we cannot possibly cover to prevent him but my problem with this Clause is what was said earlier and where you gave hypothetical examples, I know live examples.

Listening to Hon. Malinga and Hon. Byaruhanga, I can see what they were trying to avoid but I think they also admit and definitely Hon. Malinga conceded that they covered a whole lot of innocent category. When I was in the U.K. studying, my cousin who was also studying there got a son, in fact, two, came back and worked here, the sons studied, eventually finished Makerere and started working. About four years ago, he got a job in the U.K, he came back to marry, took his wife to U.K. and they have got two children. So the father was born there, the children were born there - (*Interruption*) - yes, the mother was married here. So

you can see that by this proposed amendment, you would be cutting away people who definitely are Ugandans and it seems to me, Mr. Chairman, that perhaps the problem arises from the fact that we have combined all situations into citizens by birth. We used to have citizen by birth, citizen by descent. If you are born outside, technically you are a citizen because your parents are citizens and therefore it is through descent. For some reasons, the Draft sought to omit descent. Mr. Chairman, if this proposed addition were tied to the registered citizens, one would understand but here it is wrongly tied to this classification of people and, lastly, Mr. Chairman, I would like an explanation why in this amendment the committee has inserted something which has not been mentioned after the commencement of this Constitution - why was this added? Because all along, in (a),(b),(c), there is no reference to commencement, we are defining a citizen. Now they are saying "*Every person born outside Uganda after the commencement of this Constitution...*" I do not know what the significance or the intention was to insert this because there are others who were born outside Uganda before the commencement of this Constitution, are they going to form a category of their own?

THE CHAIRMAN: I think the argument was that those were already citizens by virtue of 40 anyway.

MR. MULENGA: Okay, but still if in (b) we do not put that qualification, I do not see why we put it in (c). (b) also could qualify for that if that was the reason.

THE CHAIRMAN: I think there was a misconception that this is granting a new category - granting citizenship. Actually, it is just describing and therefore you do not have to tie it to the commencement date really.

MR. OKWAKOL (Pallisa County): Thank you, Mr. Chairman. Mr. Chairman, I would at the outset say I agree with Hon. Basoga Nsadhu in saying that the text as in the Draft Constitution should actually remain. There should not have been an amendment to that and I will give the following reasons. Mr. Chairman, the text in the Draft Constitution intended to cure a certain fatal issue or problem of genetic engineering. Mr. Chairman, you are all aware or most of you are

aware that the Kings and the Queens of Europe tended to marry from their own clans, from their own relatives, and history has it that the intellect of the royalty leaves much to be desired. I will clarify. Mr. Chairman, the present Prince of Wales had problems going through college and the reason, it was reported, was because intellectually, they have not been rejuvenated with blood from outside. They have tended to marry from within and they have not acquired extra blood from outside. This, Mr. Chairman, is the same reasoning that Hitler, when he thought to create a special class of Germans, he had wanted certain people of certain hair to be married in order to create a super German race.

So the creators, the Drafters of this Constitution had in their mind to create some kind of special Ugandans, special Ugandans in this context, Mr. Chairman. I believe they must have had the experience of the former Soviet Union. I will tell you a small story, Mr. Chairman. Time was when the Soviet Union refused its girls to befriend African boys, this in contrast to the situation in the United States where there was inter-mixture of the races. The Soviet Union people, the Soviets now Russians, discovered that the reason the people in the United States are superior to them is that the United States Government, as a matter of policy, allowed the intermixture of all sorts of races. They also discovered through their research, Mr. Chairman, that people of mixed blood tend to have a higher IQ especially in intelligence work. *(Interruption)*

THE CHAIRMAN: But Hon. Okwakol, you are giving us a lecture on mixed marriages and their advantages but I think here we are seeking - *(Interruption)*

MR. OKWAKOL: Mr. Chairman, I am building up on the argument that if we left the clause as it is "every person born outside Uganda one of whose parents or grand parents was a citizen of Uganda at the time of birth is a citizen", that clause, Mr. Chairman, allows us Ugandans to incorporate the blood from outside so as to enrich Ugandan blood. Any other dilution of that clause would negate the intention of the drafters of the Constitution. Mr. Chairman, I support that the Draft Constitution provision remains undiluted. I thank you, Sir.

THE CHAIRMAN: Now, from the explanation which Hon. Malinga gave and was expounded on by Hon. Byaruhanga, were they trying to say that every person born outside Uganda after the commencement of this Constitution one of whose parents was at the time of birth of that person a citizen of Uganda otherwise and by registration, is that what they were trying to say so that they are saying if your parent was outside Uganda and that parent was a Ugandan by virtue of registration, then you do not become a Ugandan by birth. This is what they want to say, they did not say it. Why didn't you say it?

MR. MED KAGGWA (Kawempe Division South): Thank you, Mr. Chairman. In fact, developing from what you have just said, Mr. Chairman, if they intend to say that, it may be a problem because when you look at part (b) you have already allowed children of registered citizens just because they are born in Uganda to be citizens by birth. Why do you make one of a registered citizen, never-the-less a citizen but born outside and you deny him citizenship by birth? And if that analogy be correct, I would go ahead to say that this proposed amendment by Committee Four be deleted and we retain what is in the Draft under (c).

MR. LUBOWA (Budiope County): Thank you very much, Mr. Chairman. I am also compelled to support Hon. Basoga Nsadhuh in saying that what we have in the Draft Constitution is at least better and answers almost all your questions which you were posing and nobody was answering. Because the amendment as put by the Committee is non-conclusive, it does not give us what regard we should give to the grand children who are being deprived of the citizenship and apparently, I have discovered that people are only worried that if we allowed such grand children to simply take up citizenship by birth, that they would end up in the sensitive positions. Me, I would only urge future legislators or certain areas in the Draft Constitution to be put precisely that for such and such a position, if we are talking about citizenship by birth, will only regard citizenship by birth as indicated in article 41 (a) and (b) otherwise things will be very confusing.

THE CHAIRMAN: I think really we have come to the crux of the matter and Hon. Kaggwa said it. What the Committee was looking at is what I

summarized that, instead of saying “*otherwise and by virtue of this paragraph*”, it should have been “*otherwise and by registration*.” Now once you do that, you become discriminatory. Okay, we were arguing using the extreme cases but take an ordinary Ugandan who, in good faith, lives outside Uganda and regularly comes home, if we pursue this as it is without change, then we deny his child the right to be a Ugandan by birth. So is it fair or should we take the text? I think we should be coming to a voting point now. Hon. Kaggwa what do you suggest.

MR. MED. KAGGWA: Mr. Chairman, if we are to take care of Hon. Malinga and what the Committee had in mind, that is guarding against persons born outside Uganda or parents who got their citizenship by registration being citizens by birth, then it means we will have to make the following amendment that “*every person born outside Uganda, after the commencement of this Constitution, one of whose parents was at the time of his or her birth a citizen of Uganda other than by registration...*” But that will also mean we will have to go back to (b) and do the same so that we do not have double standards. I appreciate the attempt their amendment was trying to cure because the Ugandan populace was very much concerned about a President being one by birth. That was actually the rationale but if we have to amend this as I have read, then we will have to go back to (b) because as I said, if you are a registered citizen under (b) just because your child is born here, it makes him or her a citizen by birth. So we have also to decide those two issues before we move.

MR. KAYONDE (Gomba County): Mr. Chairman, I am seeking clarification from Hon. Med Kaggwa. What would happen of a registered citizen, he is sent abroad to work for Uganda and he produces a child and that child studies abroad and the father comes back and he produces a child but the father lives here and the mother and the man is committed here but the son is working abroad and he was sent there by the Uganda Government. What would happen? Should that person be denied? According to his formulation, this man’s son would not qualify as a citizen.

THE CHAIRMAN: No, the Ugandan who was a Ugandan here who went abroad, by virtue of the recommendation, his son would be a Ugandan by

birth but the child of that one would not be a Ugandan by birth even if he was only working there and his child is born while he is there.

MR. KAYONDE: I am talking about his formulation because it does not seem to improve the situation.

THE CHAIRMAN: That is why he raised the question of unfairness.

MR. MALIRO (Mwenge County North): Thank you, Mr. Chairman. Mr. Chairman, where I have one problem is that in this provision in the Draft Constitution, we should realise that it includes both males and females. In the Constitution of 1967, this same provision was applying only to males - children born to male Ugandans outside Uganda. Mr. Chairman, in these circumstances we are having also a female who is a Ugandan, who produces a child outside Uganda, we do not know whether she produces that child with another Ugandan or another national from somewhere else. Now we are saying that the child of that Ugandan female also qualifies to be a Ugandan citizen by birth. You may find that the lady who was a Ugandan married a Kenyan. By virtue of this statement, that Kenyan is also entitled to Ugandan citizenship. That Kenyan later marries a Tanzanian. Now we are saying that Tanzanian will also be a Ugandan Citizen. So that is where we had that problem especially where you include the females who will be producing children outside Uganda. So we were trying to exclude the third generation children born of a female who was born outside Uganda. So, Mr. Chairman, I do not know if there is a formulation which can assist us to exclude that group of which we are not sure whether they are Ugandan citizens or not. Thank you, Mr. Chairman.

THE CHAIRMAN: But why did you want to exclude them? What were the policy considerations?

MR. MALIRO: No, what I said when I was starting is that in the previous Constitution, it was only for children born to male Ugandans but now when you have female Ugandans marrying outside, we are saying that child is also a Ugandan but that child could also be having citizenship of another country and yet he is entitled to Ugandan citizenship by birth and we are saying even if that

child produces another child, again even that child is also entitled to Ugandan citizenship by birth.

THE CHAIRMAN: Upon satisfaction of certain requirements as to - I thought there is a cut off period - if a child is of 18 or something.

MR. MALIRO: No. Mr. Chairman, it is perpetual. According to this treatment it is perpetual.

THE CHAIRMAN: Okay, I think we shall do it this way. It would appear this particular area was not properly thought through. Shall I suggest that we refer it to the Legal and Drafting Committee? And they come back with a formulation and Members who feel that they want to make a presentation should go to the Legal and Drafting Committee as they take into account all those views, then come out with a formulation. Otherwise, I can see we can go into circles because there are new elements like women and so on. I think we are all agreed that (c) is referred and therefore we do not pronounce ourselves on it. Finally on Article 41, we shall wait until 41 (c) is brought back by the Legal and Drafting Committee. Thank you very much. Hon. Katenta Apuuli, we go back to your report and go on to Article 42.

MR. KATENTA APUULI: Thank you, Mr. Chairman. Mr. Chairman, I seek the permission of the House to skip item No.5 seeking to introduce a new Clause (2) because in these Articles we are describing who Ugandan citizens are and this specific introduced clause is giving instructions to register births, marriages and deaths. Sir, I seek permission to skip.

THE CHAIRMAN: Sorry, there was another one, we had not got to 42 yet?

MR. KATENTA APUULI: Not yet, there was a new Clause (2), item 5 on the report. I seek to skip that until we find a better home for it.

THE CHAIRMAN: Okay, we have to agree that is not really the proper home for registration of births, deaths and marriages.

MR. KATENTA APUULI: Article 42. In Article 42, Mr. Chairman, we only made a slight change in the text of the existing clause (1) in the Draft Constitution. We only sought to change the number of years from seven to five of a child who

does not know whose parents it is. The argument behind this was that by the age five the child is old enough to know either its parents or its relatives and we commend that this Article be adopted to read "*a child of not more than five years of age found in Uganda whose parents are not known shall be presumed to be a citizen of Uganda by birth*". Mr. Chairman, I beg to move.

MR. ELYAU (Kalaki county): Thank you, Mr. Chairman. This question has always been giving us problems. I agree in the case of towns it is better but in the village it is difficult to have a child up to five years when you do not know the parents. So people in the areas like in the villages are complaining that may be there is something hidden where some times somebody can plan to bring children who are of five years or four years and say these are Ugandans when in actual fact these children have parents somewhere. So to clear my doubt, can I get somebody to clarify so that villagers also know. For example, how can you expect a child to stay up to five or seven years without knowing where he came from? It is very difficult unless that one is dumped in the latrine which we can pick up a day and take it to the hospital. This area requires a lot of explanation because people are saying we have a plan of picking some people who are not Ugandans to Uganda by disguising them under such age. Can I get clarification?

THE CHAIRMAN: Okay, he is taking note.

MR. ERESU (Kaberamaido County): Mr. Chairman, when a person has reached a maximum of five years that person, in my opinion, is capable of identifying himself and can talk in an intelligible way which means a child of a maximum of five years has developed concepts. These concepts include the ability to know who his relatives are and who the next of kin are. So, Mr. Chairman, I do not understand the clause when it reads "*a child of not more than five years of age found in Uganda whose parents are not known*". The question is, in the first year up to the fifth year, the maximum fifth year, where has this child been? It cannot be in the streets - (*Interruption*)

THE CHAIRMAN: Hon. Eresu there are situations - do you know of a place called Sanyu Babies Home?

MR. ERESU: I do.

THE CHAIRMAN: And do you know the circumstances under which children go there?

MR. ERESU: I do but I think that child is taken there when he is less than five years. The point I am trying to raise, Mr. Chairman, is that five years maximum period is too big and can create room for manipulation. I would like it to be reduced to three years. Thank you.

MR. HASHAKA (Kibaale County): Thank you, Mr. Chairman. I agree with the recommendation of Committee Four because my colleague, Hon. Eresu, Mr. Chairman, assumed you were trying to put him to the right track but unfortunately, he failed to follow you. You have given a case of a child picked and taken to some of these Sanyu Babies Homes. This child surely will not - even at the age of five years - will never tell his parents and nobody may tell his parents. The child is born, abandoned in town - even these days in the villages they abandon them - and is picked and taken to be looked after. This child really may not know, may never know his or her parents. Therefore, Mr. Chairman - *(Interruption)* - he can clarify if he thinks children are not thrown in towns.

MR. ERESU: Clarification! Mr. Chairman, I would like Hon. Hashaka to clarify to me on this following point. We are talking of a maximum period of five years, is he implying that if we have a Sanyu Babies Home, we also take children of four and a half or four point nine years to Sanyu Babies Home and those children are not capable of knowing where they have been picked from?

MR. HASHAKA: Mr. Chairman, we are putting in this Constitution a yard stick such that you are not compelled not to register a child if say he is one year or two years but we are putting a yardstick of five years such that it is a maximum, a child of five years found in Uganda and cannot tell, of course, a child of five years really cannot tell where he was picked or her parents or his parents, should be taken to be a Ugandan by birth. Mr. Chairman, we have been having turbulent wars here in Uganda and you find some parents all are wiped off and a child is picked. I will give an example to Hon. Eresu who was trying to give me clarification, Mr. Chairman. There is a child who was

picked by some good samaritans and was found behaving like a monkey who has been rehabilitated and now he is a child in our community. This child, should he be denied of being taken to be a Ugandan by birth? Therefore, Mr. Chairman, the question of saying that if we pass this we are trying to import children to be registered as Ugandans by birth, I think surely we have had so many examples to support this recommended Article by Committee Four that surely a child of not more than five years of age found in Uganda, this child was not found because of his or her own mistake but it was unfortunate, surely should not be denied to be a citizen of Uganda by birth. So, Mr. Chairman, I support very strongly this recommendation of Committee Four. Thank you, Mr. Chairman.

MR. DICK NYAI (Ayivu County): Thank You, Mr. Chairman. I have a little problem which, may be the Chairman of Committee Four can help to clarify in that if in a war situation or if this provision was written into our Constitution and a neighbouring country knows that this exists and introduces into Uganda children of not more than five years and that state knows that children of Uganda who are citizens by birth can become Presidents of Uganda and we have learnt to our cost that people who are not native born Ugandans can do anything they wish to Ugandans for they have nothing to lose, what are we exposing this country to? Secondly, my constituency also asked me to ask for this clarification. If these are children, can't we allow them to live and stay in Uganda and apply for citizenship when they are 18 years old?

MR. SSEBAANA KIZITO (Makindye East): Thank you very much, Mr. Chairman. I am a bit apprehensive of this provision because of the fact that as Hon. Dick Nyai has pointed out, there is a real possibility of a neighbouring country leaving their children on the border with a hope that they will be adopted as Ugandans by birth and, as a matter of fact, this word "by birth" would assume that those children were born in Uganda. Perhaps if they are found and you are not sure where they were born, you can say "by registration" not by birth. Secondly, if you adopt a child like that and he says he is a Ugandan by birth and then in view of the second revision which says that a child of not more than sixteen years of age if he is adopted by a Ugandan he is also a Ugandan,

then it is possible that if this young child is found on the border of Uganda with another country and he grows and he adopts his brothers whom we must know, probably by plan they could say that let us leave you here at the border, you become a Ugandan, let us go back to our country but when you are old enough you are going to adopt us and then we shall also be Ugandans. This can look like - *(Interruption)* - yes, people are saying that this is imaginary but also we are imagining that there is going to be a child who does not know who his parents are. It is also possible that refugees who have been living in Uganda, when they are going back they would leave these children in our country and with this provision these children will become Ugandans by birth and when these refugees go back and these children grow, then they will adopt them and they become Ugandans. This can take a long time but it can be achieved eventually. So this is the fear I have and this is the fear people of Makindye East have.

MR. BWANIKA BBALE (Katikamu North): Thank you very much, Mr. Chairman. I want to give this information which I hope will help the Members I want to explain why we came to the age of five. In the first place, Mr. Chairman, Uganda is not an isolated country, we are part of the international community and there are some international conventions to which we have signed and which we must respect. Now, some of the conventions say that each child born must have a nationality but as we rightly said, Mr. Chairman, there are children who are abandoned in towns or in villages at the age of day one and sometimes at the age of three and whereby investigations are carried but parents cannot be traced or cannot be found and the child cannot express himself. So we said in Committee Four where I belong that, may be we can agree to the international conventions but with a question to the age, we did not see really any point of accepting the age seven because it appeared as if it was over-stressed but when we looked at age five, we thought that it was a bit fair because that is the age when the child is assumed to have reasonably developed and can express himself. So the Members, Mr. Chairman, should not fear that other people are going to send children here so that they could become Ugandans. The process is a bit long. When a child is found, he is taken to a court of law and is declared to be a child in need of care and protection and the probation officers carry out investigations and

sometimes in the process, you never know, between this period before the child attains the age of five, sometimes the mothers change their mind and they come and say it is me who dropped the child in such and such a place, that one can be declared a Uganda citizen. The parents could be known but there are cases whereby you continue investigating and fail to get the parents. So we feel that the age five is reasonable enough to allow these cases to be assumed as Ugandan citizens. I think, Mr. Chairman, I appeal to fellow Members to accept age five which appears to be reasonable.

MR. CHEBET MAIKUT (Kween County): Mr. Chairman, thank you very much. First of all, I am not a Member of Committee Four that came out with this proposal however, I am perturbed that Hon. Delegates here can not take into account the right of the children as they presented their resolutions here which were reached at after the C.A. mock debate and these are some of their problems that we have got to take into consideration. Mr. Chairman, we are aware that this country has seen so many problems, so many wars particularly the internal wars. We have seen internal conflicts which have happened, for example, between the Karamojong and the neighbouring districts and in all these wars, there have been victims of these problems and the children have been the main victims to the extent that we have so many children whose parents have either been killed or run away somewhere, leaving the unfortunate children alone and, Mr. Chairman, when we talk here pretending that the intelligence of the children is quite high or above average, then we are not facing the reality of our problems.

Mr. Chairman, we should also bear in mind that some of the guardians may not bother themselves and some of the children can never tell the real names of their parents. You can go to the streets here, may be Kisenyi and ask even a child of eight years, what is the name of your mother or father, you can get embarrassing answers because a child can say my father is simply called uncle or mother simply 'mama'. These things happen in reality, Mr. Chairman. So what do we do in a situation where you have such a child whose parents can not be traced at all? Do you just abandon that child like that? I think it is high time that we have got to face the reality of the problems of such children that occur in our country. Mr. Chairman - *(Interruption)*

THE CHAIRMAN: Do you seek clarification or you are giving him clarification.

MR. NEKYON: Mr. Chairman, I want clarification. In this provision, we are talking about a maximum of five years. I want two things. One, what happens to a child if he was not found at the age of five but eight, what happens to him. Secondly, how are we going to tell the age of the child who does not know his parents because the appearance or growth depends on how a person has been fed. Somebody who is nine but has been poorly fed may look like somebody of four years.

MR. CHEBET MAIKUT: Mr. Chairman, I am surprised that a question of that kind has been raised for clarification because in my view, the world is now advancing in science and technology and there is no doubt that somebody can doubt the age of a child when we have all the medical advances being put in place even in this country here. That much can be established. It is true you can have a child who may have a first rate of growth, who may achieve a first rate of growth but with the science that is in place, the medical experts can be able to tell the age of that child without any difficulty at all. Secondly, on the first clarification which he was seeking on a child of eight years, I want to say this that the Committee was very considerate to adjust the age to five years because above five years, it is presumed that a child is likely to be reasonably aware or knowledgeable of his or her parents names or identities. So I think that was really basically the rationale behind the conclusion of that age reducing to five and I think we should not close our eyes, let us -
(*Interruption*) -

THE CHAIRMAN: No, but he is not really here to argue, he is not the Mover of the Motion.

MR. SSEBAANA KIZITO: He is avoiding the issue.

THE CHAIRMAN: He was advancing his own argument but now you want to make an exchange between the two of you.

MR. CHEBET MAIKUT: Mr. Chairman, I thought I had put forward really the issue and brought outlines for one to - (*Interruption*) but on summary, I want to urge the Hon. Members to see the realities of the difficulties of some of our

children that have been abandoned who may not know their parents at all that we should not simply abandon them there and deny them their rightful role as citizens of this country. So I urge the Hon. Members to support the recommendation put forward by Committee Four. Thank you, Mr. Chairman.

MR. KATUREEBE: Thank you, Mr. Chairman. Mr. Chairman, I support the recommendation of Committee Four. To begin with, Mr. Chairman, this recommendation is not trying to say that every child below five found in Uganda shall be a citizen. The recommendation is creating a presumption which may be rebutted should Hon. Dick Nyai or anybody else later find that this child was not a Ugandan although presumed to be one. So we should not confuse a presumption with something that will be as mandatory. Secondly, we should not assume that in this country we love our citizenship, we love our children but there are other countries outside there where the parents do not love their citizenship, do not love their country and are about to dump their children here to become Uganda citizens. Thirdly, we should not have this phobia that only a foreigner is the only one who is going to come here and bring havoc to this country. I am sure Hon. Dick Nyai knows that there are a lot of Ugandans who celebrated the Tanzanian foreigners coming here to kick out Idi Amin who was a citizen of the country and yet brought havoc to this country. I think we should look at the situation as it is as you did quite rightly point out, Mr. Chairman, you have children of this country in various Babies Homes, you have children being found on the streets now even in the villages. Now, why should you say this child you have found in Uganda you do not presume to be a Ugandan citizen and you say you will remain stateless, nationality less, for eighteen years until you prove something else? I think that is wrong and as Hon. Bwanika Bbale has pointed out, it would not be in conformity with the international regulation and practice. I thank you, Mr. Chairman.

MRS. SSEBAGEREKA (Women Delegate - Mukono District): I am a Member of Committee Four and we took a lot of thinking and lobbying and understanding to come to this decision. After that I visited several Babies Homes, I visited the Naguru Remand Home, I visited the Toro Babies Home, Sanyu Babies Home and surely there are

children there who do not know their parents and those children could be presumed Ugandans and we will be covered by the International Human Rights and Peoples Rights and International Conventions alright but Uganda has gone through a lot of bad times and in my constituency, I have divided views. Some people say we must do away with this thing because that is how we harbored Rwandese, that is how we harbor Sudanese, that is how we harbored all other nationalities and we gave them Ugandan citizenship and eventually we were let down by these people. So I really do not know, Mr. Chairman, how we are going to do this because in this clause, the word "presumed" is the key word, "*be presumed to be a citizen of Uganda*". In my constituency people say that these children must be protected, must be given status, they should be the children of the state until they get to the age that they can choose or they can trace their roots backwards if they are able to find out who they are but my constituents are saying that the roots of these children must be properly traced back. If they are not Ugandans like in the case of Mexicans who live near the border with America, most women go there, they are pregnant, they jump behind the border, they go in America and they hide their children, those children get American Citizenship and then they go back and when these children grow up, they go back and claim American citizenship. So this is the view and that is why the people in my constituency are worried, they say how are we going to know. So they suggest that we protect these children up to a certain age, then the children will be able to say where they want to belong but surely they should not be given citizenship by birth. I thank you, Mr. Chairman.

MR. SEBI (Koboko County): Thank you very much, Mr. Chairman. Mr. Chairman, in debating this amendment, I would like to appeal to Members to avoid being over suspicious and over sentimental because we have a real problem here. First of all, Mr. Chairman, I believe that when a citizenship is given to a child of this age, some screening will have taken place, some regulations will have been put in place in order to arrive at a conclusion that a kid X or Y qualifies to be a citizen. I do not think it is automatic that anybody got from the streets will automatically be considered a Uganda citizen. Secondly, Mr. Chairman, on borders and refugees, a lot has been said about people found on the borders or refugees. Mr.

Chairman, I would like to caution here that incidentally, it is border populations who are most sensitive to the issue of citizenship because they know who are Ugandans and who are not Ugandans. So those of us who are afraid that we are likely to be found by people from across the border and be accepted as citizens should borrow this leaf that border populations know exactly who belong to Uganda and who are not.

Thirdly, Mr. Chairman, I support this recommendation because it is innocent. Mr. Chairman, we must know that we are living in a world of a lot of economic problems and we have a lot of our daughters who can not maintain themselves and they dump the kids that they get and then they are picked from the streets or from the dust bins. We have a problem of school drop-outs and because they cannot maintain themselves, once they get pregnant they get rid of these kids. We have the problem of urban dwellers, they can not make up, they can not live up to the standard of the towns and therefore, one way in which they get rid of these problems is to get rid of the children they get. So, Mr. Chairman, I believe that this amendment should not be clouded by sentiments and suspicion otherwise we shall not make a good constitution. Thank you very much, Mr. Chairman.

THE CHAIRMAN: Now, Hon. Delegates, we have heard so many for and so many against, should we continue debating this really? Let us pronounce ourselves on it. I think the majority say we should proceed, otherwise, if we re-open the debate where do we stop? The recommendation from the committee is that a child of not more than five years - having changed from seven to five - of age found in Uganda whose parents are not known shall be presumed to be a citizen of Uganda by birth. I think the most important language there is the word presumption - *prima facie* citizens - can be rebutted if evidence is adduced to show that the parents sneaked into Uganda for purposes of abandoning the child in Uganda. Now, I thought we had taken the view of the majority that we should vote. I will put the question on the recommendation.

(Question put and agreed to)

THE CHAIRMAN: There was no rigging Hon. Delegates, those who want to challenge the Chair can stand up. Hon. Chairman of the committee, please, the next one.

MR. KATENTA APUULI: Thank you, Mr. Chairman. The committee considered Article 42 Clause (2) and found it to be quite satisfactory as it is in the Draft Constitution and therefore recommends that it be adopted to stand part of the Constitution as it is in the Draft Constitution to read: "*A child of not more than 16 years of age, neither of whose parents is a citizen of Uganda, who is adopted by a citizen of Uganda shall by virtue of the adoption be a citizen of Uganda.*" Mr. Chairman I beg to move.

MR. SSEBAANA KIZITO (Makindye East): Mr. Chairman, I want to ask a question to the Chairman of the Committee. I want to know if there is a possibility of putting a limit as to how many children a citizen can adopt, because a citizen can be in the business of adopting children *-(Interruption)*.

MR. BWANIKA BBAALE: Mr. Chairman, there is a procedure for anybody to adopt a child, in fact, right now we have got an Adoption Act in our current laws, and there are some restrictions. They can say, okay, if you want to adopt a child, the child must be of this age and you must also be of a certain age, and that a single woman cannot adopt a male child those clauses are there. So, Mr. Chairman, in brief, I want to assure Hon. Ssebaana Kizito that there are restrictions for adoption, and adoption can only be granted by High Court, not even a Chief Magistrates Court, but a High Court which implies that the policy of adoption is so crucial that it cannot be awarded anyhow, and that if a child is being adopted, one must be thoroughly checked to make sure that his intention for adoption are not - you know -are really for the child's development, not otherwise. Thank you very, Mr. Chairman.

THE CHAIRMAN: And if I may add, Hon. Ssebaana Kizito, if you apply to adopt, they may have to investigate your mental capability to be able to look after the child, apart from your means so that everything is taken into account before the order is made in your favour, so that this really is presuming that that process will be in place before the child is given as an adopted child. So, to answer the question, it is not possible for someone to be in business of adopting children, unless the court has abdicated their responsibility.

MR. MULONDO: Thank you, Mr. Chairman. I would like to admit right from the beginning that

I am a member of Committee Four and I have no quarrel with the clause, Mr. Chairman, except my only *-(Interruption)*.

THE CHAIRMAN: Hon. Lokeris, will you stop provoking Hon. Obua Otua?

MR. MULONDO: Yes, and they should listen to Ssaabalangira, he is now talking.

THE CHAIRMAN: And pay attention to Ssaabalangira, he is on the Floor.

MR. MULONDO: Mr. Chairman, my only problem is the maximum age of 16 and the Chairman of the Committee Four will bear with me because I argued this issue until I was defeated *-(Interruption)*.

THE CHAIRMAN: But then you want to reopen it here!

MR. MULONDO: I am not opening it, but I want to bring my reasoning on this issue, Mr. Chairman because a child at the age of 16, in some cases if it is a girl, she is a big woman, and a boy in Bugisu would have gone through the manhood ceremonies and this is a person who has been in a home and is mature and the adoption of a child means bringing a child in a family, and in my opinion, the age should be really reduced to such an age where one who is being adopted will be able to conform to the habits and norms of the family. Otherwise, you are bringing in a family a big person. So there could be other intentions and I still object to this age. I have submitted in other places that the age should be reduced to about seven years, if not five, as is in 42(1). So, Mr. Chairman, this is my objection and I would humbly appeal to the House to reconsider the age, from age 16 it should be reduced to five or seven, Mr. Chairman.

AN. HON. DELEGATE: Mr. Chairman, I just wish to add and support the Ssaabalangira that I fear for this age. When you talk of 16, it is really a big person. If we are to allay some fears like what the Hon. Member said that if a woman wants to adopt a child of certain big age, that cannot be allowed, to the contrary, a man can as well do it, you get a big girl - I do not know whether it is possible, I am ignorant about that law, but I think the age of 16 is rather too big. So, Mr. Chairman, I think we should be enlightened by lawyers why the age of 16.

PROF. KANYEIHAMBA: Thank you, Mr. Chairman. I wanted to inform the speaker on the Floor and the House, through you, Mr. Chairman, that the purpose of adoption is not necessarily to make the person a child. There are many reasons why one adopts. One may adopt because he wants an heir, he has not produced anyone else, and indeed in many jurisdictions the adoption is in reference to the age difference between the person to be adopted and the adopter, and I know that many people say you cannot adopt somebody unless there is age difference of 18 years but they do not say you adopt because it is a child, you adopt for different purposes. So, the idea of saying we lower it just defeats the purpose why people adopt! It is not because they want to bring up children, but they are adopting for different reasons; to have heirs, to have relations which they had not before. So, Mr. Chairman, in fact, my view was that as far as I am concerned, what determines the relationship between the adopter and the child is the law currently governing adoption, and once you adopt someone, our law says, that child becomes yours as if he was a natural child and, therefore, I thought that it was even not necessary to have this clause.

MRS. KALEMA: Mr. Chairman, there is a problem and while I support Hon. Mulondo, I would like to inform him, because he is the one on the Floor, but for the benefit of Hon. Kanyeihamba that it is true the legal procedure for adopting children is basically carried out by the parents, the fathers and mothers who are adopting these children. But in our society, as many Members here will agree, we have extended families. Our nephews and our nieces come to our families and we bring them up together with our children, they visit each other and these children, say a young nephew at Makerere will suddenly find a young new child in the family of his uncle, and this child is a girl of 15 and they know very well that this girl is not really their blood relationship. Problems can occur between the young growing nieces and nephews and this new cousin in the family. So, there is that problem also; we should not just consider the father and mother who are going to adopt the child, because they may be tied down by the law, but what about the attitude of our relatives in our society? So, I end up by supporting reduction in the age. Thank you, Mr. Chairman.

MR. KAYIZZI: Point of clarification! Thank you very much, Mr. Chairman. I would like to seek clarification from the Chairman of this committee, what is the difference between these two clauses, clause (1) and clause (2), most especially between these two phrases "*whose parents are not known*" and "*who is adopted by the citizen.*" I thought these children could have been adopted when clause (1) has already granted them citizenship.

THE CHAIRMAN: No, I think here we are not debating the question of adoption, the circumstances and desirability of adoption, that is not what we are debating here. What we are looking at is - the Constitution is conferring to a right of citizenship to a child of the age of 16 and below, who is adopted by a Ugandan citizen. We are not discussing the merits and demerits of adoption, that one is a job of parliament, they have a statute. I thought it was a mere clarification that is why I gave the Floor to Hon. Bwanika to tell us. Is it automatic that if you say I would like to adopt a child you so adopt? His answer was no, there is a criteria which has been set down and you can only adopt by order of the court. Now, the House is called upon to decide whether, if a child has been adopted by order of the court, by a Ugandan citizen and the child is not a Ugandan by virtue of the fact that both parents are not Ugandan, should that child become a Ugandan? The question is saying "yes" that is what we should be discussing and not merits and demerits of adoption.

MR. OBUA OTOA (Erute County North): Thank you very much, Mr. Chairman. Mr. Chairman, I would like to pursue a suggestion which came from my adopted nephew, Prof. Kanyeihamba, where he is suggesting that, maybe, this provision is not at all necessary because, Mr. Chairman, if the Act of adoption means that the child becomes yours just like any other child in your homestead, I am wondering whether it is really necessary to include a provision like this. Because if the child is mine by adoption or by natural procreation, the fact that that child is mine, automatically I will presume citizenship on the child. I am, therefore, wanting to pursue what Hon. Prof. Kanyeihamba suggested that we drop this clause all together because it is redundant.

THE CHAIRMAN: I think Hon. Kanyeihamba, while making that statement, I think, he had not

given himself a chance to scrutinise fully the import of these provisions. The mere fact of adoption does not alter the citizenship of the child you have adopted, it may be yours but he does not automatically do so until this Constitution says - I mean, individual Ugandans do not confer citizenship on others except through natural means.

MR. OGOLA: Point of clarification! Mr. Chairman, I want to give what appears to be further clarification on this items, Sir. Adoption, Mr. Chairman, does not necessarily mean that a child has to be a Ugandan. A child can be from anywhere in the world. That is my understanding of that adoption.

THE CHAIRMAN: Yes, and then the Draft Constitution is saying that if that happens and the people who are adopting are Ugandan citizens, then the child should be a Ugandan because there are other implications arising from there as to property and so on.

MR. NEKYON (Maruzi County): Mr. Chairman, I would like to make a contribution on this issue. First of all the provision here says the child be a Ugandan citizen, but it does not say what kind of citizen. All along we are talking about citizen by birth, citizen by descent, citizen by registration but here we just say "be a Ugandan citizen" I am asking, by what? By adoption, citizen by birth, citizen by what? Because if you just leave it open, he could become citizen by birth simply because this man is now his parent and he is now living in Uganda. We do not know whether this boy who is being brought in has already renounced his citizenship, say Indian citizenship or not, but we are saying automatically the moment he is adopted he becomes citizen of Uganda, irrespective of whether he is an Indian citizen or a Chinese citizen.

Secondly, I want to emphasise what the Hon. Ssebaana Kizito has raised, that this constitutes a danger. We know for a fact that in the United States of America, there are now gangs of Chinese who went there earlier who have now made it a big business to smuggle in more Chinese from China who want to settle in America, and actually, go and obtain a lot of money from the parents of these children and ship them in very awkward ways. Some are put in bankers, in all sorts of places in the ship for shipment to America. Now if we just

leave it open that anybody who is adopted becomes a citizen, our door is open for what is happening in United States with Chinese who want to settle there. We also know it for a fact that in Cambodia and Vietnam and other countries, there is now trade in children, they have also been taking part in some parts of Africa where children are being smuggled everyday and taken somewhere for selling. So, if a man is allowed to adopt any number of children, he can instead constitute himself into a business and keep on adopting people, because you are not going to follow where the children go. Once he says this is my child, he can get rid of it, go and bring another one and gets rid of it in some way he wants until the country is overpopulated. We must guard against business people who want to carry out business in human beings. We must guard against over population of our country. So, I will support the idea of limiting the number by adding at the bottom of the provision that provided that no one person shall adopt more than two children from outside the country, then I will accept this idea. Otherwise we are just giving people a blank cheque for importing children into Uganda.

PROF. NABUDERE: Point of information! Mr. Chairman, I wanted to give information to Hon. Adoko that if such a situation should arise, where people import in people here to be adopted, I am quite sure the adoption law will take care of that, and it will be made stringent enough to make that impossible. Because the present adoption law is quite stringent, and it is not quite automatic that you can adopt any child of your liking. On the other issue whether the person adopted is of another citizenship, in fact, the Act of adoption leading to citizenship itself sets in motion processes which have to be completed on the other side because it may be that a person being adopted under the citizenship law of their own country is prohibited from having dual citizenship and, therefore, it will be necessary for that to be disposed of before that person can become a citizen of Uganda. So, there are several processes that have to be looked into before the person is made a citizen. So, I think we should not worry unnecessarily on this matter.

PROF. SSENTEZA KAJUBI: Point of clarification! Mr. Chairman, the point of clarification I am seeking is whether the laws of Uganda allow our children below the age of 16 to be adopted by

people of other countries and taking them away? Maybe Hon. Kanyeihamba may help me in that.

THE CHAIRMAN: Hon. Kirenga would you like to help?

MR. KIRENGA: Mr. Chairman, the answer is yes. I know it in a professional capacity. I have dealt with cases where children have been adopted by some British citizens and taken to Britain, but the cases are very few. But this one should not worry anybody. In Uganda, you have about ten adoption cases in a year, sometimes less. So, it is not really a problem, it is something very rare.

THE CHAIRMAN: But Hon. Kirenga, I think what Hon. Ssentenza was also interested in is how easy is it, can any foreigner walk into Uganda and take the child away?

MR. KIRENGA: No, there must be some conditions to be fulfilled for instance, he must show why he wants to adopt him. Usually they must have lived together in the same family, he must show that it is for the interest of the child, and also that the parents are in a position to make the life of that child happy.

MR. KATENTA APUULI: Point of order! I am not a lawyer, I am an assessor, but Mr. Chairman, my understanding of the law of Uganda on adoption in my other capacity as your representative is that the law does not allow a non-Ugandan to adopt a Ugandan child.

MR. BWANIKA BBAALE: Point of information! Mr. Chairman, thank you very much for allowing me to give this information. The adoption law of Uganda is very clear, it says that if you are a Ugandan citizen, you cannot be adopted by any other person apart from a British or a British subject. We have had cases of Germans, Americans coming here asking to adopt Uganda children, but we tell them the law does not provide for it. So, Hon. Katenta Apuuli was right in a way that this law gives some restrictions to some nationalities to adopt some of our children. So, some nationalities are not allowed, Mr. Chairman. It is only the British or the British subjects. Even if a Ugandan child here had a parent who wanted to adopt him but the parent was a Rwandese, it could not be permitted. It has only to be either a British or a British citizen. Thank you very much.

MR. BASOGA NSADHU: Mr. Chairman, thank you very much. I would like to be assisted on a point of clarification. I was reading, the other day, the Japanese law. A girl there matures at the age of 16 and she is considered an adult, while a man matures at the age of 18 and I am looking at a situation where a Ugandan would like to adopt somebody from Japan who is already an adult on the other side and a citizen. If that person comes here, why do we make a prohibitive law that forces that person to become a Ugandan citizen by birth? Because what we are talking about here is citizenship of Uganda but by birth. Her citizenship by registration falls under Clause 43. So, why are we making a law that forces somebody who may be attached to one individual here sentimentally and for whatever reasons, but they can still interact without the other person changing his citizenship. Why do we now need to entrench this in our Constitution? I would like somebody to clarify this to me.

THE CHAIRMAN: Hon. Katenta Apuuli will do that. Hon. Kinyata please.

DR. KINYATA: Point of clarification! Mr. Chairman, I also want to be clarified. This citizenship by birth would bring confusion if we were to adapt it here for the adopted children, because I can adopt a Chinese child, I can adopt a European child, I can adopt an Arab child, but if we give that child a citizenship by birth, whereas in our committee we have already passed a clause that the President of Uganda will be a citizen of Uganda by birth, now, are we saying that we shall be ruled one day by an Arab or by somebody else, Mr. Chairman?

THE CHAIRMAN: But are you suggesting that the people of Uganda will one day wake up and find themselves being ruled by the people they do not like? If the 30 millions at the time choose to elect an Arab as our President, what is wrong with that? I mean, if they choose - this man or a woman campaigns, and the Ugandans - the person presents himself according to law to be a candidate, the person campaigns to the people of Uganda in accordance with the law, the Ugandan population maybe, 30 million by that time. They go to the ballot box and they choose this Arab to be their President, what is wrong with that?

MR. ELYAU: Mr. Chairman, if you may allow me to tell you, we shall not succeed because in the

history of this country and Africa generally, Arabs took active part in the slave trade, they will never get votes here.

THE CHAIRMAN: So, the issue does not arise. So now, what we have been discussing really is the question of whether or not it is desirable to confer citizenship on children who are adopted by Ugandans. The committee is recommending that we do. We have discussed, clarifications have been given, I think we have reached a stage when we are going to vote now.

MR. BASOGA NSADHU: Mr. Chairman, I thought you should clarify to us that the citizenship we are talking about which we shall confer on an adopted child is citizenship by birth. Is that what we desire? I think that is very, very important, because what we are discussing, Article 41 up to Article 42 addresses citizenship by birth. It is only Article 43 that talks of citizenship by registration. So what we want to confer upon these adopted kids *-(Interruption)*

THE CHAIRMAN: Okay, that point you have made it.

MR.SSENGOوبا: Mr. Chairman, the article clearly says that the child shall by virtue of the adoption be a citizen of Uganda which means. it is a citizenship by adoption, not by birth. By virtue of the adoption he becomes a citizen. So, it is citizen by adoption and not by birth.

PROF.NABUDERE: In view of what Hon. Ssengooba has said, I would like to move an Amendment to the proposed article by the committee, by adding the words "*by virtue of adoption be a citizen of Uganda by adoption*".

THE CHAIRMAN: That is for the avoidance of doubt.

MR.KIRENGA: Mr. Chairman, that is a new term. We do not have it in our laws. I think the type of citizenship we have is a citizen by birth or by naturalization which includes registration. But by adoption, adoption should be included in the existing categories. Unless you want to create a new type of citizenship.

THE CHAIRMAN: So, what category would you want it to be placed in?

MR.KIRENGA: Probably, registration.

THE CHAIRMAN: So that you say, by virtue of that adoption be a citizen of Uganda by registration? *-(Interjections)* - Because the argument of Hon. Kirenga is that we are creating a new category of citizenship, and Hon. Ssengooba is saying there is nothing wrong with that, and I think, Hon. Nabudere is saying so. Will it be understood that, maybe, we have created a lesser citizenship so that it appears in the passport?

MR. ABALIWANO: I thought, Mr. Chairman, what we are trying to do here is clear in the text itself! We talk about citizenship of Uganda, then they say citizenship by birth, then next they talk about foundlings and adopted children, then finally they talk about citizenship by registration. Now, all these people are citizens of Uganda, should there be any need to scrutinise what sort of citizenship? For instance, if you want to become the President of this Republic, obviously it will be discovered that you are a citizen by adoption and, therefore, you cannot become a President of the Republic of Uganda! I do not see therefore why one should say that we need necessarily to formulate it that there is no such a thing as adoption or by what. That citizenship has got different ways in which you acquire it, and I think, it is clear that even if on the passport they say you are a citizen of Uganda, but once it comes to those areas where they discriminate, and there is no country where discrimination does not take place, gentlemen and ladies, we need definitely to say, if you are discriminated against because you are a citizen by adoption, then we will not make you whatever you want to be. I think this is clear as far as one can see the way it was written. I think the text was meant that if, for instance, you are going to be adopted, then that relevant section within the Constitution would always be quoted. Thank you, Mr. Chairman.

THE CHAIRMAN: I think, really the answer, in my view, would lie in simple analysis and addition. I think the point is that should a person who has been registered recently as a citizen of Uganda by registration, confer a citizenship status differently like for instance, by adoption and the citizen becomes one by birth? You see, the problem is that if you take 42 foundlings and adopted children, foundlings become citizen by birth so that it is also within that very provision. So, are we

saying that if you are a citizen of Uganda by birth and you adopt a foreign child, then that child shall be deemed to hold that status, and if you are a citizen by registration then the child will also be a citizen by registration if you adopt it.

MR. RINGWEGI: Point of clarification! Thank you, Mr. Chairman. I think the position that is being debated now is likely to give conflict to laws. We should first of all understand the concept of adoption. When we are talking of adoption, we are saying that the person who desires to adopt a child is taking that child to become his or her child, that is the real concept in law of adoption. So, when you adopt a child that child, in law, is deemed to be your daughter or your son, and that person is held, in law, in equal status with your natural sons and natural daughters, so that if you were to commit a crime of incest, for instance, that would still apply to you even if that child has no natural relationship with you. But the law confers that status, that child now becomes your daughter or your son and, therefore, the concept of adoption means that the person you have adopted becomes your natural relation. In this case, the child either a boy or a girl becomes your daughter and is held equally like a natural son or a natural daughter.

Therefore, when you are talking about citizenship to be conferred on such a person, that citizenship will depend on whether you the adopter has acquired your citizenship by birth, if yours is by birth then the son you have adopted will also be a citizen by birth, if yours is a citizenship by registration that person also takes on that kind of legal status through which you acquired your citizenship. So, there should be no confusion when we are talking about adoption. When we are here saying we must give the citizenship by adoption, what are we trying to create? There is no such citizenship by adoption, because the adoption is a relationship conferred by law. So, Mr. Chairman, I want the Hon. delegates to get that situation very clear in their heads when we are discussing this matter. I thank you, Sir.

THE CHAIRMAN: I had suggested that just before you took the Floor. So, what we need is a formulation really which takes into account that if you are a citizen by registration and you adopt a child, the child should be a citizen by registration, because you cannot use other provisions, because

it was not born in Uganda, or it was born in Uganda but it was not a Ugandan citizen at the time. So, you are creating a new relationship and we can only confer the status that you enjoy.

MR. KOMAKEC: Point of clarification! Thank you very much, Mr. Chairman. I wanted to give this clarification a long time ago that the problem the House is having is really on foundlings and adoption of children. I think the problem is that that should not have been under descent, that should have been under registration. That was one of the reason why we say that when you adopt a child who is a foundling, if it is citizenship, that is not by birth. It is an assumption, he may be a Ugandan or he may not. So, is it also with adoption. The adopted child might have been born in Uganda or he might have been a foreigner - *(Interruption)*.

THE CHAIRMAN: No, it is not a question of might or might not. The clause is very clear, "*a child of not more than 16 years of age neither of whose parent is a citizen of Uganda...*" so he is a foreigner.

MR. KOMAKEC: Yes, the point I am driving at is that there are only two ways as of now that people may become citizens of Uganda, either by descent or by registration. All these others should have come under registration, that is why I think this foundling and adoption of children should come under the next heading because in effect, the best way of getting rid of it is really to just register these children once they have been adopted, then you can register them or whether they have been found you can register them and they become citizens. But by keeping them under birth, that is where our problem is, Mr. Chairman. Thank you.

PROF. NABUDERE: I am referring to page 106 of the final report of Odoki's commission in which in paragraph 6.23 they describe the legal mechanisms by which citizenship may be acquired, and they have the following: *(a) by birth or descent or both, that is one category; (b) by naturalisation, either by marriage or legitimization or adoption or registration.* All these categories are mentioned by the Commission as being possible under naturalisation. So, you can use the word by naturalisation, it would include legitimization, adoption or registration and so on.

THE CHAIRMAN: But in the main body of the Draft, they forgot to use the word “*naturalisation*”!

PROF. NABUDERE: Yes, they forgot to use the word “*naturalisation*” so instead of adoption we could still use the words “*by naturalisation*” so that there is a distinction between - if what Hon. Ringwegi said is correct, then using the words “*by naturalisation*” or “*by adoption*” will not change the legal meaning and there will be no conflict of laws, because the concept “*adoption*” would have the same connotation in constitutional law as it has in domestic law. So, I do not see a problem there. Even the words “*by adoption*” would not bring about conflict of laws as we know it in international law. Maybe just to be on the correct side of the technical terminology, we can use the word “*by naturalization*” so that there is a distinction between a citizen by birth, by registration and by naturalisation.

THE CHAIRMAN: But naturalisation in many cases includes registration!

PROF. NABUDERE: So, I amend my Motion to read “*by naturalisation*”.

THE CHAIRMAN: Hon. Nabudere has moved a Motion, let us first dispose of this one, that we add the words “*by naturalisation*” at the end of the second paragraph. So, the Amendment is agreed?

HON. DELEGATES: Yes!

THE CHAIRMAN: Now, we vote on the main one as amended - (*Interjections*) - yes, his Amendment has been carried. I did not even have to put it to vote because it appeared to be all by consensus. You see, our rules are very clear, once you have disposed of a matter you do not re-open it. Now, let us pronounce ourselves on a recommendation made to us under clause two.

(*Question put and agreed to*)

THE CHAIRMAN: Now, I will put the question on 42, that Article 42 as Amended do stand part of the Draft Constitution.

(*Question put and agreed to*)

THE CHAIRMAN: Now, we come to Article 43.

MR. KATENTA APUULI: Thank you, Mr. Chairman. Article 43 Clause (1), paragraph (a). Mr. Chairman and Hon. Members, there is only a minor Amendment on paragraph (a), we only changed the word in the second line, after the word “*Uganda*” from “*or*” to “*nor*” purely because of flow of language, to read: “Every person born in Uganda one of whose parents or grand parents had diplomatic status in Uganda *nor* was a refugee in Uganda at the time of his or her birth...” I beg to move.

THE CHAIRMAN: We agree to the word “*nor*” instead of “*or*”.

MR. LIIGA: Thank you, Mr. Chairman. I would like to seek some small clarification from the Chairman of Committee Four with respect to a child or a person born of refugees in Uganda who would like to become a citizen of Uganda by registration if the Chairman insists that the word “*or*” as appears in the Draft should be turned to the word “*nor*”.

THE CHAIRMAN: You want to know what would happen to a refugee situation?

MR. LIIGA: To the refugee child.

MR. NYAI: Thank you, Mr. Chairman. I have a problem with the Committee Chairman’s suggestion that the word “*nor*” makes the reading more fluent and meaningful. There is one problem which is introduced here, Mr. Chairman, and it is that in introducing the word “*nor*”, you are saying that any ambassador is either an ambassador or a refugee, which I think, Mr. Chairman, is a very, very terrible formulation. I was thinking the formulation in the Draft is that if a child has parents who are in diplomatic service or he has parents who are refugees - so, I think, Mr. Chairman, I would recommend that the committee rethinks about this and we revert back to the old.

THE CHAIRMAN: Well, since that is from a very prominent journalist who normally uses the language for his living, we would take it very seriously.

MR. KATENTA APUULI: Mr. Chairman, as I said it was in terms of flow of language, I would concede.

DR. MIYINGO-KEZIMBIRA: Thank you very much, Mr. Chairman. Mr. Chairman, I will have to disagree with my Chairman, Hon. Katenta Apuuli.

THE CHAIRMAN: He has conceded.

MR. MIYINGO KIZIMBIRA: Okay.

DR. KABERUKA: Thank you, Mr. Chairman. As you may have noticed, I was among the people who objected to "nor" there, because here the overriding verb is hear -

THE CHAIRMAN: Yes, but Hon. Kaberuka, that has been conceded by the Chairman. So, 43(1) (a) and (b) agreed? It is quite easy, I do not see any problem there really, you see, it is not disjunctive its conjunctive.

MR. MALIRO: Thank you, Mr. Chairman. My problem with this sentence is that this sentence intends to say that that child, the parents must not have diplomatic status and at the same time must not be refugees. Now, if by putting "or" it means the parents of that child shall not be a refugee and shall not have diplomatic status, then I will be at home, but according -(*Interruption*).

THE CHAIRMAN: But that is what it is, it is saying the parents must neither be children of diplomats accredited to Uganda, or children of refugees in Uganda, even if they have lived here since - they did not qualify. That is what it is.

MR. MALIRO: But, Mr. Chairman, when you put "or was a refugees in Uganda" when we sat with the Technical Committee, this brought us problems. The Technical Committee found that this was ambiguous. When you say "or was a refugee", it will at the same time mean that if you did not have a diplomatic status but the parents were refugees then you have the right to be registered, that is what it meant, and that is why we had to object to it and, Mr. Chairman, when you look into the main report, they were intending to say that if refugees have lived here since 1962, that they could be registered as Ugandans, and we said, no! Refugees should be registered as Ugandans unless they were only settlers.

THE CHAIRMAN: No, but that comes out in another provision but this one is talking about children of those people whose parents or grandparents are of that description but we have closed it because I asked the House and it said yes, now we are going to the other one. Hon. Katenta Apuuli let us do 2.

MR. KATENTA APUULI: Article 43 clause (2) Mr. Chairman, the committee considered this clause in the same way as we did consider the last one and still recommended that we do some change of language and retain the substance in the Draft Constitution. The change we introduced is to change the word from "apply to" to "on application". The committee considered that this was better terminology and formulation to read: "The following persons may on application be registered as Ugandan citizens: (a) every person married to a Ugandan citizen upon proof of a legal and subsisting marriage of three years or such other period prescribed by Parliament. (b) every person who has legally and voluntarily migrated to and has been living in Uganda for at least twenty years.

(c) every person who, having lived in Uganda for at least twenty years, has not been previously convicted of an offence which carries a sentence of not less than six months imprisonment without the option of a fine." Mr. Chairman, I beg to move.

THE CHAIRMAN: But can I get guidance for purposes of certainty, if someone wants to know how a spouse of a Ugandan becomes a citizen, and rings me as a lawyer, do I say it is after three years or such other period as the Parliament may prescribe? In which case, you never know, because Parliament can meet tomorrow, and while I am advising that three years they make it five. Is that desirable or do you simply say either you say "three years" full stop, like it was in the Draft or you say "such period as Parliament may prescribe" then Parliament prescribes. But how do you prescribe a period and then you open it up in the hands of another body so that at no time is it clear what the period is?

MR. KATENTA APUULI: We thought that there could be circumstances in future that may - the flow of the debate. Mr. Chairman, was that this marriage should become - after the marriage, one should automatically become a citizen of

Uganda without the three years. Now, we went on arguing as we settled for three years, but as a compromise, we agreed that Parliament may prescribe some other time to reduce or increase this period according to the circumstances of the day

THE CHAIRMAN: - shorter period or such longer period as Parliament may prescribe, or you want to leave it open to both ways?

MR. KATENTA APUULI: That was the idea.

MR. SSENDAULA: Mr. Chairman, I am sure we are bitterly served if we retain the original format as provided in the Draft. Because if we take what the committee recommended, it is as if it becomes very automatic and leaves no room for debate, for questions et cetera, and whoever will read the content of our -

THE CHAIRMAN: We won't to leave it open both way.

MR.SSENDAULA: Mr. Chairman, I am sure we are bitterly served if we retain the original format as provided in the draft. Because if we take what the committee recommended, it is as if it becomes very automatic and leaves no room for debate, for questions et cetera. And whoever will read the content of our constitution, if you question, he or she will show that, you are being unnecessarily unfair to attend to the application. Whereas in the original draft, it was very clear, "the following person may apply to be registered as citizens of Uganda." Now, they apply and then consideration is given. But here, where we say "on application", it appears as if it is going to be automatic.

DR.KABAYO: Mr. Chairman, I was trying to imagine what the committee had wanted to do. Because like you, Mr. Chairman, I was wondering why they left two options. Perhaps what would be meaningful and reasonable would be to put the three years as a minimum. In other words, to say that Parliament could approve higher but they should not go below three years. In other words, we put "subsisting marriage of at least three years or such other period" or else the time, just leave it to Parliament to prescribe.

MR.HASHAKA: Thank you, Mr. Chairman. I rise on this issue of the marriage especially where

our daughters and our sisters are concerned. With due respect to Hon. Delegates, the ladies here, people of Kibaale say that, if a lady left here and went anywhere outside this Uganda, and married any man from there, this man should not be accepted under any condition to apply and be accepted as a citizen of Uganda. They rise on an issue that, this lady once married becomes a property of this man and this lady should have the citizenship where the man is.

THE CHAIRMAN: Hon. Hashaka, I have seen a lot of hands raised.

MR.HASHAKA: Mr. Chairman, I am airing the views of people of Kibaale, and *-(Interruption)-*

THE CHAIRMAN: Yes, but that does not mean that they are not subject to the rules of this House.

MR.HASHAKA: And my view also is that, Mr. Chairman *-(Interruption)*

THE CHAIRMAN: Hon. Hashaka, I am addressing you.

MR. HASHAKA: Yes, Sir.

THE CHAIRMAN: There is a point of order from Hon. Turyahikayo.

MRS.TURYAHIKAYO: Point of order! Thank you, Mr. Chairman. I am a Woman Delegate for Kabarole District of which Kibaale is part and the women of Kabarole sent me to say that there should not be any kind of discrimination against women by law, where men are given the opportunity of becoming citizens - I beg your pardon. Women are given the opportunity of being citizens and men married to Ugandan women are not. That kind of discrimination should be out. So, is it in order for Hon. Hashaka to say that the women of Kibaale do not want that provision? Is he in order, Mr. Chairman, whereas the women of Kabarole including women of Kibaale do not want to see that kind of discrimination by law?

THE CHAIRMAN: It is becoming very clear that the instructions given to Hon. Hashaka and those to Hon. Turyahikayo conflict. And in view of that, I think we should first of all have a conference before you come back to tell us further that you are carrying a message from Kibaale, when the fact is being contested right now on the

Floor, at least to a very substantial degree because, I do not know how many there are in Kibaale, but I am sure they are more.

MR. HASHAKA: Mr. Chairman, I have addressed 18 meetings in Kibaale and all men and a big cross section of women say that they belong to men where they are married. So, they confirm and say *-(Interruption)*

THE CHAIRMAN: There is a point of order, please give way.

MR. NABUDERE: Point of order! Thank you, Mr. Chairman. Mr. Chairman, is it in order for Hon. Hashaka to continue maintaining his position when we have passed article 61, under the Fundamental Human Rights under which women are accorded equal rights with men?

MR. CHAIRMAN: In view of that, and our rules do not allow us to proceed on a course or for these conflicting provisions, Hon. Hashaka, you may desist from pursuing that line of argument.

MR. HASHAKA: Mr. Chairman, this is the wish of the Hon. Delegates and the rules here. The fact is that *-(Interruption)-*

THE CHAIRMAN: No, no. Hon. Hashaka that is finished.

MR. HASHAKA: I can wind up, Mr. Chairman. But with a view that - protect me from Hon. Gertrude, Mr. Chairman. I am being threatened to be boxed.

THE CHAIRMAN: The only argument that we could accept is that, you do not support the idea of spouses of Ugandan women becoming citizens. But the question of ownership and property and all that, that does not arise.

MR. HASHAKA: So, Mr. Chairman, I conclude by saying that, unless there are men who would marry and those married ladies are accepted to be registered as Ugandans. But I still stand to say that women who go marrying non Ugandans, those men should not be accepted to be registered as Ugandans. Thank you, Mr. Chairman.

MR. MULEJJU: Thank you, very much, Mr. Chairman. I rise to support Hon. Gerald Ssendaula -

THE CHAIRMAN: Could you speak through the microphone please.

MR. MULEJJU: That we retain the article as it is in the Draft Constitution where it says "*the following persons may apply to registered as citizens of Uganda*" and I think, Mr. Chairman, with that I propose that you put the question.

THE CHAIRMAN: We see in the 1967 constitution I think - I do not know which provision - was more emphatic. And I think that is why they were trying to change the language to make it more or less mandatory. Instead of granting the rights to citizenship, subject to processing by putting in an application, these others are saying, "*may apply to be registered as citizens of Uganda.*" Does it go through a process of consideration or is it automatic? Could I get an interpretation of what it is here and what they are recommending. Is there a difference? You see, they are saying, "*the following persons may on application be registered as citizens*" i.e. they are granted right to citizenship and all that is left to them is to lodge an application. Here they are saying, "*may apply to be registered*" and if they apply, then the application will be considered. Is that what we are saying or we are saying like they were saying in previous constitutions? They made a distinction between spouses and other people who apply for registration. This is what I am trying now.

MR. KIRENGA: Thank you, very much, Mr. Chairman. The interpretation I have here in the original text is that the granting of citizenship is not automatic, it is subject to consideration. It may be refused in the draft. Also in the amended version by the committee, it is also subject to consideration. Because they say, "*the following persons may be registered.*" I think what they should have done is to say, "*the following persons shall on application...*" - because they are not bound to apply. But once they apply, then they shall be granted citizenship. So, it should read that "*the following persons shall on application...*"

THE CHAIRMAN: The 1967 Constitution with regard to spouses who are women reads as follows in article 4, sub article 4: "*The following persons if not citizen of Uganda, shall be entitled to be registered as citizens of Uganda upon*

making an application in such a manner as may be prescribed by Parliament, that is to say, (a) any woman who is or at any time has been married to a citizen of Uganda..." That is how it was written.

MR. KIRENGA: In fact what I am saying is to that effect. That once a person is -*(Interruption)*-

THE CHAIRMAN: But are we deliberately changing that? That is what I am asking so that people know what we are moving.

MR. KIRENGA: We are deliberating, we are now moving backward, we are making it more difficult for spouses to become citizens. And we should not. I am arguing that we should not.

DR. BYARUHANGA: Thank you, Mr. Chairman. The mandatory category - the "shall" category, when you have applied, it becomes automatic to be granted citizenship was in 43(1). Now, these other categories under 43 (2), we thought that it would be up to the responsible committee to either grant or refuse citizenship to the applicant. So now, the wording which we have and the old wording are virtually the same in meaning. They do not change the meaning much. Except that the new wording sounds better.

THE CHAIRMAN: "The following persons may on application register as citizens of Uganda."

MR. ERESU: Thank you, Mr. Chairman. Mr. Chairman, I think to retain the text as it is in the Draft is good. Because if we change as it is recommended by the Committee, that it should read: "*the following persons on application may be registered as citizens of Uganda*". it conveys the meaning which I understand in the following ways that, as soon as the application has been logged, that citizenship must be granted to the applicants. Whereas in my opinion, citizenship is a status of an individual, and it is granted subject to certain conditions, especially if you are not born a citizen of that country. Why do we not give the law a chance to find out about that person being granted citizenship? Why I say this, Mr. Chairman, is because - take a case of marriages between people of different countries, there are situations of marriage of convenience to get citizenship. They are there. We have seen cases, and I would like to point it out, Mr. Chairman, that we

have even had cases of some Ugandans going to some other countries and then connecting with other men or women in those countries, for the sake of getting citizenship. After that citizenship has been granted, then the marriage devolves itself. What are we going to do about that situation in case it is done in this country? That is why I say, if we retain the original text, we give a chance clearly to avoid misinterpretation of the law in future. We give a chance for investigation and to determine the legality of this marriage and the durability of this marriage, to enable us, in principle to give the citizenship to that person concerned. Thank you, Mr. Chairman.

THE CHAIRMAN: Hon. Eresu, I think you are mixing up two things. First there is the right of a constitution to grant citizenship itself, just like we have been granting - If you are found, you are five years, parents are not known, you are a citizen. If you have been adopted, you are a citizen. You do not even have to apply. Then other situations are special, so you have got categories, those who are favoured by virtue of either their weaknesses like those who have no where to go, then those who are adopted, then spouses. Those are normally favoured like they were favoured in the other constitution or ordinary applicants. Someone who comes to apply and says, I would like to apply to become a Ugandan, you say okay, fill out the form, then you carry out serious checks on his criminal record and so on and so forth. But I think the fear you had expressed, I thought it was the reason why they put in the three years so that you cannot get married to a Ugandan today and become a citizen and then run away and break up the marriage. You have to prove that the marriage has lasted for three years. And not many marriages last for three years, but if it does - So, that is why I am saying that, we were looking at those categories.

MR. ANIKU: Point of clarification! I am seeking clarification. I wonder if a Ugandan girl goes to, say Britain, marries somebody there, comes back and leaves the husband there, and they are still legally married, after two years, the husband joins us here. can that husband become a citizen of Uganda? Mr. Chairman, if the answer is positive, that means there is a chance but some people can make marriage a business, where they become a conveyor belt. Getting some rich girls from outside and bringing them in to come and compete with us in every thing.

THE CHAIRMAN: Compete with us - I mean compete with Ugandan Women or with business?

MR. ANIKU: Mr. Chairman, my fear is mostly on the side of women making it into a business. Because it has happened in the United States, and the American Government became very sensitive about it. The authorities in the US now have devised various means to find out if they are really staying together or the marriage was that of convenience. So, the same thing can happen here.

THE CHAIRMAN: Hon. Aniku we do see you are - Hon. Luberega, you wanted to comment on that, or something?

MISS. LUBERENGA: Thank you, Mr. Chairman. Mr. Chairman, I will start by commenting on the previous speaker who seems so scared of competition and suppose the converse is even more relevant, what about men who might turn marriages into a business? So, I do not think that that one should be a worry to us. We should legislate for what is good for the people of this country. Now, as for Hon. Ercsu's contribution here, which was the same as the previous speaker's that we might get people who are contracting marriages of convenience. It is clear here that, they are saying, he should be married for at least two years, and that you have to apply. But actually, Mr. Chairman, the reason I have been putting up my hand all along was not on either of those. My concern is that, it should read that, "*the following persons shall on application be registered as citizens...*" Especially when it comes to (a), because we might get a future Parliament full of the Hashakas of this world or Hon. Hashakas, where we are going to end? *-(Laughter)-*

THE CHAIRMAN: Hon. Hashaka, what is your problem?

MR. HASHAKA: Point of order! Thank you, Mr. Chairman. Mr. Chairman, I rise on a point of order. Is it in order for Hon. Member to impute that the Hashakas, the future Hashakas in parliament would not care and legislate for this country even as they are doing, Mr. Chairman?

THE CHAIRMAN: I thought she was worried about your position on spouses but I am sure she knows you are competent in all other fields except your views.

MISS. LUBERENGA: That is exactly right, Mr. Chairman. I know Hon. Hashaka is very capable as a legislator. But his comments made me rather nervous when he started calling women property and saying that their husbands should not be allowed to become citizens. So, I would be very happy to see the thing reading that at least spouses shall automatically on application be granted citizenship. Otherwise, when we get the Hon. Hashakas in Parliament, we are going to have our husbands knocked out and we would not like to see that situation, Mr. Chairman.

On (b), Mr. Chairman, I wanted to propose that we should have it reading that, "*every person who has legally and voluntarily migrated to and has been continuously living in Uganda for at least 20 years...*" Because, Mr. Chairman, we do not want to get people who are coming here for convenience just settling there, then settling back where they belong, and then when things do not work as they come here, because they say we started to stay in 1960, it is now 1980, we are automatically entitled. I would be happy to see it saying that, we have continuously lived here, in order to be granted that citizenship. Thank you, Mr. Chairman.

MR. BATEGANYA: Thank you, very much, Mr. Chairman. I would like to find out from the Chairman, whether - because the text I have says "*establishing marriage of three years.*" The words "*at least included*", were they omitted as a printing error or that is the import of this amendment? If it is, then I would like to suggest that, the words "*at least three years*" should be added, and I would also like to suggest that - *-(Interruption)-*

THE CHAIRMAN: Because we have to remove that, as you can see, before they say that, Parliament could decide either way.

MR. BATEGANYA: What I would like to suggest is that, we make three years the bare minimum, and also provide for Parliament to make such other longer period. So the words "*other longer period*" should be added. That is my proposal. Because marriages of say, less than one year or lesser period, can be abused. I have lived in a situation where land is short and the citizens of that country would really wish to immigrate to any other place where land is avail-

able at any cost. They have the money, but what they do not have is the land. So, if we have the provision like this one, where it is possible to contract a marriage of a lesser period and use it as a basis for acquiring citizenship, I am sure, it can be abused. The place I am talking about is Bahrain. It is a very small island, but heavily populated by rich people especially the men. Now, if those people discover the provision like this one in our constitution, and judging by the morals of some of the ladies we have like say, in my constituency, there is a small place called Naluwerere, if they discovered that a place like Naluwerere at least in Uganda, and you can marry even at any cost, I am sure this provision could land us in trouble. I could get many Bahrain marrying the girls from Naluwerere and using this as a basis for competing with us on scarce resources like land. So, Mr. Chairman, this is a problem in my constituency.

THE CHAIRMAN: There is a point of order, so you should give way.

PROF. SENTEZA KAJUBI: Point of order! Thank you, Mr. Chairman. Is the Hon. Member on the Floor in order to impute that women in his constituency have lower morals than the men?

THE CHAIRMAN: Hon. Bateganya, were you saying that the women of Naluwerere are - I think that is not very good for your next vote.

MR. BATEGANYA: Mr. Chairman, these are facts. If you want to prove, you can go there, you will find that those women's morals are not good. There is nothing to hide about this *-(Interruption)-*

MISS. AKELLO: Point of order! Mr. Chairman, is the Hon. Member in order to attribute the whole problem of immorality in this country to women? Is he in order to address this House in those terms, Mr. Chairman?

THE CHAIRMAN: I think the Hon. Member should confine himself.

MR. BATEGANYA: Mr. Chairman, I am sorry to have stepped on other people's toes, but that is all. Mr. Chairman, as I was saying, that we really need to *-(Interruption)-*

THE CHAIRMAN: There is a point of procedure.

MR. BIDANDI SSALI: Mr. Chairman, we keep on hearing opinions, and we can have as many opinions, as the people sitting in this hall. As a matter of procedure, can a Member introduce his opinion and argue for it through a Motion or an amendment? Otherwise, we have had about seven different contributors expressing different opinions and we can go on and on and on.

THE CHAIRMAN: You see, this is an area where the chairman allowed a freedom of debate for one reason. That it is an important departure from the previous provisions in our constitutional arrangement with regard to the right of spouses to become Ugandans. And it is good to have views expressed from the Floor, so that we can come to a well educated conclusion. The only thing is I think, I can see that, this is a matter which may have to be stood over for and continued tomorrow. Because of the importance of the subject matter. But let us first of all get Hon. Bateganya to finish his contributions now in a few seconds, then we go.

MR. BATEGANYA: Thank you, very much, Mr. Chairman to allow me conclude my remarks. What I was saying is that, the people of Bukhooli Central have expressed a genuine concern for the people who get land on the basis of marriage. In my constituency, a certain lady squired over 10 square miles of land that was being used by the peasants of that area and she managed to do this specifically because she happened to marry a rich foreigner. So, we really have a fear that, if we get more of such marriages, then our peasants will be displaced and we shall have nowhere to cultivate for subsistence reasons. So, Mr. Chairman, I would like to conclude by suggesting that, the bare minimum for a marriage to subsist and be used as a qualification for marriage should be five years. Thank you very much, Mr. Chairman.

THE CHAIRMAN: Okay, with that contribution from Hon. Bateganya, we come to the end of today's proceedings. We shall continue with the same subject matter tomorrow, and we shall take a short time and conclude it and go on to other provisions. We stand adjourned until tomorrow at 2.30 p.m.

(The Assembly rose at 5.30 p.m. and adjourned until 7th February, 1995 at 2.30 pm.)