



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

TUESDAY, 7TH FEBRUARY 1995

MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 2961]

Tuesday 7th February, 1995

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

P R A Y E R S

(The Deputy Chairman, Prof. V. Mwaka in the Chair)

(The Assembly was called to order)

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

CHAPTER FOUR - CITIZENSHIP

ARTICLE 43 - CITIZENSHIP BY REGISTRATION

THE DEPUTY CHAIRMAN: Hon. Delegates, before we start, we should not be alarmed rather to welcome - you can see quite a big contingent up there. Those are observers from Busiki. *(Applause)*. When we adjourned yesterday, we were considering clause two of article 43: I think we had cleared clause one. We had also moved on to clause 2 and we were on clause 2 paragraph (a) and we did not pronounce ourselves but there was a lot of debate on both (a) and (b). But I can see some amendments here by Hon. Hashaka Jackson and Hon. Odur and Odur is on article 46. So Hon. Jackson Hashaka has an amendment on clause 2(a) and he wants to substitute it with some other way of phrasing.

MR. HASHAKA JACKSON (Kibaale County): Thank you very much Madam Chairperson.

MR. KIRENGA EMMANUEL (Mityana County North): Madam Chairperson, I note that the amendment by Hon. Hashaka is on clause 2(a) but Madam Chairperson, I think before we come to that, we ought to pronounce ourselves on that introductory sentence because that was also debated upon. Those words were not decided upon. Before a person may apply to be registered as a citizen of Uganda. Is it not better Madam Chairperson, to first agree on that before we come to consider the paragraph?

THE DEPUTY CHAIRMAN: What I propose is that introductory part, once you remove it, that will automatically mean reverting to the original otherwise it will not make sense.

MR. KIRENGA: No, I do not mean to remove but to modify it in view of what was discussed yesterday.

THE DEPUTY CHAIRMAN: But you do not have a substantive amendment. If you do not have a substantive amendment, I assume that everything is fine. Your amendment is not in writing, you had all the time at your disposal.

MR. HASHAKA: Thank you Madam Chairperson. Madam Chairperson, I wish to move an amendment to the recommended amendment of the article 43 clause 2 to read: a non-Ugandan woman married to a Ugandan citizen, upon proof of a legal and subsisting marriage of five years will be accepted to register as a Uganda citizen.

THE DEPUTY CHAIRMAN: Is that seconded? Okay, it is seconded.

DR. BYARUHANGA FABIUS (Kitagwenda County): Point of order. Madam Chairperson, is it in order for a Member to bring forward an amendment that contravenes what this Constituent Assembly has already passed in article 61 of the chapter on fundamental human rights where every Ugandan is equal under the law?

THE DEPUTY CHAIRMAN: Hon. Hashaka, you are being alerted that would be contravening what we have already passed. For that reason, unless you are also proposing to amend reconsideration stage, to amend the provisions of the human rights, then you can bring also this amendment. In fact it is in conflict with what has already been passed.

MR. HASHAKA: Madam Chairperson, with the order I got, it does not bar me from moving this amendment especially if it reads: "a non-Ugandan married to a Ugandan citizen upon proof of a legal and subsisting marriage of five years will be considered to be registered as a Uganda citizen." Madam Chairperson -

THE DEPUTY CHAIRMAN: Before you proceed, do you mean a non-Ugandan woman is the same as a non-Ugandan? Are they synonymous?

MR. HASHAKA: Madam Chairperson, I have been advised by Friends to cross woman and leave it as a non-Ugandan married to a Ugandan citizen.

THE DEPUTY CHAIRMAN: Okay, it was seconded. Is that all you can say then I ask the seconder?

MR. AWORI AGGREY (Samia Bugwe North): Madam Chairperson, I am seeking clarification from the Hon. Delegate in light of his new amendment by deleting the word woman. Madam Chairperson, many Ugandans have been living or are living in countries where matrimony has assumed new dimensions. I was wondering whether he thought to clarify that part or did he have something else in mind. When I say matrimony has assumed new dimensions, I mean Madam Chairperson, where a man can marry a man, a woman can marry a woman.

MR. HASHAKA: Madam Chairperson, before I clarify that, it is totally obscene in our African society especially Uganda where we are writing this constitution for a man to marry a man and a woman to marry a woman. Therefore Madam Chairperson, I would proceed to substitute for my amendment. Can I be protected from noise around? Madam Chairperson, I have decided to move this amendment to protect both our men and our daughters, that some men come here and get interested in Ugandan women. After say the proposed period of three years as it was in the constitution, it is so short a time that after he has got citizenship given such a short time and he gets what he wanted as a hidden agenda, he divorces the lady especially after being attracted by other beautiful Ugandans, he flies away with the same with what he has achieved materially or economically and leaves the former married wife just to suffer in the country. Madam Chairperson, I am also protecting men who may be wooed by some business women for the sake of coming to this country to achieve citizenship and later abandon the husband and she starts on her own after all, you cannot do anything after she is already a citizen and she starts manipulating to achieve what her hidden agenda was.

LT. COL. GUMA: Point of information. Thank you very much Madam Chairperson. I would like to inform the Hon. Brother of mine that whether she is a Ugandan, whether she is pink Chinese, real Japanese, if she has got here, she has got her citizenship. If she decides to go, I think it is a human right. So this question of saying that she may go, so long as she is a Ugandan, I do not think we should complicate the issue of nationalism on marriage or what. There are more important things I look at because I have not heard someone talking about the Ugandan passports

that were taken from here and how we are going to collect them and how we are going to give identity cards. So there are so many things we should talk about. The semantics of whom I am sleeping with is really nothing.

THE DEPUTY CHAIRMAN: Hon. Delegates, before we proceed, let us get one thing clear. Hon. Hashaka's motion removes such other periods prescribed by Parliament and tie him from three to five years. That would be how I would interpret it. So let us just zero on that one so that we do not waste time; whether we agree to remove the underlined words in the report, other periods prescribed by Parliament and the time from three to five years.

MR. KIRENGA: Thank you Madam Chairperson. I am still insisting that we cannot debate on that before we have passed the two which was proposed as follows: "*The following persons may on application be registered as citizens of Uganda.*" In the draft it says: "*the following persons may apply to be registered as citizens of Uganda.*" Now, what have we passed? Can we go on to debate a, b, c before we have passed that?

THE DEPUTY CHAIRMAN: We are debating the report.

MR. KIRENGA: No, but the introductory sentence should first be disposed of.

THE DEPUTY CHAIRMAN: Okay, Hon. Kirenga is saying that we have 'on application' instead of where we agree with that part. But if as I said earlier, that if you go back to the original - you are looking at the following persons who may apply to be registered as citizens of Uganda as against the following persons who may on application be registered as citizens of Uganda.

MR. KAGIMUKIWANUKA: Thank you Madam Chairperson. Is the Hon. Member in order to confuse us when actually it is the same when you say the following persons may apply or the following persons may on application. It is the same Madam Chairperson.

THE DEPUTY CHAIRMAN: I had explained and I thought he had understood it but I am surprised that he is bringing the same issue again. Hon. Kanyeihamba, can you help us out here?

PROF. KANYEIHAMBA GEORGE (Rubanda County East): Thank you Madam Chairperson. Substantially, there is no difference between on application or if a person applies shall be registered. It is a play on words Madam Chairperson.

MR. KATENTA - APUULI STEPHEN (Conservative Party): Thank you Madam Chairperson. To us as a committee, what we considered most important was the word *may* and *may* applies to *may* be registered. That is really where the flow of language goes. *May* does not refer to person or persons. It refers to *may* be registered and whether you use on application or you use to apply, it does not change the sense of the meaning.

THE DEPUTY CHAIRMAN: So I think we proceed as we have been proceeding. Thank you very much.

MR. KATENTA APUULI: Madam Chairperson, I was concluding to explain why I had to omit the last sentence of being subjected to the Parliament as it would make - leaving it to the Parliament Madam Chairperson, I decided to request Hon. Delegates to accept that Parliament has got the mandate to amend the Constitution. Therefore, mentioning it here surely would be redundant. We would rather be specific and only determine the time and the period when such a person would be accepted to register as a citizen. So if the Parliament, during the course of its sitting at a certain time wishes to change the time, it already has the mandate Madam Chairperson. It was really redundant as far as this amendment is concerned. Thank you Madam Chairperson.

MR. WAMBEDE SETH (Bungokho North): Thank you very much Madam Chairperson. Madam Chairperson, I supported this motion on the principle of determining the number of years. To begin with, I was unhappy with the three years. After marriage of three years, one may be eligible to apply for registration. I would consider that as too short a time, for a non-citizen to apply for citizenship here. Why too short? Marriage alone cannot really convince us that one, seeking to apply for Uganda citizenship has more basic interests than marriage alone. So the three years to me is something very small. At least five years, one could have developed some recognised interest, one has put up some kind of project besides the marriage which we can look at or in terms of investment. He could have invested, maybe we

can judge from that and then give the citizenship. Secondly, for us to say Parliament will prescribe, Madam Chairperson, Parliament may only prescribe after the chairman of the immigration and control board maybe has tabled the motion. Supposing it is not tabled and who will run after the chairman that you table this and then we consider it? So with that view Madam Chairperson, I will strongly support Hon. Hashaka's motion. Thank you very much.

MR. KARUHANGA ELLY (Nyabushozi County): Thank you very much Madam Chairperson. Madam Chairperson, I feel that we should reject Hon. Hashaka Jackson's amendment for the following reasons. One, substantially his amendment is moving from three years to five years before a wife or husband of Ugandan citizen is allowed to make application to become citizen. Now, in five years, if it is a wife who is not a citizen, she could have had five children. she could be a mother of Uganda citizens and all this time she has not been allowed to identify herself legally with her family. Secondly, it is a human right to marry the person you want and when a person decides to marry another, they kind of come into a joint partnership. They own everything together and for those who are christians, they become one. So how can you be one person when you want to be one completely and you become a citizen and be denied that? So this is even against the teachings of the scripture. Thirdly Madam Chairperson, a person who has decided to leave and abandon her family and come chasing the love of her heart who happens to be a Ugandan and decides to go in Busiki and live with her husband there, she has really come. Three years we are saying is enough proof that this person is not likely to be fed up with Basiki and wants to go back. So at least three years is enough time for her to make up her mind to apply.

PROF. KANYEIHAMBA: Point of information. Madam Chairperson, I thank Hon. Karuhanga for giving way for the information and I am sure that this information will support his argument. Madam Chairperson, the international convention on the rights of married people at the moment and which is currently in the laws of Uganda is that on marriage and on proof of marriage, the foreign spouse or non-Ugandan citizen is entitled as of right to be registered as a Uganda citizen immediately. That is, all you have to do is to prove that your marriage was validly done in accordance with Uganda laws and that it is not fraudulent. Once you prove that, then the current law is that you are entitled to be registered as a citizen

if you apply. Madam Chairperson, the recommendation of the committee which I am not commenting on actually is now reducing that right, by saying you cannot be registered immediately, that you have to wait for three years. Secondly, they are saying that you may be registered. The present law is that you must be registered if you apply. So in fact the committee is reducing that right and if we accept that, it would be really even more absurd to accept the amendment proposed by Hon. Hashaka. I thank you Madam Chairperson.

MR. KARUHANGA: Now Madam Chairperson, the chapter we have passed on human rights makes it obligatory for us to treat our spouses equally with dignity and the only good thing about the committee's amendment is that it says that the spouse may apply - because there are some people who marry actually and they do not want to be citizens of the country or partner they have married. So the option is up to them. Now, the fact of Parliament prescribing the time at some future date changing three years maybe to five years shows the need - because the fact that you can now move from three years to five years shows that the issue of time is debatable and that even if we take five years, it is necessary therefore, for Parliament to debate it at some stage. Maybe they would like to abolish it in conformity with the international conventions. At the moment we have not been advised until Hon. Kanyeihamba came up with the requirement of the international convention where Uganda is a signatory, where a spouse on marriage is entitled to apply there and then for citizenship. We can limit it to three years, I do not know for what reason but to move it to five years. I think is stretching it towards the boundaries of ridiculousness. So therefore I really appeal to Hon. Hashaka to withdraw his amendment in favour of the committee's amendment.

MRS LAGADA BEATRICE (Women Delegate - Apac): Thank you Madam Chairperson. Madam Chairperson, I am going to appeal to my Brother Hon. Hashaka to withdraw his motion. Madam Chairperson, I want him to imagine that he is not yet married. I think he is married already (*Interruptions*).

AN HON. MEMBER: Point of information. Madam Chairperson, I want to inform the Hon. speaker that Hashaka is married. The first born is 22 years and she is a girl. Thank you.

MRS LAGADA: I thank you for that information because... (*Interruption*)

DR. BYARUHANGA: Point of procedure. Thank you Madam Chairperson. I rise on a point of procedure. When the amendment came before us, it was talking of a non-Ugandan woman but when Hon. Hashaka amended it on the Floor and it became a non-Ugandan woman married to a Ugandan citizen, the issue now only became of period, whether to take three years or five years and yet this thing was thoroughly discussed in our committee. Would it not be in order therefore that you ask the committee chairman why we did not take five years but we took three instead of re-opening the debate when this issue was thoroughly discussed in our committee.

THE DEPUTY CHAIRMAN: Yes, the purpose of bringing those issues are to be cleared so that everybody goes with a clean heart. I will be coming up to Hon. Katenta Apuuli after Hon. Lagada.

MRS LAGADA: Madam Chairperson, I was just saying that I want Hon. Hashaka to imagine that he had not yet been married. He has rightfully informed me that he is married just as I imagined. Imagine you were not married and you married a non-Ugandan woman and you had to stay with her for five or more years before she is made a citizen. Then imagine that for some reasons after you have produced four or five children, you died leaving this wife of yours still a non-citizen with four children to look after, with property, then there are your brothers, African brothers who are interested in your property, this poor woman is not a citizen. What do you imagine will be the fate of your children and that non-Ugandan wife? (*Applause*). Madam Chairperson, I think the women of Uganda have enough problems as it is after the death of a husband and it would even be worse for a non-Ugandan woman. Apart from the stress that you subject your partner to while waiting to be granted citizenship, there are too many other complications. So for the sake of your spouse and the children that you leave behind, I would want this plenary to reject this amendment. In fact even the three years is bad enough as it is. We do not have the right to condemn a person who has chosen to marry a Ugandan and say this one must be having ulterior motives, he is marrying because they want to become Ugandan for some other reasons. People marry because they have chosen somebody as a partner. After all even when Ugandans themselves, where is the guarantee that they are going to remain married?

Some people marry and after one month or after one year, they are divorced. So why do you suspect a non-Ugandan for marrying for ulterior motives? I think let us not tread on the human rights of adults who want to marry each other because they have chosen to be with each other. So my Brother Hashaka, please let us be kind to our spouses and especially to non-Ugandan women who have chosen to live with Ugandan men and do withdraw this amendment. I thank you.

MR. KATENTA-APUULI: Thank you Madam Chairperson. The committee did debate this matter very thoroughly and the issue of five years was part of the amendments the committee considered but the committee preferred to recommend three years and the motion on five years had been defeated in the committee.

THE DEPUTY CHAIRMAN: Okay, thank you very much. It seems Hon. Hashaka, you should have provided a minority report if you are a Member of that committee. Anyway, I think we have had enough debate. Let us pronounce ourselves on the issue. We discussed this for a whole hour. If you were not around yesterday, you lost. We have had enough discussion. Let us pronounce ourselves on Hon. Hashaka's amendment.

(Question on the amendment put and negatived)

THE DEPUTY CHAIRMAN: So again without wasting more time - because we are just going round the problem - I want to put the question on clause 2(a).

(Question on the amendment put and agreed to).

THE DEPUTY CHAIRMAN: So (a) is through. So now we go to (b). (b) has no amendment proposed. *Every person who has legally and voluntarily migrated to and has been living in Uganda for at least 20 years -*

PROF. KANYEIHAMBA: Madam Chairperson, I hope that the committee will not object to this. I wanted to move a smaller amendment so that it is similar to the one that we have already approved and put there: "or such other period prescribed by Parliament." Sorry Madam Chairperson. My reasons are similar to those that were advanced by Hon. Karuhanga that circumstances may change or there may be occasions when a well deserving person may apply and then the Parliament may consider that

particular case of that person or a group of individuals, it would be in the interest of Uganda to reduce the period from 20 years to less or in some cases to say it should be more. So I would like to leave this for future generations to determine rather than tie them down to 20 years rigidly when circumstances may change from time to time for people who wish to become Ugandans. Madam Chairperson, I beg to move.

THE DEPUTY CHAIRMAN: Before I give other people the Floor I want to ask Hon. Katenta-Apuuli why they put that provision in (a) and did not put it in (b).

MR. KATENTA-APUULI: Thank you Madam Chairperson. First of all, I have no objection to Hon. Kanyeihamba's motion to make all these clauses subject to other periods prescribed by Parliament. However, we did not address that issue because the committee did not receive any amendments on paragraph (b) and the following paragraph (c). That is why really we did not follow the format as we have in paragraph (a).

MR. SEBI HAROUN (Koboko County): Point of procedure. Thank you Madam Chairperson. I would like to seek guidance from the Chair to Hon. Prof. Kanyeihamba's amendment. I am wondering whether it has been seconded!

THE DEPUTY CHAIRMAN: You see, the purpose of asking the chairman of the committee is to give us his view first. Then if he says yes, he could be chairman but then he could also be a seconder unless if he says otherwise.

DR. MAGEZI DAUDI (Jinja Municipality): Thank you very much Madam Chairperson. Madam chairperson, I only have two observations which I would like to be cleared. The first one is that, are we putting the time factor as to when this condition starts? Whether it is from the time the constitution comes into place or before? This is just to clear the issue. For instance, we have had this problem of our neighbours in Rwanda. Many of those young men who went out there must have stayed in Uganda for more than 20 years. So they would automatically qualify to be Ugandans. I would like a clarification on that. Secondly, is this continuously living in Uganda or if you break your stay, you can add the aggregates of the different years you have lived in Uganda? I would like those two clarified Madam Chairperson.

MR. BASOGANSADHU (Busiki County): Thank you very much Madam Chairperson. Maybe along the line, I will have offered a clarification. I wanted to support and I do support this amendment because we have already passed a clause which gives Parliament flexibility to examine and change the years. Now for purposes of consistency, I think it becomes almost automatic that for these other years we should give some leeway to Parliament to also examine cases on merit. I am looking at an example where we have investors here, who are now moving in because of the conducive atmosphere here. They put here about half a billion dollars, they stay here for about ten years. In our Constitution, we have abolished citizenship. I think we should give some room or allowance to Parliament to examine such cases. They have been living here for instance, 10, 15 years consistently. They may have even invested in more money. So I think it is a good clause and I would like to appeal to the Hon. Members to give Parliament an opportunity because Parliament will be composed of very sane, diligent and committed Ugandans who have the country at heart. Thank you very much.

DR. MUGYENYI PONSILANO (Isingiro North): Thank you Madam Chairperson. Madam Chairperson, I think this amendment is very innocent except that we need to make one stem for (a) and (b) since both of them are giving Parliament the option of changing it. I think maybe the draughtsmen would come up with a formulation which makes the stem of giving Parliament that flexibility on determining the period on (a) and then determining the period on (b) otherwise if we mention the same on both, it may not be very nice. So Madam Chairperson, I support this amendment and as Hon. Kanyeihamba said, we also said it in the committee when we were arguing on (a), to give Parliament that privilege of determining the period because circumstances may change. What is pertaining in Uganda now may not be pertaining some 20 years. So it may be necessary for Parliament either to reduce the period or increase the period or even like in (a) maybe to abolish it so that as soon as you are married to a Ugandan, you automatically get the citizenship. So I support the amendment but I would maybe request that, that issue of Parliament is put in one stem to cater for both (a) and (b) to avoid repetition. Thank you.

THE DEPUTY CHAIRMAN: Before you proceed, Hon. Magezi had a problem on continuously. Anybody who wants to address that one?

DR. BYARUHANGA: Thank you Madam Chairperson. Hon. Magezi also had the fear about these boys, the so-called Banyarwanda refugees who had been living here for a long time and have since gone home. As far as that one is concerned, this clause talks of people who have legally and voluntarily migrated to Uganda and therefore, does not cover refugees and illegal immigrants. Secondly, on the issue of continuously living we were under the impression that had been taken care of by our formulation but if it is the desire that we have it here, we can debate it because the word continuous was also a problem. Does it mean that a person who comes here should never travel abroad until he has covered those 20 years and become a Ugandan citizen, then that is when he can start visiting his relatives?

THE DEPUTY CHAIRMAN: That would be my view because once you cross the border even for one day, that means you have cancelled the continuous you know -

MR. ABALIWANO ALBERT (Bugabula South): Madam chairperson, this question of staying in the country as Hon. Magezi was saying, it refers to people who have come to our country and they have had to go in and out. I think if somebody has come to this country and he wants to stay, he will definitely need to stay continuously and by continuously, we do not mean to say that day and night if he has to travel abroad, of course he travels abroad. But he will have a home here and everybody will know that he has a home in Uganda. Because there is a home in Uganda and he has his children here, he has a family here. These days the RC knows that you are around his village, I think that is good enough for us to know that this fellow has stayed here continuously and it is good enough to give him his citizenship. The other point which is important is the fact that the longer you delay citizenship to such people, the more they will be able to become criminals because they know that they will be able to jump from Uganda to another country, do havoc there, then come back to your country. This makes it possible for us to know that if anybody is a citizen, then we can be able to put him in court under our law. There is no question of saying we shall repatriate you to go to your own country where you will be able to escape or where any ambassador of that particular country will try to intervene that because this is a citizen of that country we cannot try him here. So this is why it is important that we should get these people to stay here continu-

ously. Continuously should be interpreted in the form which we are saying that as long as they have a home here, they have a family here, they are known by everybody within the area in which they live, they should be asked to do this.

I come from an area, Kamuli District where we have quite a number of for instance, Kenyans who remained here because of the railways. Many of these people are owning land but they are illegally owning it because they are not Ugandans. We should allow them a chance to either become Ugandans or continue as non-Ugandans. When they have become criminals, they have simply run away to their former countries and left a lot of problems to our people in Kamuli District. So I think this is why it is important for us to really make it certain that when these people come, we are certain that they have stayed here continuously. We make them Ugandans and therefore, they become part and parcel of our law. Thank you Madam Chairperson.

MRS OPOTI DHUGIRA (Okoro County): Thank you Madam Chairperson. I would like to comment also on this point of clarification. I have the benefit of sitting on the control immigration board. Many times we are faced with this situation and I would like to add on to what the previous speaker has just said. The practice we have in place which is even recommended by the existing law is that this person must have a continuous stay of 15 years in Uganda and that is in disregard of the fact that he can travel outside the country but at least he must stay for 15 years. We have been confronted with cases where a person stays for ten years, goes away, then comes back and after about five years, he wants to apply again but the existing law has not allowed them to apply again but the existing law has allowed them to apply after breaking the stay. So I think we should recommend that the 20 years be upheld because experience has shown that the 15 years is even not long enough for some of these people who are dubious and I am saying this from the background of after having sat on the immigration control board. Thank you.

MR. ERESU ELYANU (Kaberamaido County): Madam Chairperson, I would like to be clarified on this particular situation. If we have a foreigner that has lived here he has a house for as long as let us say 15 and his family lives here, before that foreigner has been granted citizenship, he has also built a house in another country or let us say in a neighbouring

country. And in that home also, maybe some of his relatives and some of his members of the family are also living there. How do we treat such a situation taking into account that we are trying to explain the word continuously to mean that the person lives and he has a place of abode in the country and his family is living there and in this case, we have a situation where there are two homes?

THE DEPUTY CHAIRMAN: I think Hon. Eresu, you are confusing two things. Property ownership has nothing to do with citizenship. I can own my house in London without being a British citizen.

MR. KIRENGA: I thank you very much Madam Chairperson. I support the amendment which would give Parliament power to change the years of residence. Because Madam Chairperson, I think this period of 20 years is very, very long and unreasonable because in many other countries, the period is even five years. In fact one American was saying, what is Uganda? Is it a golden country in which you stay for more than 30 years and you are not granted citizenship? In America, five years is enough. Madam Chairperson, so I propose that Parliament - well we are not fixing any period here - but Parliament-

MR. AMANYA MUSHEGA (Igara County East): Point of information. Thank you Madam Chairperson. Not that I value Uganda so much but I would like to inform the Hon. Member holding the Floor, if he wants to value how seriously the Americans take their country, let him apply for a visa to America for three weeks and then he will find out.

MR. KIRENGA: I am grateful for that.

MR. SEKWEYAMA ANTHONY (Mawokota South): Point of information. Thank you Madam Chairperson. Madam Chairperson, I want to inform Hon. Kirenga that in the United States, the first initial five years would entitle you to permanent residence and you will have to go for another five before you will qualify for citizenship.

MR. KIRENGA: Thank you very much for that information. That means that at least ten years is very reasonable. Madam Chairperson, another thing I would like to comment on is with regard to this amendment, the word 'continuously'. In my view, this clause means if he has been living in Uganda, living means staying in a country, maybe doing

something like business or cultivation and things like that. But if you interrupt your stay and let us say you go for a course abroad let us say for computer courses of six months, or even for a year and you come back, in fact you are still living in Uganda. But I do not think we should really restrict anybody who wants to go for improving his conditions such as now modern technology, or science or a very good course. So it should not be the intention of this Assembly to deprive that person of that period which has been running. So living would not necessarily mean continuously but it would mean somebody having an intention to live and has actually been living although he may have interrupted his living in Uganda. Madam Chairperson, Hon. Kanyeihamba commented upon some investors who might want to come here with some money. In fact that argument of his is very attractive. I have been informed in some countries there is a provision allowing investors who have got over a million dollars to apply for citizenship immediately if they show willingness to invest that money in the country. But of course here I do not think we would get such people. But if somebody has got his own money, he is not a liability, he is an asset. So if he has been here and he has got a lot of money and he has stayed let us say even for five years and he is bringing in more money, we should encourage his application for citizenship. We should not make matters more difficult. Thank you very much Madam Chairperson.

THE DEPUTY CHAIRMAN: By the way, we are discussing an issue which has not been formally tabled. Hon. Magezi was inquiring. Now it has turned into a debate. So if it is not formally moved, I am just going to cut the debate because you have debated this for long enough.

MR. BAGEYA GEORGE (Kigulu County North): Thank you very much Madam Chairperson. Madam Chairperson, I am tempted to go a long with the proposed amendment save for two words which I do not quite think would do quite well, because we do not have any machinery of establishing certain issues. A lot of people immigrate for different reasons but I do not see how and I do not know how Uganda will be able to establish when somebody has migrated here voluntarily. So I would propose that voluntarily immigrated, 'voluntarily' to be deleted such that as long as every person who has legally migrated to and has been living in Uganda for at least twenty years, I would go quite comfortably with that because there is no way you can establish

MR. KARUHANGA: Point of information. Thank you very much Madam Chairperson and I thank Hon. Bageya for giving way. I wanted to inform him about the meaning of the words 'voluntarily' in law. Here we are trying to guard against people who come to Uganda involuntarily. People who are forced out of their own countries and they come to Uganda as refugees seeking refuge arriving here involuntarily. Those are taken care of by international norms and conventions and laws. The word 'voluntarily' here is put purposefully and it is very important, a person moved out of his own volition, he chooses to move and arrives here legally. By legally, it means that he will have been given residence permit, investment - whatever if he is an investor, permanent residence. These are all legal documents which would accompany him and the voluntary aspect is to stop the legal - because also a refugee can be here legally but it separates the refugee from a non-refugee. I hope it is clear to him now.

MR. BAGEYA: I thank you very much for your information but still you have not solved the purpose. But as far as I am concerned, if I do not feel comfortable in Uganda, I do not have to report whether it is voluntary or not voluntary and I go and settle in another country, I arrive, I have my own money, I can do my own business, as to whether you can prove whether I left Uganda voluntarily or not, does not arise in this case. I think this particular word of course the lawyers would like to use

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(*Interruption*)

MR. MALIRO GASTON (Mwenge County North): Point of information. Thank you, Madam Chairperson. The purpose of this word voluntary, was to exclude people who come as an effect of war to exclude refugees who do not come voluntarily, but come because they have been - chased out of their country and those people, always when they arrive as refugees, they are registered as refugees. So, this one intends to exclude such people, Madam Chairperson.

MR. AMBROSE ATWOKI (Youth Delegate - Northern Region): I think I will not take any more information, Madam Chairperson, because most of the people who are informing me seem to have totally misunderstood me, because I am quite aware of the refugees Act and I was only saying, it is just verbose to put that particular word there, because there is already a refugees section which is catered for and if somebody leaves you might leave purely because you do not agree with the political system in the country and you just go anywhere, you do not have to be a refugee to qualify for that, so long as you get there; what we run short of is, basically to put the five years continuous stay requirement so that you allowed to be a permanent resident after which you apply for the citizenship of that country, whenever you have decided to go, but definitely, I find this involuntarily, a bit redundant. I would propose that it be deleted. I thank you.

THE DEPUTY CHAIRMAN: But we have just discussed it, we have not moved a Motion, Hon. Ambrose Atwoki. So, we are not talking as you have not moved, you have not been seconded.

MR. AMBROSE ATWOKI: Thank you Madam Chairperson. Madam Chairperson, I rise to support the Motion, moved by Hon. Kanyeihamba, only that I would have been at peace if it had been drafted in

such a manner as: "such other period as shall be prescribed by Parliament," but I think that is a matter of drafting. Madam Chairperson, in order not to tie down the limit to 20 years, I believe that we are writing a Constitution which must be pro-active, and try to address posterity. As it has already been observed, it is possible that situations might change and we must allow certain flexibility in our Constitution which should not be subject of Amendment each other time that Parliament sits. Madam Chairperson, I also wanted to inform Hon. Bageya that, where the word voluntary here, is not only trying to cater for refugees, the word voluntary here, is trying to create room for - I mean he is trying to avoid certain fugitives who might seek asylum here meanwhile they are leaving their countries after being unlawful. The best example is some of the Burundi soldiers being held in Lubiri Barracks as I read in the papers. These people came here involuntarily and they had become fugitive their country after breaking certain laws. Madam Chairperson, it is also important to understand that when they say legally, they are already implying that somebody must have been living in Uganda continuously; his presence must have been known by the local authorities and even the immigration department. So, I think the Motion by Hon. Kanyeihamba is very important, all of us should support it. Madam Chairperson, I had a little quarrel maybe with the number of the years, but since nobody has expressed any intention to register the period, I believe that maybe Parliament will now cater for changing whether it is - necessary to reduce or increase the minimum qualification of years. Thank you Madam Chairperson.

MR. KWERONDA RUHEMBA: (Kajara County): Thank you very much, Madam Chairperson. I support the Amendment but with a few reservations. This Clause, if it is read in full, Madam Chairperson: "It reads that the following persons may apply to be registered as citizens of Uganda." In other words, what this Clause is saying, is that you do not start applying unless you have spent a whole 20 years in the country or such other period as Parliament may prescribe. Madam Chairperson, even that addition by Hon. Kanyeihamba does not cure the period of the initial 20 years, and I believe that to begin to apply after 20 years, one will have lost the incentive to live in that country. Madam Chairperson, (*Interruption*)

THE DEPUTY CHAIRMAN: There is information from Hon. Kabugo.

MR. KWERONDA RUHEMBA: The information can wait, Madam Chairperson. 20 years is a lot of time and I would prefer that at least it is reduced to 15 years, at least if you started applying at 15 years, that would be much better. I imagine, Madam Chairperson that *(interruption)*-

THE DEPUTY CHAIRMAN: I can see a persistent hand from Hon. Mukwaya.

MR. KWERONDA RUHEMBA: I said information Madam Chairperson can wait.

THE DEPUTY CHAIRMAN: Hon. Mukwaya, your information can wait, you can get your chance. So says Hon. Kweronda.

MR. KWERONDA RUHEMBA: Madam Chairperson, this country is appealing to the international community to come here and invest and already we have started seeing the fruits of such exodus and when I invest my money here in Uganda and I have come in voluntarily legally, I want to safeguard that money and that investment by the assurance that I am soon to become a citizen. I may even have intentions of bringing in more money, but the fact that I am going to wait for 20 years and I may not know what may happen between those 20 years, I may not bring in more money. So, for purposes of attracting investment, and for purposes of making this country a better country to live in for everybody, I wish to suggest Madam-Chairperson, that we reduce the period from 20 to 15 years at which you begin to apply.

MR. RWABITA DEO (Ibanda South): Point of procedure. Thank you very much Madam Chairperson. Madam Chairperson, you have already told us that none of us has moved a Motion and we have been discussing - Madam Chairperson, I am suggesting that we move a Motion and then discuss it, otherwise, I think we are taking too long before you put it. Therefore, Madam Chairperson, I propose a Motion - *(interruption)*

PROF. KANYEIHAMBA: Point of order. Madam Chairperson, is it in order for Hon. Rwabita to say there is no Motion on the Floor when I thought all along that I moved a Motion formally and that this is that we are debating now and we have not disposed of it, Madam Chairperson?

MR. RWABITA: Madam Chairperson, if I remember, I do not think anybody seconded Hon. Kanyeihamba.

THE DEPUTY CHAIRMAN: I asked the Chairman, Hon. Katenta Apuuli to give a view on this; he said he had no problem and I said we can consider Hon. Katenta Apuuli in his own right as a delegate and in his own right as a Chairman and it was clear and we proceeded. I said, unless if Hon. Katenta Apuuli says otherwise, and he did not say otherwise. So, I assume he had supported the Motion by Hon. Kanyeihamba. Let me call upon Hon. Katenta Apuuli to clear the air.

MR. KATENTA APUULI: Thank you Madam Chairperson. Madam Chairperson, many speakers have already been on this Floor in support of Hon. Kanyeihamba and stating that they raised to support the Motion as amended by Hon. Kanyeihamba, I thought Hon. Rwabita should have listened carefully.

THE DEPUTY CHAIRMAN: I think that clears the air. Can you complete your ...

MR. KWERONDA RUHEMBA: As you remember, I started by saying that, the insertion by Hon. Kanyeihamba in respect of his Motion which reads that: "Such other period as Parliament may prescribe," was curing the period of 20 years and I was actually about to move that the period should be reduced from 20 to 15.

THE DEPUTY CHAIRMAN: Is that seconded?

MR. KWERONDA RUHEMBA: If 10 has got secondment, I will go by the 10. I have moved Madam Chairperson, that the period be reduced from 20 years to 10 and that has been seconded, Madam Chairperson. Having said that-

THE DEPUTY CHAIRMAN: I want to see who seconded the Motion, Hon. Elyau. has seconded the Motion to reduce the time to 10 years.

MR. KWERONDA RUHEMBA: This Motion, Madam Chairperson, having been seconded, I also wish to say that those who are saying that this man should continuously live in the country, I do not know what continuously means; because I believe if you have a residence here, a family here, and you can move in and out, even if you spend six months

outside the country, you are still continuously in the country by the mere fact that your family is here and the children are in school and your business is running and even your business is paying tax. So, those who were saying that a person should not move out all, I think those people erred and we should allow people to move out as when they want to, after all, some of them may be business men and to restrict them to a continuous existence, I mean living in the country, would be a disincentive. So, that word continuously, those who proposed it, Madam Chairperson, I wish to suggest that we leave it out.

THE DEPUTY CHAIRMAN: It was not moved; somebody just talked about it and left it at that.

MR. KARUHANGA: Point of clarification. Madam Chairperson, I would like Hon. Kweronda to clarify to me his Amendment, I want to know whether he goes along with 10 years or such other periods prescribed by Parliament as Hon. Kanyeihamba had suggested earlier. I would like to know his Amendment very clearly so that we can know whether to support it or not. Is it 10 years or such period as Parliament may prescribe or is he just saying 10 years only now and never again to be discussed.

MR. KWERONDA RUHEMBA: Madam Chairperson, my Amendment was reading as follows: "*Every person who has legally and voluntarily immigrated to and has been living in Uganda for at least 10 years or such period as Parliament may prescribe,*" that is the Amendment that I made. Madam Chairperson, with those few words, I beg to move.

THE DEPUTY CHAIRMAN: It seems delegates are saying that I put the question. Should I?

MR. ELYAU MIKE (Kalaki County): Thank you Madam Chairperson. The reasons are these, Madam Chairperson, the person who applies for citizenship in this country must have a specific interest, we are trying to behave as if Uganda is sweet, but people know our history, to come and become a citizen in Uganda, somebody will have thought twice. So, I am telling you if we want people who will help us to develop an economy or industry, we will give them a better time so that they can easily come. Why should one wait for 20 years? Supposing he has come here when he is 40, by the time he is 65, may be this man is - So, it is for this reason that I support this Motion very much.

THE DEPUTY CHAIRMAN: Now I put the question. We have debated this and we debated this yesterday for a whole hour. I put the question. The question is that we adopt (b) as amended by Hon. Kanyeihamba and Hon. Kweronda. Hon. Kanyeihamba to add on: "*all such period prescribed by Parliament,*" and Hon. Kweronda to reduce the time from 20 to 10 years.

(Question put and agreed to).

THE DEPUTY CHAIRMAN: I will have to clear (c). Hon. Katenta what do you have to say about (c).

MR. KATENTA APUULI: Thank you Madam Chairperson. The committee considered paragraph (c) and recommended that the paragraph to remain as it is in the Draft Constitution, except that we would like to honour the Amendment which has been added by Hon. Kanyeihamba to read: "*Every person who having lived in Uganda for at least 20 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.*" Now, since (c) is dependent@ on (b), therefore I would like suggest to the Hon. delegates that these 20 years also be reduced to the 10 years because (c) is for consistency and also (c) flows from (b). It is a consequential Amendment

MR. BEN WACHA (Oyam County North): Madam Chairperson I think we have to explain the difference between (b) and (c). Madam, (b) is based on legal immigration into the country. Now, people have talked of voluntary immigration, etcetera, to me that one, does not matter, but emphasis must be on immigration which has been accepted by the authorities of the country to make a good immigration in the country. (c) is fundamentally different, (c) would take care of things like refugees coming into the country, whether voluntary or not, but then they stay in the country for 20 years and then to recheck upon their appropriateness for citizenship; they find out whether they have committed any crime which is identified here before they are granted citizenship. So, (b) and (c) are fundamentally different.

PROF. NABUDERE (Budadiri West): Point of clarification. While agreeing with what hon. Ben Wacha has said, (c) cannot include refugees; refugees are governed by conventions, separate international conventions which by the way allows them to become citizens after five years if they apply. In

other words, they have a shorter period than the person who has immigrated. So, I think the person covered under (c) is the one who has applied to be resident here, as an employment residence or something like that and has continuously to be in the country for at least 20 years. So, it is a different category from those who have immigrated, but it does not include refugees because they are covered by another convention. No refugee who has lived here for any number of years can become citizen under that Clause.

DR. CHEBROT STEPHEN (Tingey County): Point of clarification. Madam Chairperson, I just wanted to clarify what Hon. Nabudere has said in connection with refugees. Currently, there is no convention which prescribe that the refugee has only to stay for five years and then can apply for citizenship. Once you have been made a refugee it is not easy for you as of the laws of Uganda as of now, to become a citizens. The 1951 Convention which Uganda is signatory under 67 Convention, does not necessarily permit - it actually gives the onus to the host country to give refugee status to those who may apply, but there is no time limit as such which states have signed.

MR. KATENTA APUULI: Thank you Madam Chairperson. I would like to agree with Hon. Ben. Wacha that (c) and (b) are fundamentally different and therefore if the Plenary wishes to retain the 20 years in (c), they may wish to do so or if they want to amend the period to 10 years, that is up to the House to decide. However, I consider that (b) and (c) are fundamentally different. Thank you Madam Chairperson.

MR. JACK SABIITI (Rukiga County): Thank you very much, Madam Chairperson. 2 (c) as the Chairman of the committee has said, it is certainly fundamentally different from (b) and to me, I think this includes people such as refugees and others who have come here illegally and have stayed 20 years without being detected by Government or the authorities. We are trying I think to say, that these people should also be given a chance if they want to be Uganda citizens to apply and be registered. Madam Chairperson, if one has lived in this country for 20 years a refugee and he has been a law abiding person, I see no reason why such a person cannot be considered if he applies to be a citizen. Secondly, Madam Chairperson, if they are people who have lived here for 20 years, and they have been here

illegally, and not voluntarily as covered in 42, 2 (b), surely, it is not their fault; Government should have detected where these people are and if they have lived here for 20 years, they should also be allowed to apply to be registered as citizens. These two categories of people, having stayed here for 20 years, will have fully integrated in the Uganda society, they will be married and married with other Uganda ethnic groups, they will have contributed a lot to the national development and certainly the state will have injected a lot of money and other facilities in these people. It will be unfair.

Madam Chairperson, to deny these people the privilege of enjoying the status of being citizens of this country. I will therefore fully support this very Amendment that these two categories of people should be accorded this facility but having lived in Uganda for 20 years. Thank you, Madam Chairperson.

MR. WANENDEYA WILLIAM: Point of clarification. Thank you Madam Chairperson. I would like the Chairman of the Committee to clarify to me in connection with person who have lived in Uganda and could have become Ugandan citizens, but later on decides to live the country. Are those people supposed to take their property just any how, without the permission of Government? The reason for saying all this, is whether the Committee considered it, especially when some of our military hardware was taken and also cattle which had consumed quite a lot of Uganda's foreign reserves. I want to know whether the committee considered it or not. I thank you Madam Chairperson.

MR. KATENTA APUULI: Thank you Madam Chairperson. I would like to inform Hon. Wanendeya that the committee concentrated on matters of Constitutional property making and we did not get the digress into whether people took or they did not take property; it could have escaped our attention.

MR. MULENGA JOSEPH (Democratic Party): Thank you Madam Chairperson. Madam Chairperson, observations made by Hon. Sabiiti provoked me to think that we should slightly amend this Clause or paragraph. He has mentioned people who may have lived here for very long, illegally and that they may have hidden from the authorities. I am therefore inclined to suggest like in (b), we ought to say: "Every person who having lived in Uganda legally for at least 10 years." I think the Chairman conceded. I

have no objection to 10 years, so that we are covering people who have lived here illegally, who have not committed any crimes since, living here, I think it would be more consistent. If I get secondment, I would move to insert 'legally'.

THE DEPUTY CHAIRMAN: Is Hon. Mulenga's Motion seconded? Hon. Ben Wacha wants clarification before we can proceed.

MR. BEN WACHA: Point of clarification. Madam I am seeking clarification from Hon. Joseph Mulenga. What is the concept of legally living here? Is it - I do not understand, because I was of the opinion that the phrase which says, an offence which carries a sentence of not less than six months imprisonment, without option of a fine, would indicate that the man has been living here legally or otherwise, but is he saying that, first of all, living here has to be legal?

MR. MULENGA: I can explain. What I mean is this and as I said, I was provoked by Hon. Sabiiti. If somebody was to come here and live here illegally, in other words, without permission, but he has not been convicted of that offence, because he has a limitation on offenses is restricted to having been previously convicted. Now, Hon. Sabiiti talked of possibility of someone hiding from the law and after 20 years he applies to be registered or allowed to be registered as a citizen.

MR. KIRENGA: Point of clarification. Thank you very much. I am seeking clarification; I am supporting the Motion but then something else has cropped into my mind, when I looked at this word - *a sentence of not less than six months imprisonment without the option of a fine*. Would this include such sentences as traffic offenses, for instance, if somebody has been found driving excessively at higher than the legal speed or putting in more passengers more than the limit, whether within 20 years he can never become a citizen?

THE DEPUTY CHAIRMAN: I want somebody to clarify Hon. Kirenga's problem.

AN HON. DELEGATE: Thank you Madam Chairperson. Though ideally traffic offenses are not criminal, in this context here, if the court chose to sentence the period exceeding six months, that would mean that the court considered the criminal capability of the person. Otherwise if it was strictly the traffic offence, the court would have definitely im-

posed a fine; definitely there are traffic offenses which are criminal, say, reckless driving. If you drive recklessly, if you drive under the influence of alcohol, it goes to the mind - So, I would not remove criminal offenses from this article I would say, that by the time the court decides to impose a term of imprisonment, then it is satisfied that the mind has that guilt that deserves sentence.

MR. MALIRO: Point of clarification. Thank you Madam Chairperson. I am seeking clarification on two issues.

i) I would like to know if somebody immigrated from Kenya, because he or she has relatives in Uganda and did not come with a Passport or Visa, would this person have come legally and if not so, does he mean this person should never be registered?

ii) If we add the word illegally, what is the technical difference between (b) and (c)?

MR. MULENGA: It has been explained that (b) relates to immigration. You shift from another area and make Uganda your home, that is the explanation I think we got from Hon. Ben Wacha. Whereas this one, either you are found here or you have a home elsewhere but you live here, I do not know that I can explain all the categories, but the essence is that for 20 years you have been living in Uganda and he gave the example, I think which was very clear, of a refugee. A refugee who finds himself or herself in Uganda, that is the distinction I understood from the two phrases. But why I said there is need to say legally living, is that you can leave - I can envisage a person living in Uganda illegally, like if you are passing through *panyas*, you have no permission from authorities today, we may use RCs, Immigration Department, you have no authority to or you are not accorded authority to live in Uganda. By adding legally, I am suggesting we cut out such possible situations of somebody living here for a long period illegally.

MR. CHEBET MAIKUT (Kween County): Point of clarification. Thank you Madam Chairperson. I am seeking clarification from the mover of this Motion, Hon. Mulenga, to clarify to me, how two wrongs can make a right, how this august House can legislate for the inefficiencies of the Government of the day by officially recognising the non-legal stay of an immigrant in this country for as long as 20 years. Thank you very much.

PROF. KANYEIHAMBA: Thank you Madam Chairman, I think there is a danger of confusing Clause (b) with (c). Madam Chairperson, Clause (b) which we have passed is very clear; people have come here legally, they have Passports, they came to do business and so forth, they live here and we have disposed of that. Clause (c) in my opinion was intended to grant amnesty to people who came here illegally or for some other reason, their papers were not in order. Nevertheless, for one reason or another, they have lived here, nobody cared, they have lived with us for 20 years and we are saying, in that case, we condone how you came to this country and we are granting citizenship because for these 20 years you have lived there, even though you came illegally, you have been a good person and therefore, we think you love Uganda and we grant you citizenship; and you have not committed a crime involving a sentence of more than six months. Therefore, really, (c) is a question of amnesty and it has nothing to do with legality or illegalities.

MR. MULENGA: Madam Chairperson, with that explanation, I am persuaded that I should not pursue this Amendment because it would defeat the purpose which I had not seen and I am grateful to Hon. Kanyeihamba.

THE DEPUTY CHAIRMAN: Now, before we proceed, the problem now which is before us is only one, whether the time should be 20 or 10 years. That is the only issue I see now; otherwise, we are meandering on and on and on.

DR. CHEBROT: Point of clarification. Madam Chairperson, I wanted Hon. Chebet to clarify to me whether the Committee considered two terms: migration and immigration. I can migrate from here and move to Gulu and then immigration, which means actually moving across border. I hope I get myself clear to this. Now, when you are considering the two terms, I wanted a clear distinction in your sentence.

THE DEPUTY CHAIRMAN: Are you taking us back to (b)? Because we had cleared that one and Hon. Chebot, I think we have finished that one, we may re-visit through the Drafting Committee if it is a matter of terminology, because we have passed it already.

MR. MALIRO: Point of procedure. Thank you Madam Chairperson. I think as far as I am concerned, nobody has moved an Amendment to remove

20 years. So, the Motion we have still stands at 20 years, because the Chairman had proposed 10 years, but then he changed his mind and said, 20 could be 20 to 10.

THE DEPUTY CHAIRMAN: You see, later on, okay he had withdrawn it.

CAPT. BABU FRANCIS (Kampala Central) Point of clarification. Madam Chair, I would like to seek a little bit of clarification. Once we enshrine this Article (c) in the Constitution does it mean that somebody stays in the country illegally for 20 years? This Clause will still stand and therefore - legally for 20 years and thereafter we shall have amnesty. My opinion therefore, Madam Chairperson I wish we should not commit ourselves and enshrine a Clause in our Constitution which puts there a perpetual determination for people to be illegally in this country and therefore after 20 years, be given amnesty. I would like therefore to move a Motion Madam Chairperson, that this particular Article should be totally deleted from this particular - and the reason is very simple Madam.

THE DEPUTY CHAIRMAN: No, we are waiting for somebody to second the Motion. Is anybody seconding the Motion?

CAPT. BABU: I am saying, I have got reasons.

THE DEPUTY CHAIRMAN: But you should be seconded first, before you can air your reasons. Okay, Hon. Chebot is seconding the Motion.

CAPT. BABU: Madam, the reason why I am moving this is because, with time, and since this Constitution is not only a spur of the moment, because of the failure of our immigration system over the years to contain people who immigrate to this country, I do not think we should put something in our Constitution that we are going to pay for in the future. I think we should leave our posterity with a clear slate, so that they have the power to decide on who should become a citizen of this country and those people will be able to speak through their representatives, like we have passed in (b). I would like therefore, to propose very strongly, that this to me, looks like a Clause which has been brought because of a symptom of our history. I would like to propose very strongly and request all of you Hon. members to vest all the powers of this immigration in the future Parliament of this country and let that

Parliament, at that time decide, if people should be allowed to stay in this country or not. I do not agree that perpetually our Constitution should have an Article that is going to allow amnesty every 20 years.

MR. MESUSERA KABUGO (Nakaseke County) Point of information. The people say, those who are living in Nakaseke, have several Banyarwandas, we have Barundi, we have Tanzanians, who came and Kenyans, who came to Uganda as ordinary labourers to work on the farms and decided to settle in Nakaseke and these people been living in Nakaseke, they have produced children who are older - almost similar to my age, but when it comes to voting, registration as voters, they are all denied and they are claiming, where do they belong? They cannot go to Kenya, they cannot go back to Rwanda and when they are here, they are discriminated because they came from- the outside border boundaries of Uganda. So, in this case, I take that these are the very people whom we are catering for under this Clause. Madam Chairperson, I think there is no need to remove - *(Interruption)*-

CAPT. BABU: Madam, I would like to thank the Hon. Member for that information our Immigration Act at the moment does have a provision for naturalisation and any person who is in the country, who has been here for a reasonable number of years can go and can be naturalised and can become a citizen of this country. Therefore there is need - *(interruption)*

MAJ. KATEREGALIVINGSTONE(Nakifuma County): Point of information. Thank you very much, Madam Chairperson. I want to inform the Hon. Member holding the Floor that, during the colonial times, some people were brought here as labourers, as porters, and they went as far as being employed by the indigenous people here, especially in Buganda; some of these people they became part and parcel of the society. If you want to know that the information I am giving is true, you can come down to my Constituency. I have people from almost East Africa, they have intermarried, and these people have no where to go; we had a problem during the election as Hon. Kabugo has just stated. People who have stayed here, the time comes for voting, you deny them their human rights. So, to me I think this Amendment as it is, as recommended by the Committee, it is quite fitting to cater for them - *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Katerega, you are giving Hon. Babu information. Hon. Babu

is still on the Floor.

CAPT. BABU: I would like to thank Hon. Katerega for this. I want to make categorically clear that I AM not against those who have come and settled in Uganda, all I am saying, is that the Immigration Act of this country and the future Parliament of this country will have another Immigration Act and that Immigration Act can have different provisions that can allow people to become citizens of this country. This particular provision that you have given us, is a provision of an Act, it is not a provision of the Constitution. I am saying, that the Constitution should have the major areas on how you can become a citizen of Uganda - *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Babu, there is a persistent information there from Hon. Etonu.

MR. ETONU BENEDICT(Amuria County): Point of information. Thank you very much, Hon. Babu for giving way. I would like to inform you that those who came here during the colonial days, on the 9th October 1962, when we got independence, they all became Ugandan citizens.

CAPT. BABU: Madam Chairperson, that information is correct, except if they were refugees. Now, as I go on, except if they were refugees, everybody who was here on the 9th of October 1962, could automatically be registered as citizen. Now, let us now go back to the argument I am putting forward. I am saying, the Constitution has told us that we can have three types of citizens; citizens by the centre of birth, citizen by registration. Now, once you have put those two points in the Constitution, the rest on how you categorise these people go into an Act of Parliament and eventually, and I would like to say this now, that with time, these things can change, you can look at United Kingdom in the last 15 years, how they have been changing their immigration laws, because they go back to Parliament and say, we have too many immigrants, stop. They go back to Parliament and say, we do not have enough immigrants, open up. So, you control this using the Parliament of the day. I am now trying to say, that some of the things we are trying to put in the Constitution are a matter of an Immigration Act - *(interruption)*

MR. KIRUNDA KIVEJINJA ALI(Bugweri County): Point of information. Thank you very much, Madam Chairperson. I just want to inform the Hon. Babu, that Britain is a wrong example, because Britain has no written Constitution.

CAPT. BABU: Madam, it is good that you have asked me not to talk about the unwritten British Constitution, I will talk about the American Constitution, which is written, which is the basis of written Constitution. The American Constitution has got a naturalisation Department and a Naturalisation Department has got an Act of Congress, that Act of Congress contains the different categories of people who can become citizens of the United States and all the things we have been arguing here, investors, things like those who have stayed in United States illegally for so many years, they can be naturalised and when we are talking about naturalisation it is something that changes from time to time and therefore, should not be permanently enshrined in the Constitution.

DR. CHEBROT: Point of information. Thank you very much, Madam Chairperson. The other issue I wanted to raise with this Clause is that, it leaves a lot - there is a lot of grey area for people to play on it. First of all, it has no time limit, there is no time framework within which a person can be given citizenship. As it is now, it is open to abuse and I think that is the contention of Hon. Babu that we should not leave this Clause as it is, because it can easily be abused.

CAPT. BABU: Thank you very much. I think that is very good information Madam and that is another point, that if you leave it in the Constitution, eventually, it will be abused. All I am trying to say, let the Constitution be clear, let the future Parliament of this country have the powers to pass Acts that can control immigration and at the same time, let us not lament on our past history of bad Immigration department. Thank you very much.

THE DEPUTY CHAIRMAN: No, even if you brought a Motion, his is the furthest. You cannot amend deletion; we are just debating a Motion of deletion.

MR. AGARD DIDI (Moyo West County): Thank you Madam Chairman. I wish to oppose the Motion for deletion. Madam Chairperson, the category of people as ably enumerated by Hon. Katerega, Hon. Kabugo, is very interesting. Like in the Schedule, there is a type called *kuku*, there is no ethnic tribe in Uganda called *Kuku* but this group which originally came from Sudan are here. What has happened is that the African tribes which were not British protected were not covered by the Independence Proc-

lamation of becoming automatic citizens at Independence. Now, these are the category of people who have had more than two generations in this country and if the effect of this originally proposer was to give weight to these peoples presence in the country, so that where for example the tribe *Kuku* appears in the schedule, then indeed, they are now integrated as part of Uganda. It does not give rise to a new category of immigrants; it focused specifically on a community, whether they came from Rwanda or from Sudan, from Zaire. I mentioned those particular ones because the British Government tended to be more pro-people to those who had been members of the British Empire or British protectorate. So, in order to give cognizance to the presence of these people and many of them are very active socially in our economic and social spheres and they have no where else to go; there are crimes which relate to what countries can do with wayward satellites; but for the majority, who are law-abiding, I believe the proposed deletion by Hon. Babu should be refused so that we give cover to this community. I thank you.

MAJ. TUMUKUNDE (Rubabo County): I am convinced Madam Chairperson, that (c) is just an exception to (b). In (b), they are saying that after 10 years of staying here as we have passed, you can actually apply for citizenship. (c) is saying, yes, although you stayed here for 10 years, if you have committed a crime that is punishable by a sentence not less than six months, then although you would have qualified, because that crime, you will not qualify for citizenship. So, I think we have to be clear with this first. So, Madam Chairperson, having agreed in (b) that we give 10 years as an automatic position for whoever wants to apply, it only would deny this person chance to become a citizen if he has committed a crime of a sentence not less than six months. So, those who are saying that (b) is independent of (c), are not actually very right. I am saying, Madam Chairperson, that although Hon. Babu's view is correct, that we should not constitutionalise these periods, in case tomorrow we want to change because of changing circumstances. If for example, Uganda got oil, because of high employment chances in a country like Uganda here, you may find a lot of pressure from outside, people wanting to enter here. If we shall have constitutionalised 10 years, we shall find it difficult to change it, that is why I would have agreed with Hon. Babu that maybe we determine (c), leave (b) and (c) to Parliament, but that (b) is certainly true, Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Delegates, Hon. Babu's Motion is on deletion. So, what do you amend on deletion? We have - let us get the picture correctly. If somebody is deleting, let us finish his, reject it, then we go back to the original, then we amend.

MR. MULENGA: Point of information, Madam Chairperson, - I wanted to follow up on what Hon. Didi was saying by quoting the relevant section of 1962 Constitution; and that is section 8. Section 8, Clause 1 provided: "*Any person who but for the provision to Section 7 of this Constitution would be a citizen of Uganda, by virtue of that sub-section shall be entitled upon making application before the specified date in such a manner as maybe prescribed by Parliament to be registered as a citizen of Uganda.*" Now, the proviso to 7 said, if you were on 9th in Uganda, but your parent was not born in Uganda, you could not acquire that citizenship. That is the category of people Hon. Didi was talking about, the category of people that Hon. Kabugo was talking about; these people who have been in here without being Ugandan. Now, these ought to be provided for so that we clear our desk once for all and we say, they are citizens. There is no more argument during elections and other things. Now, if there is any problem with the Amendment by the committee, it is probably because it is leaving it to continue for ever, but I think there is a case for making it clear in the Constitution to cover these people.

THE DEPUTY CHAIRMAN: Now, let me come back to Hon. Babu. Given that explanation by Hon. Tumukunde, that these provisions have two wings. One, that what we have passed in (b), is not automatic, once we have been felled of a communal or some kind of offence, you will be tied down by (c), you will not get the citizenship. In addition, you have those whom I could call the 'originals' who have nowhere to go, who have not committed any offence. Do you still insist on deletion?

CAPT. BABU: Madam, my argument is very simple. I am saying that amnesty to give to all the people who are here, who have lived here more than a certain number of years, does not have to go in a Constitution. I still stand by that, I am saying, Madam that to give amnesty as per our Immigration Law, even now, before this Constitution is over, Parliament can give that amnesty then and if that is true Madam, once that has been done, Article 40,

which says that every person, who on the commencement of this Constitution is a citizen of Uganda, shall continue to be a citizen. If this is the argument, and I would like to ask some Member to be patient, he can talk, he can put his hand up, all I am saying, is that, we even through the other provisions that we have passed, those citizens can still be registered and become citizens of Uganda. All I am saying, we do not have to put an amnesty in a Constitution. I think that is my argument, I am not saying anything else. Thank you Madam Chairperson and I thank Hon. Babu for giving way. I think Madam Chairperson, after some consultation, I have a slight Amendment on this Clause which will be acceptable to both Hon. Babu and the others who want to retain this. I think that we were saved, Madam Chairperson by the contribution of Hon. Mulenga, when he said, there is a situation which everybody has described. There are these people who are with us, and whom we want to be citizens. I think nobody is really against them provided they have not committed offences. Madam Chairperson, if we insert the words, if members could be kind enough to listen, every person who, this is where the words come, Madam Chairperson. "*Every person who on the commencement of this Constitution.....*"

THE DEPUTY CHAIRMAN: Do you still insist on deletion? But he can withdraw voluntarily. If he does not, then, we put the question.

CAP. BABU: Madame, my argument is very simple. I am saying that amnesty to give to all the people who are here, who have lived here more than a certain number of years does not have to go in the Constitution. I still stand by that. I am - *(Interjections)* Madame, I would like to finish. I will take the information. Let me finish the sentence. The gentleman is doing a good job. I am saying that to give amnesty as per our immigration law, even now, before this Constitution is over, Parliament can give that amnesty and if that is true, once that has been done, then Article 40 which says that "*Every person, who on the commencement of this Constitution is a citizen of Uganda shall continue to be such a citizen*". If this is the argument, and I would like to ask some Hon. Member to be patient. He can talk, he can put his hand up. All I am saying is that - we even threw the other provisions that we have passed. Those citizens can still be registered and become citizens of Uganda. All I am saying we do not have to put an amnesty in a Constitution. I think that is my argument, I am not saying anything else.

THE DEPUTY CHAIRMAN: Hon. Kanyehamba can help us out.

PROF. KANYEIHAMBA: Thank you Madame Chairperson and I thank Hon. Babu for giving way. I think after some consultation, I have a slight Amendment on this Clause which will be acceptable to both Hon. Babu and the others who want to retain this. I think that we were saved. Madame Chairperson, by the contribution of Hon. Mulenga when he said there is situation which everybody has described. There are these people who are with us and whom we want to be citizens. I think nobody is really against them provided they have not committed offenses. Madame Chairperson, if we insert the words - If Members could be kind enough to listen. *Every person who, on the commencement of this Constitution, have lived in Uganda for at least 20 years and has not been previously convicted of an offence which carries a sentence of more than six months imprisonment without the option of a fine.* That, Madame Chairperson, will give citizenship to these people once and for all and then we shall not continue -(Applause)- with this provision in future. I beg to move Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Delegates, let me put the question and get rid of Hon. Babu's Motion. If he does not consent, withdraw his deletion. You accept that one? Then, you withdraw the deletion first. -(Interjections)- Excuse me. Let us see - just hang on, I gave Hon. Kanyehamba the Floor because he is the Chairman of the Legal and Drafting. Otherwise, if the Motion is for deletion, we delete it then we go back and make the Amendment - I mean we vote on your -(Interjection) - but you have deletion, then what are you clarifying? I think let me put the question. (Interjections) Okay, let Hon. Kanyehamba clarify, he may withdraw his point.

CAP. BABU: No, there is only one point I wanted to clarify Madame. If you look at Article 43 and you look at Paragraph 2 (b) - It says and I would like him to advise me; It says: "We recommend in Paragraph (b) as it is in the Draft Constitution to read - Those who have lived continuously in Uganda since ninth October, 1962 shall on applications be entitled to be registered as citizens of Uganda." I wanted to find out if this does help so that he can add it in here rather than this particular Article. I just wanted to find out.

THE DEPUTY CHAIRMAN: Hon. Kanyehamba.

PROF. KANYEIHAMBA: Thank you Madame Chairperson. In reference to the point raised by Hon. Babu, that provision he has read does not cover the situation we are dealing with because the provision which is contained in the Clause he has read is really a reference to when we got independence and it was a provision in that Constitution. However, since 1962 there have been people who would be affected - rather would take the advantage of this. I want to remind him that it is 35 years ago since that provision was put. So, it is still necessary to have this but I hope that Hon. Babu will not oppose it because really his point was - we should not have this continuously in the Constitution and it is just once and for all and that will be the end of it. I thank you.

THE DEPUTY CHAIRMAN: So, Hon. Babu are you withdrawing the Motion? Or I put the question? Okay, I put the question.

(Question put and negated)

THE DEPUTY CHAIRMAN: So, we go back to the original. Hon. Kanyehamba can you give us your version?

PROF. KANYEIHAMBA: Yes, Madame Chairperson. The new version is to read as follows: "Every person who on the commencement of this Constitution, who having lived in Uganda for at least 20 years has not been previously convicted of an offence which carries a sentence of not more than six months imprisonment without the option of a fine"

THE DEPUTY CHAIRMAN: So, you are changing the word 'not more'?

PROF. KANYEIHAMBA: Madame Chairperson, we have already used 'who has not been previously.' If we use a double not then it becomes 'he should have been convicted of more than six months.' So, we must say not more than. 'Who has not been convicted on offence carrying not more than' That is correct English Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Kaberuka has a question.

DR. KABERUKA (Ndorwa West): Madam Chairperson, thank you very much. While I see the point which Hon. Kanyeihamba is trying to bring out but I think there are two aspects which we have to consider. First of all, I am of the view that actually (C) has bearing to (b) because (c) is saying that in addition to having lived for 20 years as we have provided in (b), you should not have committed an offence where you are required to serve a sentence of more than six months. So really that aspect has to be brought forward and it is in (c). So, which means that Hon. Kanyeihamba's aspect, I imagine should come as another Clause; because if we put on together that aspect of binding (b) will be lost. *(Interjections)* Because in (c) we are saying that if you have lived for 10 years as we have changed, that you should not have committed an offence that comes in (c) but I also recognise the point that there are people who are not covered under these other aspects of how one becomes a citizen by registration. So, there are those two aspects - they should be catered for madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Katenta Apuuli has some explanation.

PROF. KANYEIHAMBA: I am sorry that Hon. Kaberuka has misunderstood the content of either and I think as everybody has been trying to explain including Ben Wacha, these two Articles are fundamentally different. In (1) someone has been here regularly, he has applied and we are saying he can apply and may be granted a citizenship without any conditions attached. In (c) a different category altogether, not related to be. People came here irregularly, others came as porters intending to go home and they stayed here. The people that Hon. Members have described. We are saying that we are now going to - because you have lived here without committing an offence, we are prepared to forgive that their being here was irregular and we are going to grant them citizenship once and for all and that is the purport of clause three Madam Chairperson.

THE DEPUTY CHAIRMAN: Okay, Hon. Kanyeihamba, let me take advantage of your legal expertise. What is the implication of the addition of 'on commencement of this Constitution?' What cut-off point does it provide?

PROF. KANYEIHAMBA: Madam Chairperson, the preamble to this article which we have already said was that if a person applies to be registered as

a citizen, then he or she may be granted citizenship. Now we then proceed to describe those people who may apply under this article a, b, c. Now the category I am describing is c and those if they apply, then they may be granted citizenship in accordance with clause (c).

MRS. MUKWAYA JANAT (Mukono County North): Point of clarification. Thank you Madam Chairperson. I want clarification from Hon. Kanyeihamba. In the past, the laws have been in books and people have not been educated about these laws. What if the same Constitution takes the same precedent and our people continue coming in, coming in and only recognise after 30 years that another group has accumulated as this one we are granting citizenship in this clause (c). What will happen?

PROF. KANYEIHAMBA: Then in that case Madam Chairperson, they would either have to qualify under (a) or (b) or proceed as Hon. Babu has very eloquently argued in his submission for deletion. there will be no way they would qualify again for amnesty or whatsoever under the Constitution. So it is only on commencement of this Constitution and not later.

MR. KASAJJA: Madam Chairperson, I want to thank Hon. Kanyeihamba because I was about to move an amendment before he stopped me because there was a motion to delete. Now the way I understand things now is that generally we seem to agree that okay, on coming into force of this constitution, we can offer a general amnesty but beyond that, we are not going to allow a situation where people will be sneaking into this country, stay here for 20 years and then automatically qualify. So I want us to support the amendment of Hon. Kanyeihamba to the effect that we are now saying, Ugandans, let us accept that when this Constitution comes into force, all those people who lived in this country for 20 years, whether you can prove that you have decent in this country or not, we are offering a general amnesty. Hon. Babu has been trying to seek precisely that, that we cannot constitutionalise a situation where Uganda will be getting people from outside sneaking here whether for purposes of working here or whatever or with whatever amount of money. We do not want to constitutionalise that. So we also have another problem Madam Chairperson where I want Hon. Kanyeihamba to assist. This issue of criminal offence. We are leaving it a bit too open. There are very many offenses. For example, I have

been consulting with my Colleagues around here. They say you can commit an offence, say service offence and then they send you to jail for six months and even more than six months. But then if that can disqualify you not to become a citizen, I think there is something wrong there. I am seeking the guidance of Hon. Kanyeihamba. Perhaps we should be specific and say a criminal offence because then the word criminal can now say, we do not want criminals to just come and apply to become citizens of this country. So I beg and I would urge the Hon. Members to go with their amendment of Hon. Kanyeihamba. But please, I want him to assist us on the offence, not to leave it hanging as general offenses. Thank you Madam Chairperson.

THE DEPUTY CHAIRMAN: Let us hear from Hon. Kanyeihamba and zero down to some consensus.

PROF. KANYEIHAMBA: Thank you Madam Chairperson and I thank the Hon. Member who has just left the Floor for appreciating this amendment. Madam Chairperson, this provision is really very normal. It is the same provision for example, that applies to somebody who can be a candidate for Parliament. He should not have committed an offence which carries more than six months' imprisonment without the option of a fine. In other words really, it is also normal for Uganda citizens. If we can say that a person of this kind who is a Uganda citizen can go to Parliament, we can vote him for Parliament, really it is also proper that a person who has lived in Uganda for 20 years and has not committed any more serious offence, most likely it is perhaps a traffic offence for failing to pay tax in time and so forth, he should be entitled to apply and to be registered as a citizen of Uganda without really putting any more turpitude on his application. This is my view.

THE DEPUTY CHAIRMAN: Just hang on Hon. Kanyeihamba. His question was on the word criminal. Hon. Kasajja's problem was on the word criminal, where it should be added. Is that not so?

MR. KASAJJA: Point of information. Madam chairperson, he is quoting other laws where they even go deeper and be specific and list out several offenses instead of leaving it hanging the way how he wants it to be. So we can leave Statute No. 6 here, where for example, they go further and say, somebody who has been declared bankrupt or insolvent

under any law for the time being and etcetera, unless he is going to be specific and tell us which offence, which particular offenses, but leaving it hanging like that may be a bit unacceptable to some of us.

DR. BYARUHANGA: Point of clarification. Madam Chairperson, I am seeking clarification from Hon. Prof. Kanyeihamba. In 1962, we had that clause that was permitting British Protectorate subjects who had been resident here to register as Ugandan citizens. As far as I know it is only the people of Indian and Pakistan origin who took advantage of that clause and got registered. The simple Africans who were living in the shambas and villages never got even to know of this opportunity and up to today, are still not Ugandan citizens. Now, when we get this new clause, as it has been put forward by Hon. Prof. Kanyeihamba, do we cure the old problem? Because part of the problem we have now was not the absence of the law but people never used the law to regularise their stay in this country.

MR. BAGEYA: Thank you Madam Chairperson. I would like to be clarified like Hon. Tigwezire was insisting. The sentence of 'six months' imprisonment, I am more interested in it because during the last elections of CA, I almost fell victim of it because people did not want me to stand, a situation was created where I was supposed to have organised people to rebel against paying taxes, a fact which was not true. But what was being done was to find a way of having me arrested and sentenced for six months so that I could not stand. Now, I would like to have protection on this one because a similar incident can happen to those who would have been willing to become citizens but because of the powers that be of the time, this particular individual could be frustrated in such a manner. So can we specifically know what offenses should be involved?

MR. AGARD DIDI: Thank you Madam Chairperson. I would like Hon. Kanyeihamba to explain to me also with regard to these offenses. In any society, there are corrective measures and once you serve sentence, you go to society. Now these are fellows who are basically in the rural areas. You want to ask yourself, where will they go if on account of not having paid a debt of either dowry or something, he has had his six months. Where is he going to go? I believe that offenses should be limited to higher offices because then it puts a burden on an aspirant to have lived an exemplary life. But with regard to

the population in the country side and most of what you call are crimes are really dictated by social realities of order. So you have done this, you do this. So I believe where these people have lived with us, it seems the question of provision of six months might be not only restricting I mean will not be impracticable but we have nowhere to put these people. Thank you.

MR. KOMAKEC LEANDER(Aruu County): Thank you Madam Chairperson. Mine is really a question. The question of citizenship is very important. It seems that by making it very easy for people to become citizens of Uganda, we are more or less selling our citizenship. I want the mover of the motion to clarify to me what category of people would this one cover because I will imagine that should anybody who has lived here for 20 years, perhaps the parents will have applied for citizenship before. What has prevented such people to have applied for citizenship before now? The question is that there is nothing in the Constitution of Uganda to prevent anybody here who desires to be a citizen of Uganda. Why should somebody wait for 20 years and then we give this loophole? I think Madame Chairperson, we are just trying to extend, invite people or force people to become citizens of Uganda. Let us leave this thing open. Anybody who is interested to become a citizen of Uganda shall apply and the law of the land that is operative at any time, which has been passed by Parliament of the day, will determine whether such a person really wants to be a citizen of Uganda or not. Madam Chairperson, I am opposing this motion

THE DEPUTY CHAIRMAN: There is information for you. Hon. Komakec there is information. Respond whether you accept the information or not.

MR. KOMAKEC: No, no, I am almost finishing and I do not need any more information. I am just opposed to the whole idea of being unnecessarily doing the work of Parliament of the day. The provision is there. If you see in article 41 *(Interruption)*.

THE DEPUTY CHAIRMAN: But that was defeated.

MAJ. GEN. TINYEFUZA(NRA Delegate): Thank you Madam Chairperson. Madam Chairperson, I think it is a matter of course for Members of this Assembly to realise the pertaining situation as of now. Members should realise that there are people

who are in this country and have been in this country who are not citizens of this country according to the law because of the past mistakes of these governments failing to put in place rules and regulations to make them so, or even to explain to them that they had such rights to apply and become citizens. So it is a matter of reality on the ground. We have people who have been here for more than 20 years and are not citizens and I think it is a duty of Hon. Delegates to get a solution for these people, to get a status for them. We are duty bound to do that. But more to the point I wanted to raise Madam Chairperson, on this question of the offence as it appears in the clause, I also find it rather too open because offenses I would like to refer Hon. Kanyeihamba for instance, to the Constituent Assembly Statute where Parliament went to great length to state clearly under what circumstances, under what offenses a person may qualify to stand. For instance, they talk about if you have ever been under the sentence of death or imprisonment, etcetera(bra, bra, bra) involving moral turpitude; that is if you are going to come to the CA. They go further and say for instance, if you have been convicted of fraud, dishonesty, moral turpitude, violence and then even they go further and say, you have not been granted pardon in relation to such a conviction. Now for us in the army for instance, if you are called for a meeting and you are late or you absentee yourself, you can be locked up for one year. You forget about your six months and you are telling me that this boy under this tribunal - because it is a legally constituted tribunal - who has been here for 35 years should not become a citizen because of a disciplinary offence! Because disciplinary offence can carry more than six months under service offenses and so on. So I would rather say what do we really want? I do not think that we need sense. I do not know, maybe Hon. Kanyeihamba can tell me here that in order for a person to qualify to be a Ugandan, you must be a saint. I have not known citizens who are saints themselves. So we are almost making it impossible for anybody to ever be a citizen under this provision. So that is why I would even me not be very satisfied with merely said criminal offence. If we say criminal offence, then maybe our draughtsmen should go further and state categorically what type of criminal offenses which we think are dangerous for a person who has committed such offenses to become a citizen of Uganda. But for me just to be overloading excess in a vehicle I am a turn-boy of course, and then I am charged, there are many circumstances. So I would like him to consider this because this can be very prejudicial to people who want. Thank you Madam Chairperson.

THE DEPUTY CHAIRMAN: Okay, let us not overload Hon. Kanyeihamba with too many questions. Let him clear those ones.

MR. MEDI KAGGWA(Kawempe Division South): Thank you Madam Chairperson. I want to add on to Hon. Tinyefuza's views and seek to ask that now we are making this constitution partly to address some past injustices. But here we are condemning a man for 20 years and denying him citizenship. Why do we not put a time limit say two years, three years? But 20 years is too much. I would want to hear views of Hon. Kanyeihamba on that.

PROF. KANYEIHAMBA: Thank you Madam Chairperson. I think there were a lot of questions relating to the offenses and the six months reference. I want to emphasize that where a provision says that if the offence carries more than six months without the option of the fine, then we are referring to all the very serious offenses because whether you are provided, you look at the Statute of our criminal code. Most petty offenses or small offenses will carry a small sentence and an option of a fine or both. Here we are saying that the offence does not have the option of a fine. That means that these are very serious offenses indeed, such as murder, rape, embezzlement and so forth. I do not want the people to be worried to say supposing I am convicted of not paying tax but because the magistrate is not for me and he sentences me to nine months, that would not apply because your offence has an option of a fine. So that would not apply in this case.

LT. COL. SSERWANGA-LWANGA(NRA Delegate): Point of information. I thank you Madam Chairperson. The information I want to give to Hon. Kanyeihamba is that when he is talking of a fine in the Penal Code, in the Army Statute, there is no fines. We do not provide fines that soldiers are going to bring money and then they go away, no. So you will also have to cater for us. I request him.

PROF. KANYEIHAMBA: I think that is a very pertinent point of clarification. Madam Chairperson, I want to be persuaded. Remember that really my amendment originated from the idea of amnesty and simply saying we grant it once for all. I am persuaded by a number of arguments to say that these people whom we are considering are just ordinary people like one of us. They are not saints I agree but nevertheless, I accepted the arguments by the committee that they had thoroughly examined

this point and they came up with this as a compromise. I did not want to upset what evidence they acted upon. But if you ask me personally, I would simply say that we should give this amnesty to these people and make this provision once and for all without any reference to criminal offenses. But there is a compromise which I think should be acceptable to everybody to say that these offenses we are talking about should not have been committed within the previous two years on the application. That is an amendment that people are doing. But Madam Chairperson, my own amendment is simply on the issue of whether on commencement of this constitution, we should allow these people to apply and be registered as citizens.

MR. KATENTA-APUULI: Madam chairperson, I just wanted to emphasize that the issue of offence which has been ably put by Hon. Kanyeihamba that for an offence to be an offence that does not give an option of a fine, it must be a very serious offence. That is the point I wanted to make. However, I do not think that if Parliament is going to give effect, if we could say that Parliament will give effect to this article, then it is possible for us to remove the issue of a fine if we just add that Parliament shall give effect to this article. Then we can go ahead and remove the issue of crime so that Parliament will stipulate. Even in the form you fill in, they ask this question, have you been bankrupt, have you committed a crime and all that kind of thing, come in the form that you fill in when you apply. So it is at that time that we take care of these things like crime and other requirements. So really it does not have to be part of the constitution set-up.

THE DEPUTY CHAIRMAN: Okay, before we proceed, let us get a few things clear. If we adhere to Hon. Katenta-Apuuli's proposal, we shall be, I assume, in line with what you put in (b) as prescribed by Parliament but in a different language; that we leave it to Parliament to decide on that last provision. So what we are saying is, we are taking or Hon. Kanyeihamba is saying we adopt his amendment as on commencement of this Constitution. Then we add on Hon. Katenta-Apuuli's request that where do we stop? Can you tell us where we should stop?

MR. KATENTA-APUULI: What I was going to suggest Madam Chairperson, is that we do not even go as far - let me read what would remain." *Every person, who on the commencement of this Constitution, having lived in Uganda for at least 20 years*" - full stop.

THE DEPUTY CHAIRMAN: Then what happens to Parliament?

MR. KATENTA-APUULI: I was not quite ready with the formulation on Parliament. What I would say at the end is that Parliament will give effect to this. It would make laws to give effect to this paragraph or clause or whatever we want to be.

THE DEPUTY CHAIRMAN: Hon. Kanyeihamba, we have a problem here. Is that not watering down the connection between (b) and (c)? Hon. Katenta-Apuuli is saying that we stop at years in the second line. Would that not be watering down the connection between these provisions and that we passed in (b)?

PROF. KANYEIHAMBA: Madam Chairperson, I do not see any connection between (b) and (c) at all. There are two different fundamental concepts.

THE DEPUTY CHAIRMAN: Then what is your opinion on his proposal? I am going to take advantage of Hon. Kanyeihamba's expertise in this area.

PROF. KANYEIHAMBA: My opinion Madam Chairperson, would be that we accept the principle that on commencement of this Constitution, the people we have described can apply to be citizens of Uganda. Having accepted that, this question of saying whether we retain a reference to this more than six months one or whether we adopt what the Hon. chairperson has suggested. But then we say, Parliament may prescribe conditions under which such applications will be granted.

THE DEPUTY CHAIRMAN: Okay, it seems that is a good compromise. We have debated this and when we get experience from the experts. I think we have really debated enough. So I will ask Hon. Kanyeihamba to draft that and I want to put the question and say as amended so that the technical - okay, I am going to put a question on this provision: "Every person, who at the commencement of this Constitution having lived in Uganda for at least 20 years." Then he is saying, Parliament shall decide - how was it Hon. Kanyeihamba?

PROF. KANYEIHAMBA: Madam Chairperson, I sense that there are two views and we may have to put both of them. One is, the first one which I think has a consensus that we say that every person who on commencement of this constitution, having been

living in Uganda for 20 years - that is one arm. I think there is a consensus for that. With regard to the other one, I think the House is divided. There are those who want us to have no reference whatsoever to crime and then there are those who think that Parliament should prescribe conditions how to deal with this application. I think they are those two views Madam Chairperson. So Madam Chairperson, what I was suggesting is that you could put the question on the first arm of this amendment, we dispose of it and then we examine the second proposal about either Parliament providing conditions or dropping this particular item altogether.

THE DEPUTY CHAIRMAN: I think we should start from the latter because usually we start from the furthest and the furthest is dropping all the words from *has* to *fine*. Are we together? Then, after we have got to those words, we may decide whether to say Parliament should prescribe or we leave it at where it stops at (i). Now, those in favour of dropping the words from *has* on the second line to *fine* say so.

(Question put and agreed to).

THE DEPUTY CHAIRMAN: So now we are stopping - tentatively, we are saying every person who has on commencement of this Constitution having lived in Uganda for at least 20 years. Now, those in favour of not mentioning Parliament, adding Parliament to this provision - *(Interruptions)* Wait, wait, there are some people who brought a view that after the word years - order, why are you not patient? Hon. Babu, put your hand down. Let me talk first, then I will come to you. I am saying that there was a view that after the word years, the different view was that Parliament should prescribe conditions on how to deal with such application. We are saying we have to clear that one. If we clear it, then obviously we shall put the question on the original of what is remaining. We are doing it by subtraction.

CAPT. BABU: Madam Chairperson, an amendment was moved by Hon. Kanyeihamba. We have been voting this amendment in sections. I would like to request very strongly that Hon. Kanyeihamba reads out his amendment and we vote on it.

THE DEPUTY CHAIRMAN: Okay, Hon. Kanyeihamba's amendment is on commencement of this Constitution. Nobody has raised an issue that he has a problem. So we are saying that we implicitly

take it because nobody has raised or rejected it and we take it as if it has already been done. Because if we say we have passed it, it was only adding those words, still the other part shall remain.

MR. AGARD DIDI: Considering that this subsection (c) is part of others or dealing with citizenship by registration, is it necessary for this particular one to go back and bring in Parliament when in subsection 2(a) and (b), we have already passed the categories only. So it seems having removed those words from has, what is now left is that we have subsection (c) which is now creating another category without the question.

THE DEPUTY CHAIRMAN: Actually, what you are talking about is exactly what I am talking about. I want to get rid of that part. Let us agree that we do not include it. So I was going to put the question of those in favour of including this say Ayes, to the contrary No, you say No, and we proceed.

MR. MEDI KAGGWA: Madam chairperson, I am very much concerned with the element of crime and I had a proposition which I think will bridge the two views and it is to the effect: *"Every person who at the commencement of this Constitution, having lived in Uganda for at least 20 years has not been convicted of an offence which carries a sentence of not less than six months' imprisonment within the preceding two years prior to the application."*

THE DEPUTY CHAIRMAN: But we had voted, I had removed that part, the whole of that part.

MR. MEDI KAGGWA: But we had not disposed of the clause Madam Chairperson.

THE DEPUTY CHAIRMAN: We had cancelled the word from *has* to *fine*.

MR. KASAJJA: Thank you very much Madam Chairperson. I want to tell the House that whatever we are going to pass here will definitely not escape Parliament. So Parliament is implied, we do not need to stress it here. So I think we better end where it is and we vote.

THE DEPUTY CHAIRMAN: Okay, now let us put the question. You see the problem, people are not patient.

(Question put and agreed to).

THE DEPUTY CHAIRMAN: Now I put the question on Hon. Kanyeihamba's motion that we add in the words: *"commencement of this Constitution having..."* and also stop at the word 'years'.

(Question put and agreed to).

THE DEPUTY CHAIRMAN: I think we can accommodate one more. We stop at 6.30 and we still have the quorum. Please Members, we come late, let us accommodate only one. It may be a small one.

MR. KATENTA-APUULI: Thank you Madam Chairperson. Madam Chairperson, the select committee number four considered clause 3 which is item 7 in our report page six and found that the formulation of this article as it is in the draft constitution was satisfactory and recommended that we adopt it as it is. Paragraph (a) of clause two of this article applies also to a person who was married to a person but for his or her base would have continued to be a citizen of Uganda under this Constitution. Madam Chairperson, I beg to move.

THE DEPUTY CHAIRMAN: It seems there is no problem. I put the question.

(Question put and agreed to).

THE DEPUTY CHAIRMAN: So that is passed.

MR. KATENTA-APUULI: In the same way, the committee considered clause 4 under the subsequent paragraphs (a) and (b) and found that as they stand in the draft constitution, they are satisfactory and they follow from what we have already passed. So we recommend that the plenary adopt these clauses and paragraphs to read; clause 4: *"Where a person has been registered as a citizen of Uganda under paragraph (a) of clause 2 of this article and married by virtue of which that person was registered is, (a), allowed or otherwise declared void by a court or tribunal of competent jurisdiction or dissolved, that person shall unless he or she renounces that citizenship continues to be a citizen of Uganda."* Madam Chairperson, I beg to move.

(Question put and agreed to).

MR. KATENTA APUULI: Madam chairperson, in dealing with clause five of article 43, the committee considered that the article is properly formulated except that we added the words at the end of that clause on attaining the age of 18. The rationale behind that is that it is at the age of 18 that a child becomes a major; that is able to take their own decisions and we thought that it is at that time that one will decide to renounce citizenship. So we recommend that clause five be amended to read: *Any child of a marriage of a person registered as a citizen of Uganda under paragraph (a) clause two of this article to which clause four of this article applies, shall continue to be a citizen of Uganda unless he or she renounces that citizenship on attaining the age of 18.* Madam Chairperson, I beg to move.

MR. MULENGA: I wanted clarification in connection with a later article where the burden is put on such a child to renounce. I believe it is in the case of double citizenship. Why are we anticipating renouncing at the age of 18 unless this child has another citizenship? Because in the case of double citizenship, I think the better provision is to say at the age of 18, the other citizenship must be denounced or else the child forfeits. Now, in this case it is being put the other way round. I wanted some clarification whether this is a case where there is more possibility of dual citizenship.

MR. CHEBET MAIKUT: Madam chairperson, thank you. I am also seeking clarification from the chairman of committee four on the rationale behind this age of 18 because of recent, we have read in the Press that certain sections of groups of our society in Uganda are trying to push to Parliament to revise the age limit for which a child is regarded as a child as such from 18 years to 16 years of age. So what is really the basis stating this age when we know that future Parliament in their wisdom can easily change that date. Secondly, Madam Chairperson, what happens to somebody who is above this stated age of 18 years who may wish to renounce his or her citizenship after that age? So those are the two clarifications I am seeking.

MR. KATENTA-APUULI: Thank you Madam Chairperson. To answer Hon. Mulenga's question on whether we anticipate dual citizenship, in our recommendations which will come later, we do not provide anywhere for dual citizenship. If anything, our recommendations say that it should not happen. Therefore, with regard to dual citizenship, he should

not anticipate dual citizenship because we do not recommend dual citizenship. With regard to Hon. Chebet's question on age 18, the committee took age 18 because that is the age when one is really considered mature and I think that is when one is considered to be legally responsible for oneself. This age also is reflected in our voting laws, it is also reflected in our marriage laws where a child is supposed to get married without the consent of parents. So we thought that was a reasonable age to take.

MR. KITAKA-GAWERA (BBALE COUNTY): Point of information. Thank you very much indeed Madam Chairperson. I would suggest the chairman of committee number four, that possibly legally we could use on reaching the age of majority in law, it can work; that is to say, in case when Parliament will decide to change the age from 18 to 16. So the word 'majority' may work. That is a good kind of alternative.

THE DEPUTY CHAIRMAN: Hon. Kitaka-Gawera is saying we use the word 'maturity' rather than specifying the age.

MR. KITAKA-GAWERA: No, it is majority, in law it is majority.

THE DEPUTY CHAIRMAN: Then how would it read? Hon. Kitaka-Gawera, let us get clear.

MR. KITAKA-GAWERA: On attainment of majority.

THE DEPUTY CHAIRMAN: Do we have anybody who did English? I fail to get the meaning of that. The lawyer can help us.

HON. DELEGATE: Majority is a legal term to mean that one has become of age and can take independent decisions. So majority age could replace 18, it is reasonable. But currently, I understand that majority age is 21. The committee considered majority age which is 21 I think legally today and thought that 18 was old enough.

MAJ. GEN. TINYEFUZA: Thank you Madam Chairperson. I think there is a wrong impression being created here. In this constitution, we have provided different years for different situations. For instance, under the human rights, under the sections of affirmative action and so on, the years are fixed at a different age from the one of voting and so on and

so forth. So you will find that there is no parity really, it is not uniform in the entire constitution. We are considering each position as it comes. Therefore, I think merely saying majority, we do not have that provision that in Uganda the majority age is this other than specific subjects covered under this constitution. So that is why I think we need to come out clearly for the purposes of citizenship, renouncing citizenship which age is better. When has a person matured sufficiently to appreciate the importance of being a citizen of Uganda or renouncing it and becoming a citizen of Canada? Because somewhere, he may require to renounce this citizenship before he migrates where he is. So this provision is very important but I think in my view, 18 is sufficient and I see no danger in mentioning the age 18. In Karamoja, the majority age is 12 if it can happen. You become a warrior and you start doing several things. So what are you talking about majority? So I find no problem with saying 18 Madam chairperson. Thank you very much.

THE DEPUTY CHAIRMAN: Hon. Delegates, I think really we have debated this and this is the end and people who were - if I can also try to clarify something I think there is nobody who is saying that one is not free to get citizenship of another country. As you are admitting them, others want to opt out. So I do not see really why one should query why we should allow people to go out if they want to do so. So the only problem I would see is the age.

MR. MULENGA: Thank you Madam Chairperson. My question was misunderstood and perhaps just because I did not refer the Hon. chairman of committee four to the point I was raising that may raise a problem. If you contrast clause five...

THE DEPUTY CHAIRMAN: Why we should allow people to go out if they want to do so. The only problem I can see is the age. So, I want to put the Question or Hon. Mulenga say something before we vote on this.

MR. MULENGA: Thank you Madam Chairperson. My question was misunderstood and perhaps because I did not refer the Hon. Chairman of Committee 4 to the point I was raising that may raise a problem. If you contrast Clause 5 we were considering with Clause 2 which we have discovered now of Article 46, I am worried that there may be a conflict in interpretation. That goes with Article: *A citizen of Uganda shall cease to be a citizen of*

Uganda if on attaining the age of 18 years, he by a voluntary act other than marriage acquires or retains a citizenship of a country other than Uganda. Now this is why I talked about dual citizenship. I was not talking about dual citizenship by choice. The point I am pursuing is that a child may be born and by virtue of the provisions we are passing becomes a Uganda Citizen, but at the same time he is the citizen of another country. If you can imagine a non-Ugandan, let us say, a Kenyan woman marries a Ugandan man, by virtue of the paragraphs we have passed she is entitled to register. She registers, she gets a baby. That baby may, depending on the constitution of Kenya, be a Kenyan also, and Ugandan. So, at the age of 18, that is when a decision has to be made by that child. Unless that child renounces one or the other he may have to lose one depending on the words of the clause. I was concerned and I am still concerned that there is need to reconcile the two clauses on who's is the burden. It follows that the child remains a citizen unless it renounces or it ceases to be a citizen unless it has cut off with others. It seems that the two Clauses are not in the same line.

THE DEPUTY CHAIRMAN: I do not know whether Hon. Katenta Apuuli has the answer. Otherwise we could ask the Technical Committee and Legal to reconcile the two. So, if it agreed we request the Legal and Drafting together with Technical Committee to assist us out to come to the end of that Article, then when it is cleared, we shall pronounce ourselves on that Article 43. So, I propose that we adjourn until tomorrow.

(The Assembly rose and adjourned until Wednesday, the 8th February, 1995, at 2.30 p.m)