



THE REPUBLIC OF UGANDA

PROCEEDINGS
OF
THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

CONTENTS

WEDNESDAY, 8TH FEBRUARY 1995

MOTION:- Consideration of the Draft Constitution of the Republic of Uganda [Pg 2987]

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Wednesday, 8th 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. Victoria Mwaka, in the Chair)

(The Assembly was called to order)

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

CITIZENSHIP

Article 43 - Citizenship by Registration.

MR. HASHAKA JACKSON (Kibale County): Thank you, Madam Chairperson. Since we are handling a very sensitive issue on citizenship, and it seems we are not yet enough to make decisions I pray that we could hold on so that we are enough to make decisions on such important issue of the constitution. Thank you.

MR. KAMURON PETER (Kongasis County): Thank you Madam Chairperson. Since Hon. Hashaka has not raised a question of point of order, it is my submission that we can continue with the debate, we brainstorm and when the quorum is realised then we can take a decision. Thank you very much.

THE DEPUTY CHAIRMAN: Thank you very much. Because actually I was waiting that is why I was keeping quiet. It was not a Motion, he pointed it out, so I could very well sit here and you sit there. What I want to avoid, he is saying that we adjourn or I suspend the assembly, then after 15 minutes there is no quorum and the day? So I do not see anything wrong with that suggestion that we brainstorm then when we have -

MR. ODOY ASOKA (West Budama North): Madam Chairperson, I would like to move a Motion of suspension of the meeting for the next may be five minutes - actually 15 minutes so that we could realize quorum. Because the subject before us is rather sensitive, very important and therefore, we should not deny the opportunity for other Members to come and participate. Thank you very much.

MR. BWANIKA BBALE (Katikamu North): Madam Chairperson, thank you very much. I would like to support what Hon. Kamuron said, we can meanwhile continue to contribute on the debate, and I think the ushers can go out and round up the Members. The Members are just out there meeting their - I think the people who sent them here. So I really, I am not in support of adjourning and your suggestion that you sit there and keep quiet will really look awkward. How can the Chairperson, be in the chair and then there is no business. So I suggest, Madam Chairperson, that we discuss and meanwhile the ushers can go and call the other delegates outside in the lobby.

MR. KATENTA APUULI (Conservative Party): Thank you, Madam Chairperson. Hon. delegates the advise we got from the business committee on matters like this was that, debate could go on, until we have the critical mass necessary for us to take decisions. That was the advise that we got from the business committee.

THE DEPUTY CHAIRMAN: Okay, let us reach a compromise, ignore my presence. We agreed that as much as possible, we should not waste time, should I say that I suspend the assembly and minutes expire for a second time. That means we shall be wasting, a day. Because once I say, now I suspend the assembly you will start counting, 15 minutes if the people are not enough automatically that will be the end of today. So I prefer - meanwhile I ask the Marshal to go and at least, all the people come in.

MAJ. GENTINYEFUZA (NRA Delegate): Thank you, Madam Chairperson. Madam Chairperson, I think that while I appreciate your the rules are very clear when you look at Rule 9(2), I think once a delegate raises an objection about quorum we are bound to take it seriously and the chair must make a ruling on that specifically and then we see what to do. Because there is a way we can avoid. The Member Hon. Hashaka did raise an objection about quorum, but I think you should Madam Chairperson handle it officially and see what to do. Because Rule 9(3) says, "Whenever objection is taken under subrule (2) of this rule and it is upheld by the Chairman... I think that implies that the chairman may not uphold the objection. In which case then you can rule that I do not uphold it, let us keep here, but you must give us - you would rather give us a ruling, Madam Chairperson.

HON DELEGATE: Thank you very much, Madam Chairperson. Hon. Members are not late, but they are attending another meeting. We had this circular circulated to all Hon. Members that there was a meeting which started at 2.30 p.m. in the delegate lobby, and I hope legal and drafting committee - and therefore the Members - are not deliberately late. We could brain storm as they join us I beg to move.

THE DEPUTY CHAIRMAN: I did not receive that communication.

MR. KIWANUKA: I suggest, Madam that we suspend that Rule of the quorum that we go on.

THE DEPUTY CHAIRMAN: I would like to bend the rules on this issue.

MR. KITAKA GAWERA (Bboale County): Thank you, Madam Chairperson. Madam Chairperson, you have already given a ruling on the question raised by Hon. Hashaka, and your ruling if I am not wrong was to the effect that we continue to brain storm while waiting for the others to come in, and in addition, Madam Chairperson, you have sent the Marshal to go out and draw the attention of the Members who are lingering in corridor to come in. And secondly, we have been informed by another Member that some Hon. Members are attending another meeting. So it is not necessary to adjourn the meeting, you have already given the ruling on that. Therefore, I suggest very humbly and without wasting time that, we continue with the meeting, and very shortly the other Members will be coming in.

MR. PINTO EMMANUEL (Kakuuto County): I thank you Madam Chairperson. From what I have heard the Members contribute, most of the delegates Madam Chairperson, seem to be of the view that we should continue deliberations, debate and not take decisions. Under the circumstances I propose that you allow us to continue debating, and only when we get to the time to make a serious decision if you do not - if we do not have a quorum, at that time, then may be we can - but I believe now we have enough people to make contribution.

MR. HASHAKA: Madam Chairperson, Item 15 in the Constituent Assembly Statute 1993, Section (a) (1), reads: "*The quorum of the Assembly for the purpose of transacting any business other than adjournment, shall comprise the chairman and not less than one half of the total number of delegates.*"

And in our rules, Rule No.9 as Hon. Tinyefuza had said, it says, "*As required by Section 15 of the Statute the quorum of the assembly for purposes of transacting any business...*" it is repeating the same, and No. (2) says, "*Any delegate may at any time during the proceedings, take objection that there are fewer delegates present at the sitting than those necessary to constitute the quorum required under subrule (1) of this rule.*" Is it in order, therefore, Madam Chairperson, for Members to continue to say that we should abrogate these rules which we have and which we made ourselves? Especially, when we are discussing a very important issue and we are required to make decisions, Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. delegates this is a problem of our own creation, I suspend the meeting for 15 minutes. Hon. delegates, it seems we have failed to discipline ourselves as some people are coming in, others are just going out, we have failed to realize the quorum.

MR. KABUGO MESUSERA (Nakaseke County): Madam Chairman, we are lacking a quorum here whereas the legal and drafting committee is holding a number of our delegates. Is it not possible to ask these people to come down and join us to form a quorum so that our business takes off - (*Interruption*)-

THE DEPUTY CHAIRMAN: I have counted there are - we are 116.

MR. SENDAWULA GERALD (Bukoto South): Madam Chairman, I just wish to say this. I think there are so many other ways through which we should check this because it would be very dishonest of us if you say we are only 116. The general public is going to learn that we were only 116 if this is not in line with the attendance book. We have to ascertain whether it is 116 as per attendance book, or physical counting. But as far as I can see when I consider the normal sitting in our hall here, I am sure we have the numbers for us to start.

MR. WANENDEYA WILLIAM (Budadiri East): Thank you Madam Chairperson. Madam Chairperson this is very serious matter in that we have not realized a quorum. For those of us who are present here, I suggest that we get our names recorded, have it published in the centre of newspapers and they state that these are serious people who have

been attending. The psychology, Madam Chairperson, is that, if it is published and they say these are the serious people next time the psychology will work in the sense that those people who would otherwise want to absentee themselves or would come late, will try to come quickly, Madam Chairperson, I beg to move. Thank you.

MR. OBUA OTOA (Erute North): Thank you, Madam Chairperson. I think this is really a very serious matter, this question of a quorum. It is not possible for us to continue discussing matters, we did this at the - in select committee. Madam Chairperson, we did it when we were in select committee sometimes we would deliberate without a quorum, we did it in committee 5, and I am saying may be as we proceed the Members will come and in time we realize the quorum and we will be able to make decisions. Because it is becoming very scandalous. Madam Chairperson, for us to just pack up and go home. Some of us have come here to do serious work, and I do not know who pointed out this business of quorum because that is the one who is sabotaging us. Madam Chairperson, I want you to consider my suggestion very seriously, and not being intimidated by Jackson Hashaka and the like.

MR. ONEGI OBEL (Jonam County): Thank you, Madam Chairperson. Madam Chairperson, I think if we are failing so often to raise a quorum it is because - Madam Chairperson, we are making one mistake which is self defeating. Each time we decide to discuss or brainstorm without a quorum, Madam Chairperson, I think that gives leave to those who often - and they are probably the same people who do not come, because they are aware that their absence does not matter, that the matters of the assembly would continue even if they do not come. But if we refrain much as I would not want to see it happen so often, if we stop discussion because of lack of a quorum, may be that is one way of forcing this - I was going to say bad words. But forcing these people to come so Madam Chairperson, I think when we are not good enough in numbers in terms of a quorum, let the press say so and let us adjourn, that way we shall get people to come in.

MR. ELYAU MIKE (Kalaki County): Madam Chairperson, the only group I do not see here are government ministers, they might soon come and join us. So we start the discussion they will come I am sure.

MR. ATWOKI AMBROSE (Youth Delegate-Northern): Thank you Madam Chairperson. Madam Chairperson, I believe that we have been conducting business in the past when the House is of this magnitude, and I believe that as we have been talking, we seem to have realized a quorum. I beg to move that we proceed expeditiously.

COL PECOS KUTESA (Kabula County): Madam Chairperson, when Hon. Hashaka raised a question of no quorum, there were about 56 people according to his own calculation. I would ask him now to stand up and count see if we are not a quorum. Because he has appointed himself as the chief. Thank you Madam Chairperson.

BRIG. KYALIGONZA MATAYO (Buhaguzi County): Madam Chairperson I thank you. It is apparent Members are very apprehensive about the lack of quorum. But I want to bring it to your attention Madam Chairperson, that towards the end of our session we are far less than what we are now, and we have always continued to deliberate except we do not vote. But in this situation when the Hon. Member raised the issue of a quorum, we were 56, and as we speak now, we have already realized a quorum. So I beg that we proceed and in any case, if we do not now, we have a time lag which we are also expected to fulfil, and at the same time those who may not wish some of the items on the agenda to be discussed, are deliberately not coming. So we should continue and then in the process when we are about to vote, then these people will have come. So, I propose that we proceed Madam.

MR. MWESIGWA RUKUTANA (Rushenyi County): Madam Chairperson, the issue of quorum is not as simple as some delegates may want to take it. If you look at Rule 9, you find that the issue of quorum is not only provided under the rules of procedure here, but is actually broad from the statute. Rule 9 sub-rule (1) reads: "As required by section 15 of the statute..." - Madam Chairperson, we are almost realizing quorum if we have not realized it. But I was saying that for purposes of future conduct, we should take this issue as a very important issue because one time, one person could rise to challenge the Proceedings of a particular meeting. I was saying, the question of quorum is not a mere procedural aspect, it is provided for under the parent statute. And under that statute, and under the rules, it is mandatory that before any business is transacted say for an adjournment, there is a quorum compris-

ing of a chairman and not less than one half of the total number of delegates. Much as you are constrained by time, we should always avoid transacting business when we do not realize quorum. What we should seek to do is to get ways and means of making sure that we come in time. Otherwise I fear if a person is aggrieved with a particular decision taken by this assembly, he can successfully have our decision challenged in court as having been null and void because we did not have quorum. So, to avoid all that, we should be strict and transact business only when we have quorum.

THE DEPUTY CHAIRMAN : Hon. delegates, being informed that we now realize a quorum - Hon. Nabudere what is your information.

PROF. NABUDERE DAN (Budadiri West): One of the problems is that there is another meeting taking place and in fact I am leaving to go to that meeting which again reduces a quorum. There is a legal and drafting committee taking place up stairs, and that is one of the reasons why we are having difficulties with quorum.

THE DEPUTY CHAIRMAN : Hon. delegates now we are well covered, we realize a quorum, we are more than 142, when you add on those who are coming, we shall be 152 which is above the required quorum. So think now we can continue to transact business. On our order paper we are considering Clause (5) of article 43.

THE DEPUTY CHAIRMAN: We had deferred this article to the legal and drafting and technical committee, and I think the new version has been circulated to all Members. Hon. Katenta Apuuli, can introduce your amendment.

MR. KATENTA APUULI: Thank you, Madam Chairperson. Hon. delegates, the technical committee has come out with formulation which reads as follows; Clause (43), article 43 Clause (5). *Subject to article 46 of constitution, a child of a marriage of a person registered as a citizen of Uganda under paragraph (a) of Clause (2), of this article, to whom clause (4) of this article applies, shall continue to be a citizen of Uganda.* Madam, Chairperson, I beg to move.

THE DEPUTY CHAIRMAN : As this was from the legal and drafting, I do not think we need to have someone seconding it. You can substantiate the purpose for that amendment.

MR. KATENTA APUULI: The child under the above Clause, should be treated like any other Ugandan citizen and does not have to be told when to renounce his or her citizenship of Uganda or, of any other country other than what exists in article 46 for all citizens. That is the rationale for formulating in the manner the technical committee has advised.

(Question put and agreed to.)

THE DEPUTY CHAIRMAN : So 5 has been agreed on. Now you recall that earlier on, paragraph (a) of Clause (1) of article 43 was also deferred, I do not know whether Hon. Katenta Apuuli you have your paper, so that you carry us through that one also before we proceed.

MR. KATENTA APUULI: I do not have that favour, Madam Chairperson.

MR. ELYAU: Madam, suppose this one was passed because I have cross checked and according to my book there was no query.

THE DEPUTY CHAIRMAN : I was trying to cross check.

MR. ELYAU: You cross check, there was no argument in that one.

MR. KATENTA APUULI: Madam Chairperson, I think it was passed.

THE DEPUTY CHAIRMAN : Does it read as follows: *'Neither of his or her parents and nor of his or her grandparents had probated status in Uganda and neither of his or her parents and nor of his or her grandparents was a refugee in Uganda.'*

MR. KATENTA APUULI: No, if you remember, Madam Chairperson, I considered the advise that nor was misplaced, and therefore, we should go back to the original takes of using the word or. You remember I considered, Madam Chairperson, and therefore, we pronounced ourselves on that item.

THE DEPUTY CHAIRMAN : Because what I have is February 7th - Oh see, sorry I have not been informed. They are saying that the chairman of the technical committee was not happy with the ruling, so he was giving an alternative and it was not indicated to me. So when I saw them, I thought that

was agreed on by committee 3 - I mean Hon. Katenta - Apuuli. So we can assume that this was a drafting problem I will take it at that. Agreed?

HON. DELEGATES: Yes.

THE DEPUTY CHAIRMAN: Then there was 41 (c), what do you have to say about it Hon. Katenta Apuuli. Because 'what had' was withdrawn.

MR. KATENTA APUULI: Madam Chairperson, we dropped all the words until *birth*. Now it should read: *"Every person born outside Uganda after the commencement of this constitution one of whose parents was at the time of his birth... and it refers to the original, every person born outside -*

THE DEPUTY CHAIRMAN: I have been informed that one also has been taken back for proper drafting. So I assume now we can now regard ourselves as having completed Article 43.

MR. KWERONDA RUHEMBA (Kajara County): Madam Chairperson, Article 41 (c), was differed to the legal and drafting committee, and we have not seen what has come out of that Legal and Drafting committee yet. Unless the chairman of committee 4 is saying that he has met the legal and drafting committee and he has got a new formulation.

MR. KATENTA APUULI: Madam Chairperson, I have not received any from the legal and drafting on this particular item.

THE DEPUTY CHAIRMAN: Okay, so we cannot pronounce ourselves on 43 but we can continue with 44.

MAJ. KIBIRANGO GYAGENDA (NRA Delegate): Madam Chairperson, now that we have passed all the Clauses of Article 43. I wish to sound my problem regarding Article 43 (1)(b) in relation to Article 43 (2) (b). It looks like Article 4-3 (2) (b) includes all the persons that are meant in Article 43 (1) (b). Could the chairman of committee 4 or may be a person knowledgeable the Hon. delegate knowledgeable in law and drafting a system.

THE DEPUTY CHAIRMAN: Let us have it again.

MR. KIBIRANGO: Article. 43 (1) (b) which reads: *"Every person born in Uganda who has lived*

continuously in Uganda since ninth October, 1962, shall on application be entitled to be registered as a citizen of Uganda." And go to Article 43 (2) (b) again which reads: *"The following persons may apply to registered as citizens of Uganda - (b) every person who has legally and voluntarily migrated to and has been living in Uganda for at least twenty years,"* or such things; it seems to sound to me that, all the persons included meant in 42 (2) (b) include all those meant in 43 (1) (b).

DR. BYARUHANGA FABIUS (Kitagwenda County): Thank you, Madam Chairperson In 43(1) (b) we are talking of people who were born here in Uganda but were born before this country obtained Independence. Madam Chairperson, to have lived here since the 9th of October, 1962 and to have been born here means, you must have been born before Independence and been born in Uganda. But in 43 (2) -

MR. KATENTA APUULI: If I can help the Hon. Member, it is really very clear Hon Madam Chairperson, that we are talking about every person born and in the other one talking about every person migrating, voluntary migration and birth, and I hope that Hon. Kibirango should be satisfied with 2.

DR. BYARUHANGA: And in the first case we are saying that automatically on application they will become citizens. Then in the second category we are saying, they apply then responsible committee considers, it may say no or it may say yes.

THE DEPUTY CHAIRMAN: Hon. delegates that means we have to consider 41 (c) only and then pending. So 43, I think the whole of it is done. So we can pronounce ourselves on 43, that as amended article 43 do stand part of this constitution.

(Question put and agreed to.)

THE DEPUTY CHAIRMAN: So now can we proceed to article 44.

MR. KATENTA APUULI: Madam Chairperson, the committee considered article 44 Clause (1) and found that this article was satisfactory as it is in the draft constitution and would like to recommend that it should be adopted as such to read: *"An application for citizenship by registration or for immigration into Uganda shall be made to and considered by a national citizenship and immigration board which shall be established by Parliament by law."* Madam Chairperson I beg to move.

MR. KATENTA APUULI: Madam Chairperson, there must be some typing error I think. Because we say that we did not amend therefore, by law should not be there at the end. The full stop should be at Parliament.

THE DEPUTY CHAIRMAN: Hon. Kayonde do you have a different - we are being informed that, by law should not be there on 44 before it was not changed. But Hon. Kayonde still has -

MR. KAYONDE ISRAEL (Gomba County): Point of clarification. Madam Chairperson, I am seeking clarification. Yesterday when we were discussing this matter, it came out that the bulk of this group who should apply are peasants scattered in the countryside and in 1962 there were similar provisions to enable these people to apply but the state never either made any machinery how these people would apply. How does the chairman of committee 4 envisage the peasant suppose the state establishes a board and sits in Kampala and after 20 years these people have not applied. How do we solve this problem.

PROF. KABWEGYERE TARSIS (Igara West): Madam Chairperson, thank you very much. would like to inform Hon. Kayonde that a peasant does not apply for citizenship.

Perhaps he or she applies for a Passport. We are talking of people who are not citizens, who are applying to be citizens of Uganda. So I think he is confusing two things, applying for a Passport which is a travel document which is very normal process and applying for citizenship by those people who are not citizens.

MR. KAYONDE: I wish to disagree with Prof. Kabwegyere because yesterday article - Clause (2) (c) if he can recall yesterday we said there is general amnesty being given to these people who have been living in the countryside and who cross borders which they can't recognize and they end in these places - who do not have any documents to show that they are actually citizens. This is the group which I am talking about. Because 20 years you may want them to verify that they are citizens and they cannot.

MR. KATENTA APUULI: Madam Chairperson, I think Hon. Kayonde should really be satisfied, with provision at the end: *'that Parliament shall establish.'* Because I do not think that the issue of mobilization can become - can be part of this

constitution. It is up to Members of Parliament, Members of CA who are going to benefit by registering these people as citizens, therefore, can vote, who should mobilize these people. An administrative system should be put into motion to mobilize these people so that we can correct this anomaly once and for all. It could not possibly be introduced here as a constitutional matter. It is a matter that requires administrative mobilization. And therefore, the mechanism for sensitizing people should be put into Motion so that this anomaly which known to most of us could be corrected once and for all.

THE DEPUTY CHAIRMAN: Hon. kayonde what do you feel with this current decentralization in process where you read in the provision that they are going to district level, do you think that problem will arise again.

MR. KAYONDE: I am satisfied with the explanation that -

MR. BYAKIKA SAMSON (Bunyole County): Thank you Madam Chairperson. I have a problem with article 44; Article 44 is asking national citizenship and immigration board to carry out certain functions. At the same time we are saying that this board will be established by Parliament, and we go on to Clause (2) of Article 44 to outline the composition of that board. And in Clause (3) to give functions of that board. Now to give a composition and functions means, the board is already established and yet in Clause (1) they are saying that, that board will be established by Parliament. Now I have my problem there that I we should go ahead to say that this Assembly establishes the board and then we give them functions and a composition.

MR. KATENTA APUULI: Thank you, Madam Chairperson, I will to inform Hon. Byakika that, the committee considered this matter and also asked the same question as he is asking right now. But in debating this whole issue, it was decided that for example, in Clause (3), these are not the only functions that the board will do. The board will be responsible for more and elaborate functions, but some very important functions needed to be included here in the constitution so that there is no doubt that Parliament might leave them out. That is why Clause (2) which is recommended in the draft and Clause (3) with its paragraph, was retained to make sure that Parliament does not omit any of these important first of all the membership and secondly,

the very important functions. Parliament will definitely assign more functions but these were considered to be very, very important that needed to be mentioned here. That was the rationale behind our mentioning this specific items.

MR. KIWAGAMA WILLIAM (Bunya West): Thank you very much I had earlier wanted to assist Hon. Kayonde who had a problem on Article 44(1). This is a last category of citizenship by registration. The way I understood this was that, this applies to foreigners who want to come into Uganda and some foreigners who may not necessarily have been living in Uganda but they want to become Uganda citizens. I think that is the subject of Clause (1) of Article 44, and that is the last bit and then the article goes on to establish the board which will deal with matter. I just wanted to assist to clarify to Hon. Kayonde.

MR. ATWOKI AMBROSE: Thank you very much, Madam Chairperson. Madam Chairperson. I also see some kind of confused drafting in Article 44(1).

I do not know the intention of article 44 (1). Because it talks about an application for citizenship by registration or immigration into Uganda shall be made to and considered by National Citizenship and Immigration Board. It is as if it is already talking about the functions of the National Citizenship and Immigration Board, yet when you go to article 44 (3), (c) it is also talking about the same function saying granting and cancellation of citizenship by registration. Madam Chairperson I was of the feeling that, in order for us to send clear message Article 44 (1) should have established the immigration Board and then we go ahead to state the composition and then the functions. But as it appears, article 44 (1) is not clear at all; So I beg to move that article 44 (1) states: "*there shall be a National Citizenship and Immigration Board.*" Then we go ahead to Article 44 (2) to spell out the composition then Article 44(3) to spell out the functions. I think it will appear more orderly than just leaving it like that. Thank you, Madam Chairperson.

MR. MWESIGWA RUKUTANA: Thank you, Madam Chairperson. I entirely agree with the previous speaker on the Floor. When you look at Clause 44 (1), the marginal note reads: *National citizenship and Immigration Board*. The intention clearly was to establish the board. But then instead of establishing it, they started with the functions. So to me, I think we should in this first article establish the

board, we go to Clause (2) the composition, and if we feel that handling application for citizenship by registration or for immigration is so important, we in some way entrench it in specifically important manner among other functions in sub article 3. So I do not know whether Hon. Atwoki formerly moved the amendment, if he did, then am seconding and I am supporting it.

THE DEPUTY CHAIRMAN : Okay, there is a Motion, on the Floor that we separate the two issues or functions and the creation of a National citizenship and Immigration Board. The Motion is saying that, we should have a National citizen and Immigration Board which shall be established by Parliament. Which means in line two after 'by,' we make the 'a,' capital (A) and we delete the other first one and half lines. Is that the implication Hon. Atwoki?

MR. ATWOKI AMBROSE: Thank you, Madam Chairperson, I am saying that there shall be a National Citizenship and Immigration Board. Madam Chairperson, some people are saying that we should provide: "*as established by Parliament*" but I think that the Constituent Assembly is establishing the Board here now.

MR. NASASIRA JOHN (Kazo County): Thank you, Madam Chairperson. I have serious problems with Article 44 in addition to what Hon. Atwoki is saying. I would have said that part of Article 44 (1) which is talking about where the application goes should have been covered under Article 43 which is talking about citizenship by registration and so on; and then part of that Article 44 (1) would then stand as you are proposing, Madam Chairperson, on establishing a National Citizenship and Immigration Board. I even have more serious problems, I was waiting but since we are discussing the Article generally with Article 44 (1) Clause 2 which goes ahead, after giving powers to Parliament to establish this Board, it goes ahead even to define the number of members of the Board which work I think should have been left to Parliament. So, Madam Chairperson, I would propose an amendment to the amendment of Hon. Atwoki that Article 44 (1), the first part "*An application for citizenship by registration or for immigration into Uganda shall be made to and considered by the Parliament*" The Board should move to Article 43 and then Article 44 deals with only establishing that Board and its functions and I am totally opposed to even defining its composition in the Constitution.

MR. SEBI HAROUN (Koboko County): Thank you very much, Madam Chairperson. Madam Chairperson, I would like to clarify to Members that Article 44 Clause (1) places the emphasis on application for citizenship by registration or for immigration into Uganda. It is introductory. I think it is quite proper there and that it shall be done by an immigration Board - a National Citizenship and Immigration Board. Then Clause (2) of 44 goes on to spell out the composition of that Board. In my opinion it is quite proper. I do not have any quarrel with it because I think 44 (1) merely introduces how you can acquire this citizenship and then 44 (2) goes on to explain how the Board is composed.

DR. KABERUKA WILLIAM (Ndorwa West): Procedure. Thank you, Madam Chairperson. I think that in order to save time we should have a clear Motion and debate it rather than going in circles.

THE DEPUTY CHAIRMAN: Yes, there is a clear Motion by Hon. Atwoki seconded by Hon. Mwesigwa and Hon. Sebi just opposed it. That was my assumption.

DR. KABERUKA: Can I continue? Madam Chairperson, I think Hon. Atwoki did point out quite correctly how we should proceed that in 44 (1) we should establish a National Citizenship and Immigration Board then we proceed to (2) as it is and (3). The point which Hon. Sebi and Hon. Nasasira brought about of an application, I think once you have spelt out among the functions that is granting and cancellation of citizenship by registration, to me it would be sufficient for those people who would want to register or to apply for citizenship by registration. So we do not need to go back and change 43 that these people should apply for the Immigration Board and, in any case, once Parliament has established this Board and given it its functions, what the Hon. Chairman of Committee Four said that then it will be incumbent upon the political leaders to mobilise and make sure that these elderly people, those people who are affected by this that they should go and register. So I beg to support Hon. Ambrose's move and we should proceed thus. Thank you.

MR. WAMBEDE SETH (Bungokio North): Thank you very much, Madam Chairperson. Madam Chairperson, I do not see any problem with this Article. This Article is only an enabling clause to both the former and 44. We are saying if one would want to acquire citizenship, a child born by some-

body who has links with Uganda or somebody married would want to become a citizen of Uganda what does he do? Definitely he has to apply or she has to apply and where does she apply? It is to the Immigration Board. Therefore this Article as it is, it is only an enabling clause to creating an Immigration Board at the same time spelling out how does one apply to become a citizen. So I do not see any problem as regards the clause in the Draft and that way so I will oppose Hon. Atwoki's Motion.

THE DEPUTY CHAIRMAN: Hon. Delegates, it seems we have not really got the amendment on the Floor correctly. Hon. Atwoki and the Seconder are saying that 44(1) should read: *"There shall be a National Citizenship and Immigration Board which shall be established by Parliament."* (Interruption). Wait, let me make the statement then you shall intervene. Then after that Hon. Ambrose and his group are saying that what is in the introductory lines, granting and cancellation of citizenship by registration is by implication may be similar to registration for immigration into Uganda and whatever have you. The other one is wordy. This one is transferring registration for immigration and whatever have you, it is implied in (c) when you grant and you register you are exactly doing what that introductory lines are saying. Therefore, perhaps the problem would be whether it is to be established by Parliament or whether we view it passive because there were two formulations. One was that there shall be a National Citizenship and Immigrations a National Citizenship and Immigrations Board which shall be established by Parliament. So I just wanted to clarify that.

MR. DICK NYAI (Ayivu County): Madam Chairperson, I have a feeling that we are running around in circles because of one problem. I think we should first pronounce ourselves on as to whether we want to re-order in the order of arrangement which comes first and which comes last. When we have pronounced ourselves on that then we can go to the merits of it because in my case I completely agree with Hon. Ambrose Atwoki that we should first establish a Board and if we put in the Constitution that there shall be a Citizenship and Immigration Control Board not just an Immigration Board, it must be an Immigration Control Board lest it is permissive and once it is an Immigration Control Board and we have established it in the Constitution then the Parliament will pass the necessary subsidiary legislation for how that control Board operates.

I would rather, Madam Chairperson, that you first put the question as to whether those who are in favour of re-ordering Article 44 then we pronounce ourselves on that and then start adopting Ambrose Atwoki's Motion. Thank you, Madam Chairperson.

THE DEPUTY CHAIRMAN: I see you are just going round the problem because if there is a Motion on the Floor which we are discussing you are bringing another Motion which is not written. So what content are we discussing? We are discussing the content whether to delete the first sentences as reformulated; then we agree on that, we shall agree on what is proceeding and that is how we are moving. I do not see any contradictions at all.

MR. MALIRO GASTON (Mwenge County North): Madam Chairperson, thank you. I am seeking clarification on this Article 44 clause (1). It has got two parts in one. The first part which says: "*An application for citizenship by registration or for immigration into Uganda shall be made to and considered by*." that one to me appears a follow up of Article 43 which tends to show the procedure of how one shall make an application and to where. Now, the other part which follows which reads, a National Citizenship and immigration Board which shall be established by Parliament, that is in a way establishing this Board. So to me these two appear to be in one. When we separate the two are we taking this first portion which is the procedure for making application to Article 43 where we have pronounced ourselves or are we throwing it out?

THE DEPUTY CHAIRMAN: Information from Hon. Mwesigwa.

MR. MWESIGWA RUKUTANA: Information. Thank you, Madam Chairperson. We are wasting time on a purely drafting problem. It is true that this Article encompasses two aspects. The first one being providing for registration of application for citizenship or immigration into Uganda and another one establishing a National Citizenship and Immigration Board. That one is clear. So it is up to us now to determine what was the intention of putting this Article. As I have already said, though marginal note is not part of the law, it gives a guidance on what a law maker intended. The marginal note is National Citizenship and Immigration Board. In that regard I want for consistence sake to show other organs or bodies that are created by this Constitution. You go

to Article 76 you will find a marginal note reading "*Uganda Human Rights Commission*" and the sentence is "*There shall be a Uganda Human Rights Commission, etc.*" You go to Article 85, the marginal note is "*Electoral Commission*" and the following sentence is "*There shall be an Electoral Commission, etc.*" You go to Article 114, 'Cabinet,' the following sentence is "*There shall be Cabinet, etc.*" Article 123: "*Attorney General, There shall be Attorney General. 124 DPP, There shall be a DPP, etc.*" Now it is very clear that having put this marginal note as National Citizenship and Immigration Board, the intention was to create the Board at this stage because you do not start by giving the Board a function before you create it. So there is nothing wrong in complying with Hon. Atwoki's recommendation to create the Board and go ahead to give it functions of registration for immigration. So we are just wasting time on a simple matter.

THE DEPUTY CHAIRMAN: Now, Hon. Maliro can you complete your presentation I saw the Chairman of the Committee, let us hear from him.

MR. KATENTA APUULI: Madam Chairperson, thank you very much. To continue where Hon. Mwesigwa Rukutana stopped, if you look on page 83, Article 189 Uganda Audit Commission; page 86 Article 192 Public Service Commission; page 203, Article 263. (1) Armed Forces Board; page 105, Article 245 Prison Service Board; page 106, Article 250 Police Board. All these indicate that you establish the organisation and then go on to do the functions. So Hon. Atwoki's amendment is in good spirit.

THE DEPUTY CHAIRMAN: Now, with that, can we clear Hon. Ambrose's Motion? Okay, somebody want to amend Hon. Ambrose's Motion. Hon. Sserwanga Lwanga, is it an amendment?

LT. COL. SSERWANGA LWANGA (NRA Delegate): No, it is not an amendment. Madam Chair, I think what we are talking about in this Article is that should the article - should the Board be established by the Constitution or by Parliament? (*Interruption*). Yes, what Hon. Mwesigwa Rukutana is saying is confusing us. He is talking of other Boards which are established by this Constitution but in this Article the intention was that the Board shall be established by Parliament and then another question which we should have to clear ourselves on is that should the composition be mentioned or should we leave it to Parliament? (*Interruption*).

THE DEPUTY CHAIRMAN: Hon. Sserwanga Lwanga just hang on. Hon. Ambrose's Motion is just trying to remove the first two lines to establish the Board and he is saying by Parliament. So that one is just a matter of arguing whether we could leave it to Parliament or whether we should make it flat. So that is why I was asking whether there is an amendment.

LT COL. SSERWANGA LWANGA: Then we remove Parliament in that case. You say there shall be an Immigration and Citizenship Board whose composition, functions and what shall be prescribed by Parliament.

AN HON DELEGATE: Madam Chairperson, I was moving an amendment to modify the one of Hon. Ambrose Atwoki and it should read like this. There shall be a National Citizenship and Immigration Board whose composition and function shall be prescribed by Parliament because this one now, you establish the Board under the Constitution but the functions and compositions shall be made by Parliament. *(Interruption)* yes, not vague.

THE DEPUTY CHAIRMAN: Okay, the Motion on the Floor is to amend Hon. Atwoki's Motion that there shall be a National Citizenship and Immigration Board whose composition and functions shall be prescribed by Parliament. Okay, let us hear from Hon. Ambrose, the Mover.

MR. AMBROSE ATWOKI : Madam Chairperson, my message was very clear. I am not against anybody who will try to mention at least two or three functions of the Immigration Board in the Constitution. I am just saying that let us establish the Board and it is mandatory I think that we should provide some few functions in the Constitution as it has been provided here in the Draft. So I am saying that let just establish the Board under this Constitution, we go ahead to stipulate the composition and a few functions. Finish.

MR. RINGWEGISAM (Padyere County): I thank you, Madam Chairperson. Madam Chairperson, I would like to implore Hon. Ambrose Atwoki to agree to the Motion that has just been tabled on the Floor. That Motion is very precise and also concise. It seeks to actually marry the intention of the Draftsmen who put Article 44 Clause (1), Clause (2) and even Clause (3) so that if we are to make a good Constitution which we are all trying to do, we should

only set ourselves the task of establishing a Constitutional institution which will be called The National Citizenship and Immigration Board. Then we would avoid the temptation of pretending to be the all knowing persons in Uganda. We should leave the composition, the details, to be established by a Parliament to be elected by the people of Uganda. So I would implore my Colleague, Hon. Atwoki to second or to support the amendment that was moved to his amendment. I thank you, Madam Chairperson.

MR. AMBROSE ATWOKI : In view of the fact that I have been given pressure from - *(Laughter)*. Madam Chairperson, I beg to accept.

DR. BYARUHANGA : Madam Chairperson, we had considered in the Committee giving Parliament the duty of spelling out the composition and functions of this Board but we moved away from that thinking out of the fear that we may not be able through that method to address the issues which have been on the minds of the Ugandans who sent us here. Because, Madam Chairperson, if you create this Board as it has been spelt out by the amendment on the Floor and you say that the functions will be determined by Parliament, it will mean that before the old law on the Board is changed, it will continue to apply and yet that old law left a lot of things to be desired. For example, Ugandans have been crying for citizenship identification cards and we had put it here. Ugandans have been crying for mandatory registration of aliens and we had put it here so that immediately this Constitution becomes in force, even before the law is changed, the Ugandans are assured of these things. Now my question on - *(Interruption)*- I am just seeking clarification I do not see why he should just give me information immediately. Let me finish my request and then he can inform me.

THE DEPUTY CHAIRMAN: No, he wants you to understand what you are requesting for. I think that one is in order. He has a problem concerning one statement.

MR. SAKWA DARLINGTON (Bungokho South): Thank you, Madam Chairman. I just wanted to inform Hon. Dr. Byaruhanga that just as even if we prescribe the functions of the Board that Board will not exist until the Parliament he is talking about establishes it. So whether or not the functions are established in this Constitution or not we shall have to wait for Parliament to establish the Board.

DR. BYARUHANGA: No, no. That is a wrong view, Madam Chairperson. We are establishing the Board and the Board has always been there but operating under an old law. So by establishing it here we are saying that the Board can continue to function but we are giving it mandatory roles, specific functions under this Constitution immediately which it must not neglect. So the clarification I was seeking that when you establish it and give all the powers to Parliament, does it address this desire of the Ugandans that for example we immediately get National Identity Cards for citizens, we register aliens and so forth?

THE DEPUTY CHAIRMAN: I want somebody who is answering that question.

MR. KWERONDA RUHEMBA: Madam Chairperson, while I support Hon. Ambrose Atwoki's amendment, I want first of all to state the record correct that first of all we have had the Immigration Control Board in this country but which Board has not been functioning most of the time. *(Interruption)*. I am trying to answer his question but then some people are - *(Interruption)*

THE DEPUTY CHAIRMAN: There is a point of order.

A DELEGATE: Is it in order for the Hon. Member to impute that the National Immigration Control Board has not been functioning when we hold meetings twice a month, Madam Chairperson, and we have been working on recommendations of the applications from various sources?

THE DEPUTY CHAIRMAN: That was the implication as far as he was concerned. You are right because you are an internal member there perhaps externally he was not aware that you are there. What is your problem, Hon. Wanendeya?

MR. WANENDEYA: Madam Chairperson, it is an order for the Hon. Member in that he is misleading this august Assembly because the Immigration Board although it sits, it nevertheless gets their officials to get Immigration Forms filled in by non-citizens and taken to their offices and this is where there is a big problem. So is he therefore in order, Madam Chairperson, for the Hon. Member to say that they are meeting very often by misadvising this august Assembly?

THE DEPUTY CHAIRMAN: Okay, let us control ourselves. Hon. Kweronda continue with your representation.

MR. KWERONDA RUHEMBA: Madam Chairperson, I would like to support Hon. Ambrose Atwoki that we establish a Board in Article 44 but that Board should be given functions. It should be given functions and we should not relegate it to Parliament at a later date to stage to authorise those functions, those functions should be identified here and they should be inserted in the Constitution because why I am saying this, madam Chairperson, is that we have had Boards before - *(Interruption)*

THE DEPUTY CHAIRMAN: Somebody wants to be clarified Hon. Kweronda Ruhemba.

MR. NASASIRA: I just wanted a clarification from Hon. Kweronda Ruhemba. From the way he has started he says he was supporting Hon. Ambrose Atwoki's amendment but from the comment he has said I think he is opposed to Hon. Atwoki's amendment with respect to the Board being established by Parliament. I wanted a clarification from him whether he is opposing the amendment or he is supporting it, in fact.

MR. KWERONDA RUHEMBA: I am clarifying and while clarifying I am also supporting. The support I have given is in respect of establishing a Board and having established that Board we should give it functions. So if Atwoki was saying that we should leave that aspect of giving functions to Parliament that aspect I am opposing. So that support, Madam Chairperson, is stemming from the fact that at one time I was a member of the Immigration and Control Board and I know that there was a lot lacking. Our people have sent us here and they have expressed very strong sentiments that Ugandans are tired of receiving non-nationals and sometimes those nationals having more privileges than Ugandans, that this is the only country on African continent where you can walk in freely and you walk out freely; that this is the only country in the entire African region where you can walk in and tomorrow you buy land if you have the money under the guise that you have married so and so. So Ugandans want to know who is a Ugandan and in order to give them this to satisfy their desire we must establish an Immigration and Citizenship Board and give it functions and even decentralise it so that it can carry out its functions effectively.

THE DEPUTY CHAIRMAN: Hon. Mwesigye want to be clarified.

MRS. MWESIGYE HOPE (Women Delegate-Kabale): They intend to establish a constitutional body in which case we shall go ahead and give it functions in the Constitution or whether they are going to establish or to authorise Parliament to establish a body in which case then we leave all the functions and composition to Parliament. I am seeking this clarification in light of the confusion because now it looks like we do not know really what we want. Do we want a constitutional Body or a Body established by Parliament so that after I am clarified on that point the debate could be focused. Thank you.

MR. KWERONDA RUHEMBA: Madam Chairperson, we are supporting establishing a Constitutional body. A Board created by this Constitution, a Board with clear functions known so that our peoples' fear are put at rest. I thank you, Madam Chairperson.

MR. AGARD DIDI (Moyo West) : I thank you, Madam Chairperson. With regard to the query raised by Hon. Hope Mwesigye, I think it is fair to clarify that what we are recommending here is a creation of a statutory body as opposed to constitutional. When we talk about the independence of the Judiciary and we establish it here as a constitutional thing that is because of the separation principle. With regard to immigration it is important that although we are giving it enhanced powers we already know that a Board of that nature exists, it is statutory, there is a Ministry for which it is responsible and Parliament can from time to time query the methods of its operations. While at that, Madam Chairperson, I need another query - I need to be clarified on one point, does it mean that the present Immigration Board will be the successor or will become this body which we are trying to create? I say this because, Madam Chairperson, by way of example yesterday we gave amnesty which we said from the commencement of this Constitution. If we are waiting for a body that is going to be created by a Parliament which is going to be elected under this Constitution now will it mean that whilst exercising their right to vote which has been empowered by this Constitution the new category of people who now qualify will they have to exercise their rights if they have to wait for a body which has to be created under this Constitution by a body that has not been created

yet? I therefore assume that the role, the programme or the areas of responsibility which we are pronouncing ourselves on here I assume will automatically become the responsibility of the Board which exists now. Thank you.

MR. ELYAU : Thank you, Madam Chairman. Hon. Chairman, the thing is that people want to control the immigration here in Uganda and to do that we want to emphasise this in our Constitution this is our Constitution, we have never made one like this one. We have heard people saying that people have been entering Uganda easily. In 1962 we were only about 6 million to something, now only after about twenty years we have become 17 million. But do we know whether all these are born here? You can see this is a situation where people come into the country not controlled. So we want to put this Board here so that it will be able to control and also put some - like in this number 4 that it should be decentralised so that everybody has access to the office when immigration is done. So it means we have a need to put this thing so I support Hon. Atwoki's submission as a very important one. There shall be a controlling Board - *(Interruption)*

THE DEPUTY CHAIRMAN: Information from Hon. Mwesigwa Rukutana.

MR. MWESIGWA RUKUTANA: Madam Chairperson, this debate is becoming unnecessarily heated and I thought we would get advice and guidance from the report. Considering this matter this very body, I want to read to the Delegates and Madam Chairperson what the Commissioners came up with. As regarding this Body, I am reading from page 119 in the Report. *'Four alternatives for this body have been considered: The President of the country; Parliament or its committee; the Minister of Internal Affairs, as it is now; an Independent Body appointed by the President and responsible to Parliament. The majority of the views were dissatisfied with the present arrangement. The President of the country cannot get directly involved in the day-to-day affairs of immigration and approval of citizenship. To place this responsibility to a committee of Parliament appeared unrealistic. The Commission, therefore, supports an independent body which is responsible to Parliament'*. Now, paragraph 681 - Recommendations: *(a) A body to be known as a National Citizenship and Immigration Board should be established for the processing and approval of registration of citizenship applications*

and control of immigrations. A Board should consist of not less than (a), (b), (c), (d) - that is not important but to me reading this Report it is clear that the intention was that this body be established by the Constitution though it should be answerable to Parliament.

MR. ELYAU: So you can see, Madam, how things are very easy and very clear. What do we fear here? We want to put this National Board in place and then show how it would function. For example in No. 44 (4) it says that the function of the Board set out in paragraph (a) and (b) and Clause (3) shall be decentralised to the District level and the Board shall be accessible to all persons. This is what it means so that it should be here to guide any future governments and Parliaments. I thank you.

THE DEPUTY CHAIRMAN: Okay, let us be clear now at this point in time because really we are just going round and round the problem. The initial motion was that: "There shall be a National Citizenship and Immigration Board which shall be established by Parliament" the problem with that establishment by Parliament, in which case, an alternative would be "There shall be a National Citizenship and Immigration Board" full stop. Then we go to the composition and functions. Okay, let us hear from Hon. Ambrose Atwoki.

MR. ATWOKI: Thank you very much, Madam Chairperson. I just want to clarify that the Motion reads that: "There shall be a National Citizenship and Immigration Board" full stop. Then we go ahead to prescribe the composition and functions. finish.

THE DEPUTY CHAIRMAN: Okay, that is understandable but according to what was given to me written, there is an addition: "which shall be established by Parliament" so I was asking for the views to have it deleted.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: Okay, so (1) is cleared - 44 (1) is cleared. *(interruption)*.

AN HON DELEGATE: Madam Chairperson, with your permission, while this Motion was being re-adjusted and re-adjusted I have been putting up my hand. I believe that we should have a National Citizenship and Immigration Control Board.

THE DEPUTY CHAIRMAN: That limits because you are not only controlling, there are so many other things being done. You are narrowing it down so much that it will become ineffective. I am sorry I am not supposed to but - *(Interruption)*

AN HON DELEGATE: No. If the Chair does not allow me to provide my argument then it is very difficult for me to proceed.

THE DEPUTY CHAIRMAN: But we have already voted. Hon. Katenta Apuuli can you proceed on No. 2.- 44(2).

MR. KATENTA APUULI: Madam Chairperson, before I proceed on Clause 2 I would like to remind the House that in the adjustment of Hon. Atwoki's Motion we did lose the item of application. Therefore I would like to request the Hon. Delegates to bring that forward into the functions.

THE DEPUTY CHAIRMAN: I thought those functions will come in (3), let us deal with (2) first - 44 (2) the composition.

MR. KATENTA APUULI: Madam Chairperson, the Committee considered clause (2) and found it to be a satisfactory clause and recommended it to stand part of the Constitution as it is in the Draft Constitution to read: "The Board shall consist of a Chairman and not less than four other people each of whom shall be of high moral character and proven integrity appointed by the President with the approval of Parliament". Madam Chairperson, I beg to move.

MR. OBUA OTOA: Madam Chairperson, what I am suggesting is nothing very fundamental but I think the wording "Chairman and not less than four other people," is a little bit vague. Four other people, these people could be citizens, they could be non-citizens - *(Interruption)* Madam Chairperson, four other people, is vague and is imprecise. I would like to make sure that people who are going to be on this Board are citizens of this country and they are deciding vital matters for this country. So to put it so lazily 'four other people,' I do not know whether that is adequate drafting.

THE DEPUTY CHAIRMAN: Let us hear from the chairman so that we save time.

MR. KATENTA APUULI: Madam Chairperson, with the provision that Parliament will approve people of high moral character and proven integrity, really that should be sufficient to satisfy the Hon. Delegate.

MR. OBUA OTOA: Madam Chairperson, I am suggesting a formulation which apart from talking about other people you would go on to say each of whom shall be citizen, Ugandan citizens of high moral character and so on and so forth.

THE DEPUTY CHAIRMAN: Is it seconded? Order, order... Hon. Obua Otoa's Motion is seconded. Can you now continue to expound on your Motion?

MR. OBUA OTOA: Yes, Madam Chairperson, it simply means reframing or reformulating this amendment to read: *"The Board shall consist of a Chairman and not less than four other members each of whom shall be a citizen of Uganda of high moral character and proven integrity etc."*

MR. MULASSANYI DAVID (Rubanda West): Thank you, Madam Chairperson. I would like to concur with the Mover and say that since this is an innocent addition which is harmless, we accept it and put the question. I beg to move.

MR. RINGWEGI: Thank you, madam Chairperson. I am not completely opposed to the amendment intended - moved by Hon. Obua Otoa but I would like to be comfortable if I could move an amendment to this amendment to remove the requirement of 'high moral character' and then we remain with 'proven integrity.'

THE DEPUTY CHAIRMAN: It seems it has not been seconded. Okay, let us hear Hon. Omara Atubo.

MR. OMARA ATUBO (Otuke County): Madam Chairperson, I think for purposes of - *(Interruption)*.

THE DEPUTY CHAIRMAN: Order, order. Members from the third row on the back on my right please let us hear what the Honourable is saying.

MR. OMARA ATUBO: Madam Chairperson, I think it is important that while considering the amendment of Hon. Obua Otoa and the suggestion of Hon. Ringwegi, we should also look at other

Boards and Commissions which we are establishing under the Constitution so that we are really having similarity in wording and consistence of purpose. In this regard, therefore, Madam Chairperson, I just wish to draw to the attention of this house to three very important Commissions. One is the Judicial Service Commission; another one is the Public Service Commission and the other one is the Teaching Service Commission. Madam Chairperson in all these Commissions there is a consistency in using the words: *"High moral character and proven integrity."* Secondly, Madam Chairperson, contrary to what hon. Obua Otoa has proposed, none of these Commissions speak of Uganda citizenship. I think there was a presumption that subsumed in the appointment of these people, whether you are a member of the Judicial Service Commission, the Teaching Service Commission or the Public Service Commission, it will be most unlikely in all circumstances for Parliament or for the appointing authority to coin out and appoint a non-Ugandan on the Immigration Board or the Teaching Service Commission and the Public Service Commission or to otherwise. As I say, Madam Chairperson, I am not just raising this point because I support or oppose what Hon. Obua Otoa had suggested but if you look at the Draft there is some consistency in this matter and if Hon. Obua Otoa is seriously introducing this then we may have to - or the Technical Committee and the Legal and Drafting Committee may have to go a long way to looking at the whole proposition in the way we are making Boards and other Commissions in the Constitution. As far as I am concerned, I think the proposition of Hon. Obua Otoa is not necessary. We can do without it very safely and then when it comes to the proper legislation by Parliament that could easily be taken care of but as a matter of a constitutional Drafting matter I do not think it is necessary

Madam Chairperson. Thank you very much.

THE DEPUTY CHAIRMAN: Okay, now I would like to put the question on Hon. Obua Otoa's Motion.

(Question put and negated.)

THE DEPUTY CHAIRMAN: Now, we go back to No. 2. Hon. Malinga.

MR. MALINGA IGNATIUS (Usuk County): Madam Chairperson, I would like to invite the Assembly to consider the composition of the Board.

As it is now it says that 'not less than four members.' The maximum number of members is, therefore, left open ended. I think this is not good because you are going to tempt the person who will fail to nominate these people to nominate as high a number as he may wish. So I would suggest that if we are prepared let us fix a figure - *(Interruption)*.

THE DEPUTY CHAIRMAN: There is a procedure problem from Hon. Nasasira.

MR. NASASIRA: Thank you very much, Madam Chairperson. As far as I am following the proceedings of this Assembly we were dealing with Clause (1) of Article 44 and that was to establish the Board. After that then we are going to go to the composition and functions. I think Hon. Malinga is ahead of Schedule 1, he should wait until we have reached that.

THE DEPUTY CHAIRMAN: But we finished 44 (1); we finished 44(1) and we voted so we are on 44 (2). Hon. Obua Otoa had said that we insert the word "citizen" and Hon. Omara Atubo explained, we voted and it was not in his favour so we are proceeding that way.

MR. DICK NYAI : Madam Chairperson, after Hon. Obua Otoa had moved the insertion I remember clearly that the chairman of Committee Four saying that since this was a non controversial amendment he was adopting it.

THE DEPUTY CHAIRMAN: But his word is not final.

MR. DICK NYAI: I do not see how the chairman's word is not final and that of Hon. Omara Atubo is final.

THE DEPUTY CHAIRMAN: But my word is final. The chairman of the committee was debating, even though he was the architect of the formulation we cannot accept the whole report as the chairman presented it, and say yes. So his decision is subject to debate. It was debated, people voted and it came out as it is. So can we proceed with number 2 please? Hon. Rwabita.

MR. RWABITA DEO (Ibanda South): Thank you very much, Madam Chairperson. Madam Chairperson, I want to comment on Hon. Malinga's proposition that we define the numbers of persons to

act on this Board. Madam Chairperson, this is not necessary and since this is going to be done by Parliament it would depend on the needs of the nation at that particular time. So we should put the minimum but the maximum will be determined by Parliament according to the needs at that very time but otherwise it will be very limiting to put a figure and at one time to find that Parliament needs more people or even less. So I think it is not necessary, Madam Chairperson.

THE DEPUTY CHAIRMAN: Perhaps before we even proceed, if you look at 44 (4), there is a provision at the end here that: 'The functions of the Board set out in paragraph (a) and (b) of clause (3) shall be decentralised to the district level..' You never know there may be a requirement of the chairman of the district once in a while to come up and join the main body - you never know. So perhaps that we may be covered if it is left open and then Parliament could decide who shall come after having the core, I do not know. Hon. Katenta Apuuli, what do you say?

MR. KATENTA APUULI: Madam Chairman, may be Hon. Delegate, although we did not amend this Article 44, this article was extensively debated and we thought that we should uphold the wisdom of the Constitutional Commission in their recommendations. That is why we left these Motions as they are and we think that putting a ceiling to the number of people is not absolutely necessary because this is a dynamic society things keep on changing, our population is increasing may be at one point or other we may need five or more or less people. So leaving saying "not less than" is a reasonable position to take.

THE DEPUTY CHAIRMAN: May I put the question?

(Question put and agreed to.)

THE DEPUTY CHAIRMAN: Now we go to the functions. Hon. Katenta Apuuli you had a proposal. Okay, Hon. Chebet Maikut.

MR. CHEBET MAIKUT (KWEEN): Thank you very much, Madam Chairperson. Having looked at the report of Committee 4 on Citizenship, I do not find any provision anywhere that talks about the term of office of office bearers on this Board which we have now established constitutionally. *(Interruption)*.

Madam Chairperson, there is some whispering that it should be left to Parliament but once we agree in principle that we set up a constitutional body as opposed to a Statutory Body, it may also be necessary to provide for the term of office as for example in Article 272 clause (4) which provides for a similar body set up constitutionally for the term of office of the office bearers. So I am seeking some clarification from the chairman of Committee 4 as to what we could do, whether.....

MR. KATENTA APUULI: Thank you, Madam Chairperson. May be let me take you back to Article 44 clause (1). Since we did away with the words in that Article, we should say that Parliament shall make laws to give effect to this Article because Hon. Chebet's question did not arise in the Committee because we had Parliament, but now we have taken Parliament out so it becomes irrelevant, we did not anticipate that the plenary would take Parliament out but since Parliament has been taken out now his question is fairly valid and therefore ... (*interruption*).

THE DEPUTY CHAIRMAN: How would it read, can you repeat?

MR. KATENTA APUULI: That "*Parliament shall make laws to give effect to this Article*".

MR. BASOGA NSADHU (Busiki County): Thank you very much, Madam Chairperson. I was looking at the next Article which we are going to consider which bears functions. It reads very well that the functions of the Board shall be prescribed by Parliament but will include those we are going to enumerate. It is therefore implied that when Parliament sits and they are considering the Board's functions, they will take under consideration the term of office of this Board which shall have been established. So it will be part of the Statute that will be made by Parliament to give general guidelines to the operations of this Board. So we do not need really the details here. I beg to propose that what we are talking about now shall be prescribed by Parliament when they are handling other related matters which have not been detailed in this.

THE DEPUTY CHAIRMAN: People were comfortable with clause (3) unamended.

DR. KINYATA STANLEY (Kinkizi County East): Madam Chairperson, I want to amend sub

article (c) to include what we have left in Article 44 clause (1) the applications, by saying that receiving applications for citizenship by registration or for immigration into Uganda and then granting and so on. That I bring, Madam Chairperson, what we left behind to consider applications. I beg to move.

THE DEPUTY CHAIRMAN: Hon. Katenta Apuuli has information.

MR. KATENTA APUULI: Information. I would like to inform Hon. Dr. Kinyata that I am about to introduce a paragraph (e) to read as follows: "*(e) an application for citizenship by what we could do, whether we include it here or somewhere else.*"

MR. KATENTA APUULI: Thank you, Madam, maybe, at the end of this let me take you back to Article 44 clause 1, since we did away with words "*which shall be established by Parliament*" maybe, at the end of this Article we should say that Parliament shall make laws to give effect to this article. Because it did not arise in the committee because we had Parliament, but now we have taken Parliament out so it becomes irrelevant. We did not anticipate that the plenary will take Parliament out, but since the Parliament has been taken out now his question is fairly valid and, therefore - (*Interruption*).

THE DEPUTY CHAIRMAN: How will it read; can you repeat?

MR. KATENTA APUULI: "*That Parliament shall make laws to give effect to this Article.*"

MR. BASOGA NSAJU: Thank you very much Madam Chairperson. I was looking at the next Article which we are going to consider which bears the operations of this Board. So, we do not need really to put every detail here in this Constitution.

THE DEPUTY CHAIRMAN: It seems people are comfortable with clause 3 unamended.

DR. KINYATA: Madam Chairperson, I want to amend sub article (c) to include what we have left in Article 44 clause (1), the applications, by saying: "*...receiving application for citizenship by registration or for migration into Uganda and then granting... and so on; so that I bring, Madam Chairperson, what we left behind to consider applications. I beg to move.*"

MR. KATENTA APUULI: Point of information. I would like to inform Hon. Dr. Kinyata that I was about to introduce a paragraph (e) to read as follows: *(e) An application for citizenship by registration or for immigration into Uganda shall be made to and considered by the National Citizenship and Immigration Board.* That is if that is what we had left out in 44(1) after we amended it *-(Interjections.)-* but that is what is in the text, I am only lifting it!

THE DEPUTY CHAIRMAN: You see the problem is the language; because the functions of the Board shall be prescribed and shall include - then you should be enumerating rather than making a full sentence. So, it should be just a phrase.

MR. BYARUGABA ALEX (Isingiro South): Thank you Madam. I think for this clause to flow properly, I would suggest that it reads as follows: *"The functions of the Board shall be prescribed by Parliament and shall include among (a) (b) (c) and (d) receiving and considering application for immigration and citizenship by registration."*

MR. KIRUNDA KIVEJINJA (Bugweri County): Thank you, Madam Chairman. I think having already established the commission and its composition, when we enumerate the function and as it is intended to answer the question in 43 (c) it should be the number one; (a) consider application for citizenship by registration or immigration into Uganda, and then (b) registration and issue of national identity cards ... and so on until you go to (d). So, it should be the first function, actually.

MR. NASASIRA: Thank you, Madam Chairperson. I do not think we need to add another subclause (d). In my own opinion Article 44 clause 3(c) granting and cancellation of citizenship by registration, we have considered applications. I would only propose that we amend (c) by adding, granting and cancellation of citizenship by registration or immigration, so that it caters for the beginning one; and in reaction to Hon. Kirunda Kivejinja's proposal, I think also issuing of national identity cards is very important. So, I do not think the order matters as long as the functions are the same. So, Madam Chairman, I do not think we need to add a (d) I think we can do with (c) and Board will receive applications, grant or will cancel citizenship; but I wanted only to add after registration or for immigration.

MR. MALINGA: Thank you, Madam Chairman. I suggest we put a paragraph (d) to read that

considering application for immigration into Uganda as a function of the Board, that is what we left in 44(1); in other words, granting entry permits and residence permits; that is what it would be. So, I suggest that we say considering for applications for immigration into Uganda. So, I move accordingly.

MR. MULENGA JOSEPH (Democratic Party): Thank you, Madam Chairman. In view of the wording of the other paragraphs; registration, issue of passports, granting and cancellation. Why does Hon. Malinga not consider using the expression 'granting permits for immigration into Uganda'.

MR. BASOGA NSADHU: Thank you very much, Madam. I have a problem with that Amendment and I would love to be assisted. I have known and in practice it does take place, that our High Commissions and Consulates wherever they are located usually give such permits. I do not know whether they will need to constitute themselves into a Board or they will be part of the Board. But I do imagine they will be working on behalf of a migration board; therefore, it appears that function, which is being proposed is in-built within the board itself which has got a name called Immigration Board, and maybe, somebody could also help me to clarify another matter which is related to (c) granting and cancellation of citizenship by registration. We have a case where we have already, I think, agreed that we do not want dual citizenship; so, even if I was a citizen by birth and I took on citizenship of another country, I think, the Board should have power to cancel my birth citizenship. So, if we limit it by saying only registration, we shall be limiting the role. Without suggesting, perhaps, when somebody clarifies, I would like somebody to advise me whether it is not good in (c) to say: *'granting and cancellation of citizenship,'* whatever they are, without limiting ourselves to say registration or birth but whatever they are, near them, this is the Board which will control them. Thank you very much.

MR. KIRUNDA KIVEJINJA: Thank you Madam Chairperson. I would like to inform Hon. Basoga that the Embassies do not give immigration certificates, they only give entry visas; so, that one needs to be clarified. Then the second thing, normally citizenship by birth, nobody can decitizenise any person who is a citizen by birth, because he has got the original and primary share in citizenship. It is the secondary which is subject to registration and possibly by cancellation.

THE DEPUTY CHAIRMAN: Hon. Delegates. Before we proceed I think the Chair also can be clarified. Can you grant something and cancel something you have not received and considered? Is it possible? You cancel something you have not received, and you grant something which has not been applied for; what is the purpose of proposed (d)? According to me I think it will be redundant; if you grant somebody might have applied, if you cancel somebody might have received, then you say you want to receive and whatever have you.

DR. BYARUHANGA: Madam Chairperson, you are right as far as citizenship is concerned, but you will note that (c) does not cover immigration. So, we need something to cover immigration, although we agree with you that we should not talk of applications, because definitely you will have to apply before.

THE DEPUTY CHAIRMAN: No, no, I was compiling all the views, that is why I was considering it slowly. So, they are saying, granting and cancellation of citizenship by registration or immigration, and then you stop at that. Because the earlier one was saying considering application for migration into Uganda and whatever have you. But if you consider, you grant, you cancel, that is still consideration. So, what is before us on 3 is to add the word immigration on (c).

MR. MULENGA: Thank you, Madam. I thought there was an Amendment by Hon. Malinga to put it separately for immigration, that is the one I was reacting to say grant permits. Hon. Malinga was suggesting (d).

THE DEPUTY CHAIRMAN: Does that immigration constitute a different sub-paragraph?

MR. MULENGA; Yes.

THE DEPUTY CHAIRMAN: Okay, his sub-paragraph reads that granting permits for immigration into Uganda. Hon. Malinga, can we revisit your provision?

MR. MALINGA: Yes, now to take Hon. Mulenga's formulation it should then read 'granting entry and residence permits' that is how it should read.

THE DEPUTY CHAIRMAN: Is that word agreeable?

MISS. NABAFU JENNIFER (Women Delegate-Mbale): Thank you, Madam Chairperson. There is a point of clarification that you brought forward that can one grant citizenship without having received an application? I think it is an obvious case that you grant where something has been asked for, and since we have already said the functions of the Board shall be prescribed by Parliament. I imagine that Parliament will put it clear to the people what should be done before anything can be granted and, therefore, the rules concerning or regulations concerning application will be stipulated by Parliament, and when we come to immigration and citizenship, I think, they are two different aspects of movement of status. That is why we need a separate clause (d) to talk about immigration permits, and I would like to add to Hon. Mulenga's suggestion that (d) should read, if Hon. Malinga agrees to amend his Motion, that (d) should be granting and cancellation of immigration permits. As far as the other visas that he is talking about, I think they are all part and parcel of immigration and, therefore, when we say immigration permits the Board will take care of all visas that he is talking about. Thank you.

MR. MALINGA: Well, as you will recall, my original formulation was immigration into Uganda, because there are lots of things which that term would cover, it would cover things like granting of work-permits and things like that *-(Interruption)*.

MR. ONEGI OBEL: Clarification. Madam Chairperson, I see all this listing as being redundant, because if we start by reading that the functions of the Board shall be prescribed by Parliament, and stop there; then the document setting up the Board will specify and list the responsibility of that Board. So, I will rather suggest that instead of going above to attempt to list half-heartedly some of the functions, we rather leave that out. I will move a Motion, Madam Chairman.

THE DEPUTY CHAIRMAN: Your Motion is not seconded.

MR. MALIRO: Point of information. Thank you, Madam Chairperson. On that Motion which was moving, although it was not seconded, we discussed that one at length in committee 4 and we decided that we include the last words which say 'and shall include' specifically to emphasise these four which we put here; we said Parliament can prescribe more, but these four which we put here we do not want them

lost, because for example, in the Immigration act there is nothing which talks about issue of identity cards to citizens; in the Immigrate n Act there is nothing which talks about issuing of identity cards to aliens. So, we were trying to safeguard these particular points. Therefore, if you say you leave it to Parliament they may as well retain to the existing immigration Act which does not mention anything about these.

PROF. KABWEGYERE: Thank you, Madam Chairperson. I think the last speaker completes the arguments, the word means that you can have more later on. So, I do not think we need to add, those identified were meant to be really so important as not to be overlooked. I, therefore, move that the question be put.

THE DEPUTY CHAIRMAN: Now the question we shall be putting would be on adding (d), and (d) would be granting and cancellation of entry and immigration permits; that is the proposal - *(Interjections:)* yes, what is the problem?

LT. COL. SSERWANGA LWANGA: Madam Chairman, as far as I am concerned (d) leads to register and issue identity cards for aliens, as far as I am concerned and as far as the rest is concerned, and the Chairman of the report had moved that he was going to add something called (e)! So, are you putting the question to this (d) as contained in the report or the other one as proposed by -

THE DEPUTY CHAIRMAN: No, the question I want to put, there was a Motion by Hon. Malinga and has been changed here and there, and they are saying we add a (d).

LT. COL. SSERWANGA LWANGA: And we cancel the present (d) in the report?

THE DEPUTY CHAIRMAN: Okay, let us have (a) registration and issue of national identity cards to citizen (b) issue of Uganda passports and other travel documents (c) granting and cancellation of citizenship registration (d) granting and cancellation of migration permits.

LT. COL. SSERWANGA LWANGA: Register and issue identity cards to aliens.

THE DEPUTY CHAIRMAN: Okay, sorry, I had not see this (d) which is register and issue identity cards for Aliens. Thank you for alerting me on that.

I had not seen that one. So, that means that could be (e) but where would (e) be slotted. Let us vote whether it should be in or not, then replacement can be done by the legal and Drafting.

MR. MULENGA: Thank you, Madam. With due respect, I think Hon. Sserwanga Lwanga, has jumped. The committee has not yet reported on this, we have been debating on clause 3. Now, we had not reached yet that of identity cards for aliens, that could be (e); we have just been concentrating on an insertion of a new (d) by this Assembly, if that is settled then we will consider that and renumber it (e). Otherwise, we are now going to debate whether we should have identity cards for aliens before settle what we have already discussed. I think it was right to put the question, if it is agreed then we move to the next item!

MR. OMARA ATUBO: Madam, in order to include the issue of immigration into Uganda properly, I think we have got to look at how originally 44 clause 1, was draft and it had said an application for citizenship by registration or for immigration into Uganda. So, Madam, I am proposing rather than repeat granting and cancellation you can cater for both in (c) by saying in these words '*granting and cancellation of citizenship by registration or for immigration into Uganda*'.

MR. MULENGA: Madam Chairperson thank you; but that was considered in the close of the debate and was rejected on the ground that immigration and citizenship are a separate thing. I do not see Hon. Omara Atubo should now take us back to reconsider what was abandoned! Somebody else suggested it and it was abandoned.

DR. MIYINGO KEZIMBIRA (Bukoto Mid West): Madam Chairperson, mine is not touching on this particular one. May I give it now or I hold?

THE DEPUTY CHAIRMAN: No, you hold. So, Hon. Delegates the voting is on whether to include the (d) or (d) the numbering we shall be looking at it later, an insertion of another subclause, reading: '*granting and cancellation of migration permits*'.

(Question put and agreed to.)

THE DEPUTY CHAIRMAN: So, now the ordering we can leave that one honestly to the Drafting Committee they will know where to slot it. So, now we are going to (d).

DR. ODUR DICK (Dokolo County): Point of order. Thank you very much, Madam Chairperson. Is it in order for us to take decision, because it would appear that we do not have a quorum. Can we be satisfied that we have a quorum?'

THE DEPUTY CHAIRMAN: Actually, by the time we voted we had a quorum, but now people have gone away. So, it is (d) which we cannot discuss because now we do not have a quorum, according to you. So, the Clerk can count and if we do not have a quorum then we adjourn. Okay, hon. Delegates, within a minute there was an influx of people going out immediately after we had voted, and now we cannot discuss (d) because we are fewer. But let me remind the Delegates, when the Chairman was giving a report of the Business Committee he was categorically clear that starting point is 2.30 p.m and end point 6.30 p.m and he was saying if people come late and they want to leave earlier he may be forced to introduce a book to be signed at 6.31 p.m. So, as you request for adjournment because there is no quorum and if it is done two, three times like today we may be forced to introduce a book which shall be signed by everybody at 6.31. Thank you very much. So, we adjourn.

(The Assembly rose and adjourned until Thursday, 9th February, 1995 at 2.30 p.m.)