organised a rally in Mbarara, a shade was constructed for the DP V.I.Ps, it was demolished by UPC Youth Wingers at night, and a night before the planned rally, and prisoners were brought in from the nearby remand prison and ordered to defecate all over the place. I mean the venue of the planned rally. What followed was disaster! The same happened in Kabale the next day, Mr. Chairman. - *(Interruption)*

THE CHAIRMAN: Hon. Byarugaba, you have taken more than your share of the time.

MR. BYARUGABA: Finally, Mr. Chairman, on referendum, I waited a whole week Mr. Chairman, to give this contribution, I beg of you to give just one more minute and - *(interruption)*

THE CHAIRMAN: Others have also waited, you see.

MR. BYARUGABA: Thank you very much, Mr. Chairman. On referendum, Mr. Chairman, the people of Isingiro South have expressed a wish to participate fully in deciding which way to go. Please give them a chance, do not disarm them, it is their only destiny and this they can only do through the Obiga Kania amendment. This is the only weapon they have to determine their own. And finally Mr. Chairman - *(Interruption)*

THE CHAIRMAN: Order!

MR. BYARUGABA: In one sentence, I want to appeal to you to stand very strong and I am using this - I am appealing to you using the words of one Lord Cheshire. In his wisdom he said; "*kindness in other peoples troubles, they have troubles and problems troubling them. Courage in ones own.*" Thank you very much, Mr. Chairman.

MR. OBONYO JABWOR (Labwor County): Thank you Mr. Chairman. Mr. Chairman, I am taking this opportunity to answer back some of the allegations which have been labelled against me, the way I voted in the past and also, the allegations which have been placed on the Karimajong, that why the Karamajong are supporting Movement.

THE CHAIRMAN: Order, order!

MR. OBONYO JABWOR: Mr. Chairman, we must all realise that we are here as delegates not as representatives of our people, and we are supposed to carry their messages here so that it can be discussed and promoted. In the same breath, my electorate of Labwor county told me to come and advocate for the extension of the NRM for another five years. Mr. Chairman, they said so, because of what they went through. Mr. Chairman, the insecurity caused, the insecurity which is available in Karamoja has been for a very long time and in fact, in the past, I think it was inspired by some politicians so that they can have a cause for campaign. Mr. Chairman, allow me to say that the people of Labwor are aware of the past whereby the whole subcounty could be displaced by cattle rustlers and the militia from the neighbouring districts and they would go and take refuge in the hospital. Mr. Chairman, people of Labwor are quite aware how they used to be waylaid, where women would be raped by gunmen, where men would be undressed by gun men. Now, during this course of NRM, this has become things of the past; people are now sleeping in their homes, people are now going peacefully, doing their jobs, Mr. Chairman.

Mr. Chairman, the security programme taken by the NRM in Karamoja in fact has brought a lot of change in the region. We do not hear now of organised raids into the neighbouring districts. Mr. Chairman, the situation in Karamoja is quite different from other districts or other regions in Uganda in that Karamoja is surrounded by hostile tribes; I am talking of the Turkana of Kenya, I am talking of the Pokot of Kenya, I am talking of the Dinka in the Sudan, and I am talking of the Topoza. All these are armed and the only way I see that the government of the NRM, the course which they would have taken was to allow Karamajong to own their guns so that they can defend themselves. Mr. Chairman, the President is on record saying that the problem of Karamoja is cattle rustling and of guns in the hands of Karamoja. What we want to do first is to control the use of the guns and this has been done successfully by the creation of what is called vigilantes, Mr. Chairman. There are now vigilantes whose duties are to make sure that there is no thuggery on the roads, to make sure that anybody who goes across to steal - I am using the word *to steal* - or who comes from the neighbouring district, they are the ones to identify, then report to the government. We have units of APCs which have been deployed in Karamoja and these APCs have actually brought a lot of change into Karamoja. By the way, it is not used in order to take life or to kill but to show that the government is determined to

stamp out this lawlessness. It was said that perhaps the Karamojong are supporting NRM because it has allowed the Karamajong to hold guns. We have in he neighbouring districts the LDUs and home-guards, are these also reserved army as they are saying the Karamajong are being used by the NRM as a reserved army? Mr. Chairman, all actions which are being taken, leaving the arms in the hands of the Karamajong but controlling their use, if the mandate of the people of Labwor is different from the mandate of the people from Agago, the representative of Agago cannot expect me to vote according to the mandate given to him. In the same breathe, my detractors in the Caucus for National Democracy accuse me of being a rat. A rat is supposed to be somebody who abandons the course. I have never had any course from any other person other than my electorate, the people of Labwor *(Applause)* and I take my decisions on what they tell me to do and they were very clear on the extension and I could only be called a rat if I voted against the extension because that is their mandate.

Mr. Chairman, I think a lot of bad blood has come across this debate which has passed and in fact, I would ask my friends who are in the Caucus For democracy to come back so that their point can be argued because you cannot win your case when you are outside a forum. I call on them to come back and put their case so that they can influence the constitution making of this country. Thank you Mr. Chairman.

THE CHAIRMAN: Hon. Lagada.

MRS. LAGADA (Women-Apac): Thank you Mr. Chairman and Hon. Delegates. Mr. Chairman, I want to state right from the beginning that I come from Apac District where there is support for multiparty politics and other people would like us to believe that it is 100 per cent but Mr. Chairman, I want to differ from those ones who would want us to believe that the Langi are 100 per cent - I will not say multiparty, I will say UPC because the truth of the matter is that in Apac District, I think only Hon. Adoko Nekyon is a DP. Probably that is why even in 1980 he failed to get nominated. I want to submit that even in Apac District, people know the Movement.

There has been argument on this Floor by the Youth - Northern and other delegates of a similar position that the people do not know the Movement. If you look at the delegates from Apac District, 4 out 6 are multiparty supporters but the two of us are also definitely delegates of the people. So, you may wonder and say if out of 6 delegates, 4 are multiparty supporters, how come the two are saying that their people are supporters of the Movement? Therefore, Mr. Chairman, delegates need to know that the brand of campaigns which happened in Lango was just something ridiculous. Perhaps I was lucky that I was elected after the county delegates were already elected. The fact of the matter is that these Hon. gentlemen made the people believe that their express purpose of coming into this Assembly was to come and return UPC, not even multiparty politics but UPC. Mr. Chairman, during the campaigns, people including Hon. Adoko Nekyon who is a lone DP, were distributing the badges bearing Obote's head and the people were told that if you do not own that badge, there was war coming and if you did not have a badge to identify yourself, you would be killed. I was asked about these badges, of course, I did not have them and I had not known the propaganda and so they got elected to come here and return UPC immediately.

It is not surprising Mr. Chairman, that people are finding it difficult to negotiate here and come to a compromise which is workable for all Ugandans. My electorate are people who are prepared to work with the rest of Ugandans peacefully and they know that in order to work with other people, you must not be rigid. You must be able to compromise, to accept other people just like the government of UPC was accepted by all Ugandans. It was not a Lango government, it was a Ugandan government. My electorate has realised that and they have told me never ever to walk out of this Assembly. They have told me they are prepared to accept the verdict of this Assembly. So, Mr. Chairman, I therefore, get worried, I think genuinely worried, when my fellow delegates from the same district walk out when other delegates in different fora promise chaos if multiparty politics is not returned. What is the implication for the people that they represent here? When they threaten us with chaos, does it mean? They are saying that they will make sure that their electorate cause an uprising, what does exactly that threat of chaos mean?

The RC system is a system that every Ugandan will eventually accept because really, it is the system that has given them power. My RCs in Apac are very happy. For the first time they are able to

determine their own affairs and I do not think that they are going to give that power away very easily to a few people at the top. It is the RC system, Mr. Chairman, that in Oyam County South - although Hon. Dr. Okullo Epak was elected "100 per cent" as he claims - in that same RC system in Kambeni Village, the former Chairman of UPC for the sub county has never even been elected on RC I Executive. Why? Because the people saw him performing and they saw that he was a bad man and they have therefore rejected him but if we were advocating for multiparty politics, Mr. Chairman, you could be sure that the so called pioneers - a few old men somewhere there and a few kings of the Parties would have dictated on our people there that so and so must be the Chairman and we would not have had a choice but here we are! We are able to accept or reject as the people want. Therefore, Mr. Chairman, I cannot sit here in this House and conspire behind the back of those people and say return to multiparty politics immediately. Why? I want to support Obiga Kania's amendment so that I give power to those people of Apac to vote for multiparty politics if they want. How will they choose it if they do not go through a referenda? I am not going to know the heart of every person but in a referendum, every person has the right to choose.

Mr. Chairman, I wish Hon. Ssenteza Kajubi was in this House this morning. Unfortunately, he is not but a few years ago in 1989 when Hon. Kajubi was Principal of ITEK and I was Guild President, the students decided to go on strike. He as a Principal was trying to bully the students and the students were in a very ugly mood, they could have beaten him up. It was left upon me to handle the situation. I allowed the students to make a choice. In fact, I made two lines I said - those who are for the strike stand behind Mr. so and so, those who are against stand behind so and so. The line for the pro-strike was just slightly longer than the one which was anti-strike. Then, I declared and I said - we students of ITEK are as of now on strike. We all had to abide by it. It saved the situation because we agreed to go with the majority. It was democracy. A few days after, Mr. Chairman, the students were so fed up with the strike, they pulled out of it peacefully. But supposing I had decided that because these people who want it are just slightly more than the ones who do not want, let us not go on strike, do you not think him as the Principal and myself would have been killed? So, the principle of democracy is that if many people for that particular time decide that let it be like this, so be it. After all, the argument which I am seeing in the papers and from these delegates is that it can not be a permanent situation. I agree, if tomorrow Ugandans change their mind and say we want to go to multiparty politics, who will have the nerve or the audacity to say no? Then, we shall all go multiparty. Lagada may even be wanting to form a party of women or some such thing. So, I would therefore call upon Ugandans and these delegates of multiparty that let us accept the judgement of the people of Uganda for now and save this country chaos.

Mr. Chairman, yesterday, we were given this summary of the Uganda Commission Inquiry into the violation of human rights. I wish it had come a bit earlier. A few days ago, we were having very impossible arguments on this Floor. Hon. Atamvaku was even trying to rewrite the history of Luwero but this book here from pages 22 to 26 said the complete opposite. I read it and I wept. I mean, even now it is still painful. Let us not try to rewrite history. Well, I do not want to judge, I think it is only right as I said in my general debate. We want to accept one's faults and say yes, it happened, I am sorry, I have changed as Nekyon said. But Mr. Chairman, for the case of Hon. Nekyon, I want to differ and say that having looked at him recently, having seen his role in the recent elections which was aborted for the NRC Woman for Apac, I beg to submit that Hon. Adoko Nekyon has not changed. Mr. Chairman, the DRC of Apac collected to elect a new NRC Woman to replace the late Teddy Omara. They were 22 in number. Hon. Olwa Ben is a member of the DRC. They wanted to send the woman who I defeated in the C.A. elections to come to the NRC. Mr. Chairman, the members - 28 of them, were pro another woman. 14 were pro the candidate they wanted. What does Hon. Ben Olwa who is so democratic do? He led a walk out again, in the usual style. He led a walk out in Apac. 14 of them went out and there were only 28 left. Mr. Chairman, we needed 30 to form the two thirds of the DRC which should be 45 in number. What does Hon. Adoko Nekyon do? He gets the two councillors from Kyegere sub county and locks them up for two days so that these councillors - 28 of them remain, the two are locked up in His house, therefore election cannot take place because we could not raise the number 30 and up to now, we still do not have an NRC woman in Parliament. Is that democratic Mr. Chairman?

When people are talking here, I think Ugandans have a right to put them under a microscope and look at them. What sort of individuals are they? Why should we allow people to talk when in their own personal lives they are not democratic? Is that the Parties we are talking about? When they come back, how sure are they that they are going to be democratic? I want to reiterate that the best way that we can ensure that all Ugandans choose the sort of system they want is to ask them to undergo a referenda. I am not worried. If they choose a multiparty political system, I will be very happy. I will form my own Party or join whatever I want. If they choose Movement, we shall have to abide by their choice. I thank you Mr. Chairman.

THE CHAIRMAN: Hon. Nyeko.

DR. NYEKO (Presidential Nominee): Thank you Mr. Chairman. I am going to be very brief Mr. Chairman. This Motion on the Floor does not require any opposition at all. In this Assembly, we have seen that the multiparty supporters are practising freedom of association at two levels. The first level is, they are associating freely under the National Caucus for Democracy, then within that National Caucus for Democracy, they have a second level of association which they are also doing freely. This now falls under the individual Party association. You find there UPC supporters, DP supporters, etc. So, in this Motion we are simply saying that let us have two levels of the rights and freedoms of association. The first level should give freedom to Ugandans to choose whether they would like to associate freely with a multiparty system or to associate with the Movement. Now, once they have chosen to associate freely on a majority basis, say on multiparty politics, then they can go to the second association that is at the individual Party level. If they choose to associate freely with the Movement, then we expect them to have the right and freedom to elect individually, members or people to represent them either in Parliament, in the C.A. and so on. So, I do not see any reason why we should oppose this Motion. Now, I will talk briefly as an Acholi.

Mr. Chairman, the majority of the Acholi are multiparty political system sympathizers but I am glad to inform the Hon. Delegates here that the Acholis are not multiparty by birth. They are not multiparty by birth. A few months ago, there was a religious Reverend somewhere in Lango who stated, and he was reported in the New Vision, that the Langis are UPC by birth. Now, if the Langis are UPC by birth, then the rest of the Ugandans would automatically be UPC through "acquired UPC immune deficiency syndrome." *(Laughter)* In other words, the rest of the Ugandans who keep on shouting UPC every where, they are doing it through this chronic "acquired UPC immune deficiency syndrome." This particular disease is characterised by shouting "everybody UPC", "everywhere UPC"! You shout this slogan, you do not know what it means particularly for us in Acholi. I would like to inform this House, you talk to any Acholi UPC who had been in UPC for a long time, he will give you the frustrations they have seen under UPC, they will tell you the lack of development they have seen under UPC but because this disease is chronic, they will continue shouting the same slogan. At the same time, they will never show you that development everywhere, they will not tell you. Go to the North for that matter, there is nothing in the North and UPC has been in power and the blood of UPC is flowing in the North according to that Reverend but we have nothing, Mr. Chairman.

Again, Acholi as a tribe had been used by several people. They used Acholi to come in power, once they are in power, they dropped Acholi just like that. If I was not polite and humble, I would have used Hon. Lorecho's words but my training does not allow that. In Moshi for instance, there was an Acholi - the Vice Chairman to Yusuf Lule. Now, when Lule was removed, automatically one would have expected the Vice Chairman to take over but what happened? The man by the name of Akena Ojok was never promoted. Somebody else was brought. They were doing this because they knew if they want Acholi to fight, to cause a change, you must have some kind of Acholi up there - some kind of Acholi at the political front up. That is what they used. And again when Tito Okello was over throwing UPC in 1985, for sure he knew he did not have the capacity to retain the government. So, he did that for the NRM. That is another fact. Now, when Lakwena was fighting using stones, oil and some oil mixed with red sand as a bullet proof, there was a whole university professor - a whole university professor was going along with Lakwena. Now, look at professor here - those of you who might have seen a professor long time ago and have not seen one. Professor Nsibambi here. Imagine Professor Nsibambi - to be a professor in my profession, you must have three degrees. With three degrees, fol-

lowing these innocent, illiterate women! He knew for sure that if Lakwena is to take over Kampala, he would be sworn the president and this is a man with UPC blood flowing in his veins. So, you can see how Acholis constantly are being used.

Recently, this Atiak massacre, who are the people inciting Acholi to turn against the government by saying that it is the NRA? Hon. Delegates, I have visited most of these victims in Lacor Hospital, I brought some of the victims here in Bwaise, that is to the African centre for treatment and rehabilitation of tortured victims. They are here in Kampala if you want - just around Bwaise Road. These people clearly stated that it is the Lord's Resistance Army who killed them, who killed their relatives but people here in Kampala, they are now claiming, they are now inciting the Acholis. What do they want? They want to claim political leadership because they know for sure Kony does not have political leadership for now. They are going to use this multiparty. I will not be surprised, these people are going to claim to be political leaders of the Lord's Resistance Army and the battle field will continue to be in Acholi and of course, when the government of the day falls, Kony is not even going to be near and Acholi as a tribe will not be near in the government. Look at the National Caucus for Multi Party democracy, I know there are some Acholis there but if you see their position, what are they holding? The other man Prof. Nabudere and others but the Acholis are hanging there. *(Applause)* They are hanging.

So, to wind up, if Acholi was having peace in the last nine years under NRM and if the NRM had taken some development to Acholi, I believe the political situation on the ground in Acholi would have been different from the usual cry of "UPC every where". Thank you Mr. Chairman. *(Applause)*

THE CHAIRMAN: Hon. Hashaka.

MR. HASHAKA (Kibale County): Thank you Mr. Chairman. I will not be very long as you say that you are tired of listening to one music but I will only be answering my Colleagues who unfortunately are not here but perhaps they have their representatives with us. Mr. Chairman, my worry which has been perturbing me from the time we started this debate is that people who believe in multiparty politics feel that the democracy becomes what it means when it is to their advantage - that is my problem. That they have the right to choose; they have the right to associate as their democracy when it is to their advantage. When it is to somebody's advantage or somebody decides to choose something else, associate with it, it is not a democracy. I feel sick about that because they feel if multiparty politics is good for them, and some people choose some animal called Movement, they are not exercising their rights and democracy. So, I think they should be told that if somebody chooses what he feels is right to him, he is really having his rights and democracy.

Mr. Chairman, Hon. Obiga Kania's amendment or Motion is entrenching in the second animal which has been taken by Ugandans as the Movement. I do not know why this word really sounds very colloquial in the ears of our friends the multiparty supporters because the Parties within a multiparty system - what we know as UPC and DP which have lived long in Uganda here, were new to some of us and some people liked them. Then there came Movement and people liked it. I do not see why surely people who like the word Movement should be castigated. Mr. Chairman, the Movement type of governance was founded on participatory democracy which enables every person to participate in his or her own governance at all levels of government. I therefore do not see why surely we should be cursed because we have had policies of Movement. Hon. Obiga Kania wishes to play a double role, to have Movement entrenched in the Constitution, multiparty politics to be entrenched in the Constitution and any other new democratic arrangement that may be formed later. Therefore, I do not see why surely, even this one needed a lot of opposition from my friends the multiparty supporters. This amendment recognises the rights of political parties to exist and to freely function and influence public opinion if it does not threaten the national unity.

Mr. Chairman, I got so perturbed when I had from Hon. Atwooki, the Northern Youth representative when he was saying that some of us who cherish Movement have suffered from a Godfather syndrome. I got so perturbed. This young man - I am sorry Hon. Delegates, is intended to be a representative of youth for what we know as traditional Northern Region including West Nile but I do not think this gentleman perhaps put his foot in Koboko, in any other part in Karamoja but he says he is condemning Movement every where in Northern

Region yet we know one day he was taken in Lira and he was made to swear in writing that if he does not cherish multiparty politics, he should not go back to Lira as if he is a representative in Lira. I think he should get this message, the Youth of Northern Region should actually reject this young Hon. Delegate because he is now only representing Lira, not even Lango - Lira, itself - Municipality perhaps.

Mr. Chairman, I got so perturbed to hear from a well seasoned delegate, Hon. Dr. Okullo-Epak when he was saying that he did not participate or he did not wish to participate in the killings in Luwero, I mean a gentleman of that nature recalling such sentiments which are still scars in some people's minds! You wonder now, is he doing the revenge in participating in the maiming of our sisters and brothers in Gulu?. I mean we should really, when we are discussing in this House, I think forget bringing problems which happened long ago because we have seen the counter attacks - when Hon. Nekyon was attacking the C.A. delegate for Kigulu South, and he was wondering how she has got four children. Now, what sort of a leader is Hon. Nekyon who does not know how mothers have children? You really feel that this man is not supposed to have been even in this House. Mr. Chairman, I said that I will be brief but give answers to some Colleagues of mine who are not here but who have their representatives here.

Hon. Atamvaku was openly warned by his boss Dr. Apollo Milton Obote in a document which was given to us all that he was recognising Hon. Dr. Ssemogerere as a leader of DP and yet rejecting to recognise Dr. Obote as the President of UPC and he was saying that they will be dealt with - those people who are cherishing Ssemogerere will be dealt with. Now, he comes here, he starts making funny accusations when he is actually being openly warned by his boss. We have seen the fruits of multiparty politics and we have seen the fruits of the Movement. So, Hon. Obiga Kania feels this should be - both of these should be entrenched in the constitution sot that for those who feel it is democracy to choose a multiparty system, they go ahead and those who want to cherish Movement, also it becomes their democracy. I would not therefore, feel really why - I have not called it the walking out of these people. I think they have just gone on leave so that after sometime they come back because surely, they participated in the debate of this Article 94, participated in the decision, therefore I do not think they actually walked out in protest of whatever came out of Article 94.

Therefore, Mr. Chairman, in conclusion I really support Obiga Kania's amendment because it embraces all that we are fighting for in his amendment. I wish to thank you Mr. Chairman.

THE CHAIRMAN: Hon. Kinyatta.

DR. KINYATTA (Kinkizi East): Thank you very much Mr. Chairman. I would like to thank you for giving me the opportunity and the people of Kinkizi East and West for expressing their views about this Motion. First of all, I would like to tell Hon. Members that in Kinkizi we do not have these problems of multiparty politics. Kinkizi is a Movement county almost 100 per cent. So, as I stand now, and I hope my Friend Hon. Amama Mbabazi will confirm that we people from Kinkizi County do solemnly support the Movement. Mr. Chairman, I stand to support this Motion because it gives the right of the people of Kinkizi to choose a political system of their own to govern them. Secondly, this Motion also includes the Movement now in the systems which we have been talking about so that the people of Kinkizi also can claim the Movement system having been entrenched in this Constitution.

It is a pity that the multi-partyists sometimes are very selfish. When you look at Articles 59 and 51 where we have entrenched these articles, we are saying that people will get their freedoms, their rights and even can form Parties and join Parties. We are not mentioning the Movement. Now, they are saying since we have already entrenched ourselves, therefore, let the Movement be silent. So, they are not thinking about us, we people who support the Movement. So, this is why the people of Kinkizi are very much concerned and in fact, they were happy and they congratulate all Hon. Members for having rejected the Motion which Hon. Cecilia Ogwal brought on Tuesday to delete Movement completely from the Constitution. So, they congratulate you Hon. Members for supporting the people of Kinkizi who also cherish the Movement to have rejected this Motion. It does not really require somebody to have been in government to be able to recognise the achievements of the Movement during the last nine years. The Movement has done so many good things for Uganda and

the people of Uganda and the world at large does recognise that the Movement system of governance is one of the best alternative systems for us now. So, why do you refuse that it should not be enshrined in the constitution?

Mr. Chairman and Hon. Delegates, although the rights of the minority must be accommodated, we must remember that the majority's views must prevail because all those people who are crying as multiparty supporters and so on, they know that when their Party wins a political election, they will rule alone and because they think that because they won the election, they are in the majority, therefore they rule. Now, if here as we stand now, 199 people decided to throw away the Motion which was removing the Movement system of governance from our Constitution and we decided that this Movement be enshrined in the people of Uganda, they divided our families, they killed our people, they made our people fly away to various other countries, they destroyed our economy and I was surprised when Hon. Okullu-Epak said that during Obote I and II, the economy of Uganda was doing very well. I am an economist like him, I want to inform him that the economy of Uganda first of all at the beginning was a colonial economy which was extremely sound and when the Obote regime entered from 1966 - it was destroyed when Obote waged a war against the Kingdom of Buganda, the economy of Uganda started slowing down. In 1967, the Obote regime destroyed the constitution of the people and threw it away. The economy even went further down and in 1969, Obote declared what they called "Move to the Left" and when he declared "Move to the Left", that is nationalisation of people's property, then the economy got a hammer and there was what we call an outflow of the capital. People feared to invest again in Uganda. People went away and Amin in 71 gave the economy of Uganda the last hammer.

So, If the Hon. Member who is supposed to be an economist does not known such historical events of our economy, I am afraid maybe either he knows or he does not know - I do not know what he was saying. These people whom you see here crying that we people have to see that the Movement system should not be enshrined, they were the same people and I know their names, who in 1980 during the Moshi Conference and also here during Binaisa's rule, were claiming and did not want the Umbrella of Binaisa to take place. The same guys are now on the stage wanting that the Movement system of governance should not prevail. Some of them of course, I do not want to quote them, but they are here, failed to feature in the governments especially the government of 1980 of Binaisa. They could not capture power. Even that of Obote such as Hon. Nabudere, he failed to get into a position of responsibility. Now, he is on the stage again figuring himself to further the interest of multiparty supporters. I hope and I wish him well. Mr. Chairman, we are not opposing these guys because we are not opposing a multiparty system but what we are saying, we have already entrenched them in the Constitution, in the preceding chapters which we have talked about. What we are saying is that let the people of Uganda get an alternative system of governance and let that alternative system compete with the multiparty system and in future, let the Ugandans choose which system is the best for them. That is why we are insisting that this system of governance be enshrined in the Constitution.

Mr. Chairman, you know we have been ruled under this multiparty system, we have been ditched, we are coming from the ditch and now that we are coming from the ditch, we have reached a stage of take off. The guys now want to come back and ditch us again. So, Mr. Chairman, I do support this Motion which enshrines this system in the Constitution so that there is a continuation of the progress which the NRM government has achieved up to now. I beg to support the Motion. *(Applause)*

THE CHAIRMAN: Hon. Kibirango.

MAJ. KIBIRANGO (NRA Delegate): Mr. Chairman, I thank you very much for giving me this opportunity. Mr. Chairman, fellow Delegates, I want to begin by saying I did not want to or I did not have much intention to speak but something has intrigued me and it has compelled me to sound an evolutionary warning. Uganda today occupies a very appalling socioeconomic status in the world. When others are handling computer chips - computer chips are a catch word, a household name, in Uganda we are sleeping with goats and sheep. Mr. Chairman, others are drawing water from taps in houses; they have light and heat by electricity, we here are still fetching water from wells, in pots and cook using firewood despite the threat of the desert. We get lighting from paraffin. I wish us to note that just the other day, a thousand years ago, we were not very different from our other colleagues in the

developed world but today, a thousand years away, we are light years behind! *A light year* means the distance that light travels in a year at a speed of 186,000 Km per second. Here we make minimum use our faculties. A doctor one time told me that non use or minimum use of body organs causes them to atrophy. Similarly, non use of faculties causes elements in a species to stand while other members of the same species graduate to a higher state.

Mr. Chairman, following that logic, we in the third world at this level of non use of our faculties, stand a high risk of stunting at this human species stage while others who make maximum preoccupation of their faculties graduate into a higher form of being. This is the evolutionary warning I am signalling. Mr. Chairman, to catch up or to attempt to catch up, we must work 36 hours a day and do the right things and at the right time. To do that we must use our faculties fully. This is the time to look around for only merit, only merit not organisations. Mr. Chairman, to catch up, there are some things that we need least or we do not need at all. Some of them are divisions among ourselves. Others are things like unprincipled opposition, opposition just for the sake of opposing. Other things are instability. Of course out of unprincipled opposition, you get instability. These are things at this level of development - if we are to catch up ever, we cannot afford. Unfortunately Mr. Chairman, already in our society, we have inherent divisions, we have bases for inherent divisions. We have clans, in some places these also constitute basis for fighting. We have tribes - in some places these are basis for fighting. We have religion - these also constitute a basis for fighting. The other day late Balabyekubo was almost - his religious group was almost attacked by another religious faction. You know - so religion is also a basis for fighting. Even our countries. The borders we are in Rwanda, Burundi, Uganda - we are also not a viable proposition.

Mr. Chairman, we cannot afford a further - an additional basis for division. If possible, we would have prayed to God to revise the socioeconomic chemistry of Africa so that all these things which divide us can be eliminated but it is not possible. So, we cannot just afford another basis for division, if we are to attempt to catch up. We cannot afford another basis for division especially when there is no socioeconomic class justification for it. I do not interpret freedom to associate to mean multiparty politics even if multiparty politics we have lived to see that it causes us problems. However, in the wisdom of Hon. Obiga Kania, all those that I have said in the background, in our minds - in the wisdom of Hon. Obiga Kania and his colleagues, they came up with a provision to recognise the actual realities on the ground and these realities and the experiences of Uganda since independence. Because at independence, we politically behaved like our colleagues in developed democracies under political organisations. We were failed. Incidentally, where we copied these systems from, today as we are speaking, the popular opinion is shifting emphasis, they no longer quite believe in organisations. Indicators show that they are starting to believe in merit.

Mr. Chairman, somewhere midway in Uganda here, there was an interlude of military dictatorship. That also failed us. At some point, there was an attempted Umbrella but it was locked before it took off. There was another attempt at multiparty politics but the people were plunged deeper in the abyss. For the last ten years however, they have attempted another "Umbrella" where various leaders and legislators have been elected freely and fairly by electoral colleges but on individual merit and there is further hope that we shall soon taste elections - Presidential and general - by universal franchise, again on individual merit. Hon. Kania has reduced those experiences into concepts; the multiparty system and the individual merit system. The Individual merit system he calls "Movement" but me I draw out of it the essence and that essence is the individual merit system. He has gone further to provide for any eventuality, any other system which is democratic and representative and he is saying let the people choose from those by expression and I cannot agree with him more. This matter is so crucial that the people should pronounce themselves on the matter expressly. I even have a problem with the word elections in the provision: "*The people of Uganda shall have the right to adopt a political system of their choice through free and fair elections or referenda.*" The word "elections" I have a problem with it because it opens room for manipulation. I tend to think that we should simplify the matter as much as possible and just on this crucial matter, provide only referendum. So, Mr. Chairman, minus the word "elections", I cannot agree with Hon. Obiga Kania more. I thank you, Mr. Chairman.

THE CHAIRMAN: Hon. Naburri Lorika.

MR. NABURRI (Chekwii): Thank you very much Mr. Chairman, for according me the opportunity to make a humble contribution on the matter before the Plenary this afternoon. I am going to be very brief and I want to go straight to what I want to say. Mr. Chairman, what I am going to say is not a matter that I wish to be regarded as plainly to the public gallery. Mr. Chairman, I saw the debate as it started and finally as it broke which made some of our colleagues to walk out as a debate that was intended for the gallery and also for the press. Now that we are here as a group that is thinking as Ugandans, people who want to see the Uganda that we all would want to cherish for the future and for the generations to come, I think we are a serious group and I want to be associated with the kind of group that is very serious and thinking Ugandan. *(Applause)*

There are four issues which I want those who are in this Plenary Session - that is the delegates and also those who are listening - to understand and I want these four areas critically examined so that we know where the problem is. If there is no problem, then we should all agree that those who walked out, I think, missed the point. Point number one, I want us to examine the National Resistance government, the government that has made every effort to bring Ugandans together and also to enable the elections of the Constituent Assembly to take place and bring all of us here to discuss the Draft Constitution; whether that kind of government made mistakes by striving to unite the people of Uganda, by striving to revive the economy of Uganda, and by striving to eliminate insecurity in Uganda so that all of us can enjoy life and property in this great country called Uganda. In my view, I know that the multiparty supporters have attacked the National Resistance Movement government for reasons best known to them but in their heart of hearts, they know that they managed to get to where they are today because of the good policies of the National Resistance Movement government.

Secondly, I want us together with those who have walked out - because somebody has said they have their representatives here - to find out whether the Constitutional Commission chaired by Odoki existed? I want them to tell us - those who walked out - whether Odoki did not do a good job. I want them to tell us whether Odoki did not reach all the corners of Uganda and that is why they have decided to disagree with whatever proposals have been included in the Odoki Commission report, because the Draft Constitution is about the report that was prepared by Odoki after consultations with the people of Uganda. On my part, I know Odoki travelled and even reached Karamoja and the views that are embodied in the report cover all the areas of Uganda. They maybe views of minorities but we cannot go by minorities.

The third area I want us to examine all of us as Ugandans and especially those who walked out - I want them to tell us whether the people of Uganda are the only ones who are in this Assembly, those were elected to come here, I want them to tell us how they got here. Do they agree that out there in the rural areas, there are also Ugandans who matter, who should be consulted on matters of governance? They should tell us that they are here without the support of the people of Uganda, the peasants of Uganda who are out there. Mr. Chairman, one other area I want answers from the group that walked out is that we are here as delegates sent by our people to deliberate on a constitution that we all feel should see Uganda in many years to come as a country united and prosperous. Mr. Chairman, it is belittling this Plenary, this constituent Assembly when a section of the delegates decide to walk out. The debate that is developing now would have enriched some of our colleagues who decided to walk out the other day because the issues that are coming up like the Obiga Kania motion before us now would have helped our colleagues a lot.

Mr. Chairman, we have a problem of Ugandans who think that sometimes when they speak here, they think they are more sincere but being sincere is not necessarily being correct. You can be sincere but you may not be correct. For them they think they are the most sincere people, everybody should listen to them. Secondly, Mr. Chairman, there are those who think that they know better, knowing better is different from understanding. These people who walked out think they know better than the rest of us. We have our people whom we represent in this Constituent Assembly. When Mr. Chairman, you called for a division, 199 delegates voted against the deletion, 68 voted in favour. I want these Colleagues of ours and I want the secretariat to assist us. You go into the figures of 199 people who opposed the deletion and add the number so that we will be able to tell these people that we have voted with all the people who brought us in this Plenary and we disagreed with the deletion. You also add

the 68 so that the figures are compared. Maybe they want greater numbers in order to agree with us. This is what these people should be told Mr. Chairman.

Mr. Chairman, I as an individual cannot to dictate everybody. Even in my family, sometimes we discuss issues. If the majority decide either way, sometimes even to disagree with me, I sometimes give in and say, the majority of you have decided this way, but there is this group who think everybody should be held at ransom. This is very dangerous. When it comes to matters of national interest for all the 17 million - I am told they are now close to 20 million Ugandans, we must all move together. Mr. Chairman, there is another issue which I want to bring here to the attention of the delegates. I have been interacting with the group that walked out. Even as individuals, I have interacted with them. There are many Mr. Chairman, in that camp, in that caucus who are literally hostages in that camp. We need to work hard, those of us who are nationalists, and get those people who are hostages in that camp liberated. We must rescue them Mr. Chairman. This is a dilemma. Mr. Chairman, I have been a politician for a very long time but with the kind of politics that is being practised now, there is no room for anybody to be locked out. That is why Mr. Chairman, I am appealing to all my colleagues that we should all work together and produce a constitution that is good for the generation to come. I thank you Mr. Chairman.

THE CHAIRMAN: Hon. Delegates, I can still see a lot of hands on the Floor but I think it is about time we went for lunch and then we resume at 3.00 o'clock. We adjourn for lunch and resume at 3.00 o'clock.

(The Assembly adjourned and resumed at 3.00 O'clock)

THE CHAIRMAN: Hon. Delegates, we adjourned for lunch while debating the motion by Hon. Obiga Kania and you still recall though that we did commission the Chairman of the Legal and Drafting Committee to synchronize a number of proposed amendments and I see the Chairman here. I presume they have done their work so that we can continue our consideration of this motion together with any amendments to it so that when we finish, we make a decision. So I will give the Floor to the Chairman of Legal and Drafting Committee to report what has transpired in that Committee.

PROF. KANYEIHAMBA: I thank you, Mr. Chairman. As you anticipated Mr. Chairman, indeed there were a number of amendments proposed on the Obiga Kania's amendment and the Members who wanted to move those came and we all discussed them and ultimately, we reduced them to two amendments which need some little explanation Mr. Chairman. It is proposed and it was agreed by the people that the amendment to be moved by Hon. Kania should read as follows - I am sorry that apparently the machinery is broken down. Only a few copies have come out. But it is very short and I can read it out Mr. Chairman. It is proposed that this should be the amendment we should formulate for debate and adoption in the constitution. "*The people of Uganda have the right to choose and adopt a political system through free and fair elections or referenda.*" That is the motion to be moved by Hon. Obiga Kania. The other amendment which we have synchronized is one by delegates who do not want this amendment to include elections and therefore, they are moving an amendment to Obiga Kania's amendment to delete the word "elections" so that if their amendment were to pass, the amendment passed would read that: "*the people of Uganda have the right to choose and adopt a political system through free and fair referenda.*"

Mr. Chairman, it is important that delegates should know the background to the formulation that I have presented. Initially, about two days ago, we discovered there was a problem in moving the Kania amendment as first presented namely, a system or choosing a political system through free and fair referenda without reference to free and fair elections because if we deleted "free and fair elections" from the Kania amendment, we would be contradicting an article which this House has already pronounced itself upon namely Article 1 of the Constitution which vests the supreme power into the people and then proceeds to enumerate how they are to exercise this power and Clause (4) of that article provides that the people of Uganda shall have a right to choose their leaders and the manner in which they are to be governed through free and fair elections of their representatives. So the lawyers saw a danger of contradicting that article if elections were left out of this amendment. So it is for that reason Mr. Chairman, that when Hon Obiga Kania first moved his amendment, he accepted recommendations from one of the Hon. delegates, Hon. Ssekandi that the words "free and fair elections" should be restored as this original amendment was.

Another point Mr. Chairman is that, in Committee Five, this formulation with the word "elections" intact had been accepted by all including the multiparty supporters if we can call them that. Therefore, we felt that since this article had been accepted in total by everyone, it would be a nice gesture to restore it even though our friends are not with us as I speak so as to show a way of compromise. But more fundamentally, Mr. Chairman, we are stating that this constitution is being made for posterity. Having said so, the Committee felt that we have also visualised that people who believe in multiparty politics have expressed the view that they do not believe in referenda and if they were in power, they would only use free and fair elections and it is only fair that if we have conceded that one day they may come to power, then the constitution should provide something which they like and which they may use without any reference to saying let us amend this constitution first which surely enough they would do if they were in power and they found that they were prohibited from doing what they believe in by the constitution itself.

So really for logical reasons, people said it should stay there, but also it had a danger with some of our people. One of the problem was who decides when to resort to elections or when to resort to referenda. To that, some of us had a ready answer which may not have been acceptable to everybody. In every system, the people who implement the constitution are the government of the day. Therefore, it is up to the government of the day to decide, depending on the circumstances available to them at the time, which method allowed by the constitution should be used for any decision making. So really, there is no problem there and we do not have specifically to provide who shall determine which and what because it is the government of the day which implements the constitution. But as I said Mr. Chairman, other Members found a problem in leaving these two there. First of all, there are those of us who believe very fundamentally that to change any political system, the people of Uganda must do so through a referendum and therefore, if you put this there, you are diluting that right. Secondly, that at any given time, the so called free and fair elections can be manipulated and therefore, it is better to have a referendum which is clear and is determining one issue instead of many. So after a great deal of discussion, we decided that let those - and they were a minority - let those who want "elections" to be deleted in this amendment move a supplementary amendment to Hon. Obiga Kania for deletion of "elections".

So Mr. Chairman, the last point was that we had another amendment which related to political system, whether we should call it political system or something else. However, after a lengthy discussion, we discovered that there were other amendments on the same issue pending and therefore, we decided that this matter should be left. At the moment, our people and this Constituent Assembly understands what we mean by political system because it is incorporated in Article 94 and the following ones. So we should for the time being not accept any amendment which tends to change the political system to something else because there are other amendments pending and they have yet to be synchronized and these may be brought later perhaps at reconsideration. I beg to move Mr. Chairman.

THE CHAIRMAN: Well, that was a very full report and fairly balanced because he argued cases for both sides. My suggestion is, we proceed as follows, the formulation which was read out in the following terms: "the people of Uganda have a right to choose and adopt a political system through free and fair elections or referenda" is to my understanding acceptable to Hon. Obiga Kania. If it is, then we do not have to go through the motions of having to amend it really. No, we do not vote. What happens then is that we take it that Hon. Obiga Kania's motion has been reformulated with his consent and those of his supporters and that if the House is so disposed, we can accept that formulation as being before us. But that there is a proposed amendment to it by Hon. Rukutana so that the debate proceeds as follows. Those people who have not spoken on the motion of Hon. Obiga Kania, when they take the Floor, they have to do two things. One, indicate whether they support the Obiga Kania formulation as revised and if they do, indicate whether they support the amendment of Hon. Rukutana. In order that we may set the ball rolling therefore, I will give the Floor first to Hon. Rukutana. Unless you disagree with the formulation as read out relating to Hon. Kania. If we accept it - "*the people of Uganda, have a right to choose and adopt a political system through free and fair elections or referenda.*"

What has happened is that only words - you see the original one was that: "people of Uganda have the

right to adopt a political system." This one is the only formulation which makes a difference and that is the inclusion of the words "to choose" so that it is: *"the people of Uganda have the right to choose and adopt..."* The previous one was: *"the people of Uganda have the right to adopt a political system."* That is the only difference. Now Hon. Obiga Kania seems to disagree with that. If he agrees with it, then we can go on to treat it as a motion on the Floor, then it can attract an amendment and then debating can be on both.

MR. OBIGA KANIA: Thank you, Mr. Chairman. Mr. Chairman, I agree to that formulation and as the Chairman of the Legal and Drafting Committee has put it, you have also read it to the Delegates. The change there is the flow in words from first choosing and then adopting instead of adopting coming first and choice being in the noun form. So in substance, I felt there was not much change. Thank you.

DR. MAGEZI(Jinja East): Thank you very much Mr. Chairman. Indeed I have a very big problem. Mr. Chairman, I think we have had a very big chance to debate this motion for a long time and there does not seem to be serious positions taken other than really supporting the motion. Would you please give some indication whether you intend to allow further contribution for the rest of the day, in which case I think I would wish to say that let the question be put unless there is an amendment and we really move on Mr. Chairman Sir.

THE CHAIRMAN: I agree with that proposition but there is this position by Hon. Rukutana that a reference to elections should be deleted from the motion. So the only way we can discuss this is - because if we adopt it now, he would be excluded from moving his amendment. But we can consider his amendment and decide on it. We shall vote on his amendment.

MR. SENDAWULA(Bukoto South): Mr. Chairman Sir, we have spent a considerable amount of time discussing this matter and certainly this matter degenerated into a general debate of some sort and it became so repetitive that we seemed to be almost all showing that we are all here answering almost the same chorus. Mr. Chairman, considering that this matter has been referred to the Legal and Drafting Committee and in the Legal and Drafting Committee, Hon. Rukutana submitted his amendment to remove that word election and the Legal and Drafting Committee had given opinion over this matter. Could it not really help that we move ahead because there would not be any fresh argument apart from finding ourselves starting the whole debate all anew because all that there is elections and as explained by the Chairman of the Legal and Drafting Committee, this set or this arrangement of this amendment is acceptable to all parties and what we are looking for in this constitution is coming to terms, coming to an understanding where we are all accommodated and if this is accommodative, and if this brings us together, Mr. Chairman, I wish to appeal to you and fellow delegates that we move at that stage unless someone in the legal circles has something more sinister - you know when we have that word "elections" included, but as explained by the Chairman of the Legal and Drafting Committee and as I can see, me as a layman, I am seeing that these words "elections or referenda" are implying that you can apply either at any one time you can choose to apply election, you can choose to apply a referenda.

Now that is all that we have so certainly, Mr. Chairman, I wish that we go ahead. All along Mr. Chairman, you have guided us, all along as we were debating and the debate was becoming so complicated, you even thought that at that stage some understanding could be achieved and here we are and miraculously we have got a solution to this problem which brings us together where we are told that even those who may not be with us are already in agreement. So I wish Mr. Chairman, that you use the Chair and see that we move. We vote on this and move unless somebody has a very, very strong point Mr. Chairman.

THE CHAIRMAN: Okay, the only way we can move is this way. It is that we cannot say let us vote on the Rukutana amendment without giving him a chance to present it.

DR. HIGIRO SEMAJEGE(Lwemiyaga): Mr. Chairman, I think we better remember how this word "election" came to be inserted in Hon. Kania's amendment. Mr. Ssekandi and I and many others had another amendment which was not mentioning anything like what they had. Mr. Chairman, there is allowed caucus here. Mr. Chairman, we agreed with Hon. Kania that we would give up part of our amendment only if "election" was added and when Hon. Kanyeihamba accepted, then we also accept.

So by withdrawing, then we were opening our amendment which is furthest. Then we shall study our amendment before we decide.

THE CHAIRMAN: Let us do it this way. I will hear Hon. Mbabazi and then I will call on Hon. Rukutana to present his amendment and then we proceed from there.

MR. AMAMA MBABAZI(Kinkizi West): Thank you Mr. Chairman. First of all, Mr. Chairman, let me not comment on the report of the Chairman of the Committee but I get worried when some Hon. Members under the guise of procedure present arguments in favour of one side and then conclude by saying put the question. I think it is only fair that Hon. Rukutana, since the Legal and Drafting Committee whose job is synchronisation and not to debate and decide by majority which one should come and which one should not come, but Mr. Chairman, I think it is fair that since the synchronisation committee has presented a report to this House saying that there is a proposed amendment by Hon. Rukutana, that we follow our usual practice. Hon. Rukutana is given an opportunity to present his argument, then people can argue against it, we vote and resolve the matter.

THE CHAIRMAN: But I have already ruled on that. I have already ruled in favour. Now, let Hon. Rukutana present his case. Then Members can come on the Floor and comment on it and we decide. Because the other formulation is acceptable to the movers and others. The only thing is whether we should have elections there or not.

MR. RUKUTANA(Rushenyi): Thank you very much Mr. Chairman. Mr. Chairman, first of all, I want to be clear on this. I support the Obiga Kania amendment in as far as it seeks to entrench the right of the people of Uganda to choose a political system of their own. Where I deviate from that principle - sorry I do not deviate from the principle but where I do not agree with him is in the methodology. The amendment as it was originally proposed was saying the people could choose and adopt a political system through a referenda. That is perfect, it is representative of the views of the people of free and fair elections or a referenda. It is my humble submission that you have completely deviated from the specific instructions of the people of Uganda. Mr. Chairman, apart from the deviation which I will be coming to, such a provision, if it was left to stand, would be ambiguous, it would be confusing and would be even dangerous. In order to appreciate the situation, let us look at the rationale the draftsmen had in putting the term "referendum".

Mr. Chairman, maybe let me begin by defining "referendum". Referendum is putting an issue, anything in issue to the people of a certain country to vote on it or to choose on that issue directly and by everybody as opposed to people of that country taking a decision or choosing through their representatives. Mr. Chairman, we agreed right from the beginning that this Constitution would reflect our past, embody our present and consider the future. It is agreed by everybody in this House that in our past and present, the people of Uganda have experienced two political systems and it is also agreed that in future, the people of Uganda could think of some other system. The two political systems recognised by the people of Uganda are one, the multiparty system and two, the Movement. It is agreed that the Movement system is a no party democracy as opposed to multiparty democracy. I am not going to pass a verdict as to the performances of each system. To me, I deem it irrelevant at this stage but the truism is that those two systems exist. Now when we go to the report of Odoki and when we go to the Draft Constitution, we find clearly that the people said, have these systems entrenched in the constitution, give the people of Uganda the right to choose between the two systems and do not at any one time subject the people of Uganda to any of those systems without asking them directly.

Mr. Chairman, I wish to point out the emphasis, it is in the report first and foremost, but to see that the people of Uganda were very serious on that provision and the seriousness Mr. Chairman, can be attributed to their past experiences. I said I did not want to pass a verdict but all of us know what happened during the multiparty era. Because of their experiences, the people of Uganda have said now that you have these two systems and we have experienced them, let us at any one given time, if anybody is going to shift us from one system to another, let him consult us and to show that really they meant what they were saying, when you read Article 288 clauses (1) and (2), in embodying the express wishes of the people of Uganda, the Odoki Commission in preparing this Draft put categorically clearly that the provision of this Constitution specified in clause (2) of this article shall not be amended unless the question as to whether they

should be amended has been referred to a decision of the people in a referendum and amendment has been approved at the referendum.

Mr. Chairman, this Constitution has put so many provisions and the mode how they can be amended by Parliament, two thirds majority and so many other ways, but this article touching political systems in Article 288 is sub-article 2(b). It says: "*The provisions of this constitution specified in clause (2) of this article ... (b) article 98, referendum on the political systems.*" For emphasis's sake, the people of Uganda were not even satisfied by saying that to change a political system, there must be a referendum. They went ahead to say that that provision of the Constitution should not be altered by Parliament or by any other means apart from going back to ask them. *(Applause)*. To me that was great emphasis. Mr. Chairman, when we here now say that political system can be changed through free and fair elections, we are totally deviating from these specific instructions. The point to note here is - and here I am talking as a lawyer, if we allow this article to remain as it is, it would give us two situations that the people could change a political system through referendum or through free and fair elections. Now the interpretation legally would be that if at any one time there was an election and some interest group sees it fit to change the system and that interest group has been the majority in that election, it can go either to court or the people and declare that under Article 94, the people have, through a free and fair elections, exercised their right to change a political system. I will elaborate.

Mr. Chairman, if after the promulgation of this Constitution a referendum is held to determine the political system as we intend and the people of Uganda say that they want a multiparty system, if after the referendum the people of Uganda say they want a multiparty system and a general election follows immediately after the referendum and the people of Uganda have candidates who - let us give an example, President Yoweri Museveni stands and declares that he is for Movement, Cecilia Ogwal stands and declares that she is for UPC and multiparty and any other person stands for some other Parties, if they go canvassing for support for the views and President Museveni has gone telling people that he is Movement and he goes through despite the fact that in the referendum people had opted for multiparty, if I was President Museveni and I went through having told Ugandans that I am for Movement, I would have the right to go to court or to go to any voters to tell the people of Uganda that since my system was clearly articulated in my campaigns as being for Movement, it does not matter that initially the people had chosen a multiparty system. Since they have chosen me well knowing my political system, they have exercised their right under this article to choose a political system of their choice and Movement will apply irrespective of the fact that initially people had expressed their views that they should be governed through a multiparty system. Mr. Chairman, that would be a total defeat of the wishes and aspirations of the people.

Mr. Chairman, I am saying it will be confusing when and under what circumstances will the people make a choice that now we are going to change a political system through a referenda or that now we are going to change a political system through elections? The interpretation legally would be that whenever there is an election, anybody interested to raise an issue as to change of political system, if for example we were in a Movement era and we happened to get majority members in Parliament through an election, then they will be free to say since the majority of us are multiparty, that means that the people of Uganda have chosen a system by choosing us when they knew we were advocates for a multiparty system. My question Mr. Chairman is, is that the intention of this House? Mr. Chairman, I do not have a personal stand on this issue but I want us to express ourselves on it well understanding its implications. I know as matter of fact that some people are just taking it for granted, some people may even go to an extent of saying that I am against free and fair elections, no. We have catered for free and fair elections in electing representatives in other areas but for political system, I think the instructions were clear that it should be by referendum.

Mr. Chairman, when the Chairman of the Legal and Drafting Committee was negatively presenting amendments, he stated that we have already entrenched Article 1 sub-article (4) which would be inconsistent with this article if we do not put the word "elections". Mr. Chairman, in the first place, I do not see any inconsistency but nevertheless, I wish to point out Mr. Chairman, that article (1) was shifted from what was formerly Chapter Three, *national objectives and direct principles of state policy* which chapter is not justiciable, they were

mere guidelines of State and we all agreed that they are not justiciable. So it was put there more as a guideline than anything. Mr. Chairman, this was Article (9). The principle in that article was embedded in Article (9) sub-article (2) which said: "*the people shall express their will and consent on who should govern them and how they should be governed through regular free and fair elections of their representatives.*" That is the one we shifted form Chapter Three. At that time Mr. Chairman, we were not considering the issue of political systems. We were considering general representation and the principle is there, it is embedded. We do not need to repeat it in this article which deals with political systems. Mr. Chairman, if we were to be serious and if we were to be representative, we should not deviate from the specific instructions of the people as regards this important topic of political systems to avoid confusion. We should state clearly what we mean; political systems determined by referendum, any other governance or representation determined by free and fair elections which is already covered elsewhere.

Mr. Chairman, let me highlight further on the confusion. I may stand in a constituency and I declare that I support a multiparty system. Somebody may like me on merit but he does not support the system called multiparty politics. Do you not think if the question was put, if I was to be elected and my election was to reflect the political system of the day, after elections, do you not think that person would be confused whether to vote me on merit when he opposes what I stand for? Mr. Chairman, I beg to move that the word "elections" be deleted from the article. Thank you very much.

MR. SAM KUTESA(Mawogola): Thank you Mr. Chairman. Mr. Chairman, I would like to oppose the amendment proposed by Hon. Rukutana. *(Applause)*. And before I give my reasons for opposing it, I want to quickly deal with some of the fallacious statements he has made. One, that article 1(4) is not justiciable simply because it was transferred from the chapter on objectives to Chapter One. It does not matter where it was transferred from, what matters is where it is now and where it is, it is justiciable. So to try and hoodwink us by saying that simply because it was transferred from the chapter on objectives, it is not justiciable, we did when we were dealing with the chapter on objectives of State, transfer many articles to different chapters. We recognise that those provisions that remained in that chapter remained unjustifiable, but any of those which were transferred to other chapters are certainly justiciable. So for him to say that Article 1(4) is not justiciable is grossly misleading to this House. So we should not go off by saying that it cannot be enforced. It can be enforced. Now what is the effect of its justiciability? The effect of it is that now if we were not consistent with it in this particular motion, then there would be a conflict in this Constitution even in its interpretation. So, I think we should not be hoodwinked or misinformed and that the reasons that was given by my Hon. friend Rukutana is wrong.

Secondly Mr. Chairman, Hon. Rukutana did point out that Article 288 ties our hands and we cannot do anything. To my knowledge Sir, we have not even considered that article at the Plenary and when we do consider it when we come to it, we can consider it and make sure that it is consistent with what we decide at this stage. So our hands are not yet fettered. Thirdly, Mr. Chairman, Hon. Rukutana said that if for example there was a referendum at the end of this year and in the third month of the following year there was an election, the people of Uganda who may have chosen the Movement system could in March, three months later, elect a government that is multiparty or believes in multiparty politics. I think this is the highest mistrust in our population. If we believe that our population can determine an issue on a referendum, why do you think that three months later, you have forgotten what good they want? I think this is looking down upon our population and it must be condemned in the strongest possible terms. *(Applause)*. Mr. Chairman, therefore for me, I think that there is a way in which we can provide to have an election which determines a system of government. Mr. Chairman, in my opinion, if a Parliament and even district councils are elected and they no longer reflect what wish was in a referendum, surely those people who thought the decision of the referendum was right must know that the carpet has been pulled under their feet. If two thirds of Parliament can be multiparty when in fact a year ago the population had decided in a referendum that they want Movement, then it means that decisively the population has changed its views about the Movement and you should allow and respect the views of that population. Why would you want to stick to power using a technicality when actually you have been told in broad daylight that we no longer want you in an election? Unless you feel that

elections are not going to be free and fair and if an election is free and fair and the result is that I do not want your continued system, please, give way to the wishes of the population.

Lastly I think the motion by Hon. Rukutana is trying to get you to cling to power without the consent of the people. Mr. Chairman I have heard other reasons in the past that have been advanced on this motion, they run as follows that you could one, have too many people running in a constituency and someone wins with about 2,000 votes out of a total population of 12,000 because there were many candidates and they divided the voters and that at election time, people are thinking about roads and other things rather than thinking about a political system. Of course they will think about roads and health centres. If this Constitution is silent about the importance on determination of a system by an election, there they will not be bothered but once it is written in this constitution and people know that when they are having a general election, the result of that election could have an impact or could impinge on what system of governance will be in place, people of Uganda will remain mindful of that issue as an election issue.

I have heard the argument that when too many people stand and votes are few, you could end up with so many either "Movementists" or "multipartyists" with very, very low support in the population. In other words, that you could have a Parliament composed of people who have minority votes in a constituency while other people who could have voted for it did not vote on that issue. *As* I said, if the issue is clear that elections can change governments or political systems, not only government, the population will always remain mindful of that idea. Secondly, what is good for the goose is good for the Gander. If you tell me that multiparty supporters can turn up with low votes and sweep Parliament, there are examples of our own Members here who prefer the Movement system where they do not represent even a third of their constituencies. So it works both ways. Now when we talk about a referendum being one issue and therefore attracting many people, we have not provided for forced elections here. We do not have compulsory elections so nobody knows the turn-up on election day when we have a referendum or when we have an election. All you require is to obtain 51 percent of those who voted. You could have eight million people as registered voters, even if one million turned up, all you require is 501 thousand. So the issue is not how many people can vote in a referendum or in an election. The issue is how you turn up, the turn-up of the electorate. So I have not seen any good reason myself other than wanting to cling to power when the society has told you in a free and fair election that you are no longer wanted and you turn round on a technicality and say although you do not want me, you have not said so in a referendum. I think that is not fair. So I beg to oppose the amendment. *(Applause).*

MRS. JANAT MUKWAYA(Mukono South): Thank you very much Mr. Chairman. I am a believer in consensus and considering my constituency Mr. Chairman, I pulled the majority vote for the Movement but at the same time, there were people who did not want the Movement and the fact that we have considered that we should, as people in Uganda, live together and actually the reasons which have just been given by Hon. Kutesa that we may want a referendum and people do not turn up today a Friday, on Monday, you put there a general election and people turn up. So which of the two results will be stronger, the referendum or the one from a general election? So simply Mr. Chairman, I want to be accommodative. Let us have either both of them - I would demand from my constituency Mr. Chairman, and why I sincerely believe in a referendum is that tomorrow my people would want to participate to determine their political system, that is December, but I am not really envisaging that after five years or another ten years, people will be really very anxious about a referendum. They may actually have changed that they want elections. So to avoid really being too rigid, let us have both a referendum and election in this Constitution Mr. Chairman. Thank you.

MISS JENNIFER NABAFU(Women - Mbale): Thank you Mr. Chairman. I want to thank you for the opportunity you have given me to just speak to this amendment by my neighbour. Mr. Chairman, not because he is my neighbour but I think the problem we have here is really understanding the meanings of the two words and when they are used. Mr. Chairman, I realise that we are thinking of what the peoples decision should be on a system. It is just a question on what kind of system should run the nation and if I just examine the meanings of the two words Mr. Chairman, a referendum is a situation where you submit a question to the electorate and then when I realise that electorate is a group of

people who have a right to vote, then the question is solved in that I realise that a referendum therefore, is when people choose by the vote on a question that has been put to them. But when you are talking about the general election, it is when they are going to choose the people who are to represent them.

Mr. Chairman, I think if we do not want to confuse the people out there, let us not put both the word "election" and then "referendum" when we actually mean the same thing. Because at the end of the day, somebody will be in power and wants to run the election and then he will say, now in what circumstances do we hold an election? And again under what circumstances do we hold a referendum? And then we confuse the people more. Then a debate starts when the words are very simple. A referendum is submitting a question to the electorate. The electorate are the voters who have a right to vote in a nation or in any setting. And therefore, when we have a referendum, we are simply asking the people to vote on a certain question. So I do not see why we should have both words Mr. Chairman. Thank you.

REV.FR. GAITANO(Presidential Nominee): Thank you Mr. Chairman. I have just one question nagging in my mind because I am foreseeing a situation whereby keeping a referendum only, we might give in future to a dictator who comes in power. I just want to give an example. Suppose I, Gaitano becomes the President of Uganda and then after five years because I want to keep in power and keep my system either Movement or multiparty, I can easily connive with the Parliament although we have said that the Electoral Commission will be independent in its work. We know the politics of Africa, the incumbent President can easily connive with Parliament and with other people surrounding him to tell the nation and the world that there is no money to hold two elections, first the referendum, then after referendum a general election for example of the President. Now, since we do not have enough money to hold two elections, so let us hold general elections. Then we say there is no referendum. Now, since there is no referendum and yet in this article we have said a political system can only be changed by referendum, this incumbent President can say now, since my system was put there by the referendum and since this time there is no referendum, let me keep in power until I get money to hold another referendum. There is that danger Mr. Chairman. So to avoid this for future dictators to keep in power under the word referendum, personally I believe strongly that for the sake of accommodation and avoiding that danger in future, let us keep this words "through free and fair elections or referenda." People are against a referendum but I am trying to foresee a situation where some people, even among us, who will use this chance since there is no money for a referendum, since we did not hold any referendum, so this system must keep in power which will be very dangerous for this country Mr. Chairman. Therefore, I oppose strongly and I bless the whole House to reject this that we keep the two words Mr. Chairman. Thank you.

DR. WANDIRA KAZIBWE(Kigulu South): Thank you Mr. Chairman. Mr. Chairman, I want to submit here that I was at first one of the people who sat in Committee Five and agreed with our Colleagues who walked out the other day that we should include "through free and fair elections or referenda." Mr. Chairman, after seeing what has been happening in this House and after the recess where I went back to Kigulu South, my people in Kigulu South said that from the way you are behaving in that Assembly, and we know the majority of you are the ones going to come back for votes to take you back to Parliament, come up with a mechanism of always coming back to us when you want to change a political system and we make the decision. *(Applause)*. Mr. Chairman, in other consultations, they even said, you see, if you make Parliament make such important decisions, we only stay at the back and ask you, why did you not come back to us? You remember how you extended yourselves as a Movement, the five year extension? See what is happening in the House today!

Hon. Members, when we came to this Assembly, many people were saying let us have a referendum, a good number were saying, let us not have a referendum, and the question was on this political system. In the beginning, the multiparty supporters, because they had been excited in their campaigns because they had support in their constituencies, they said let us have a referendum and we the Movement people said no but we have just been elected, we were elected to the Assembly. The people have deiced that we who are now in the majority in House can decide on the issue of a political system. In fact in Committee Five, when we were debating the Amama Mbabazi amend-

ment, when we were saying not withstanding the provision of the Obiga Kania's amendment, this Assembly has the mandate because we have been just elected.

Going back to what has been happening, those of you who have remained here, have just said it is crucial that we ask the people to decide on the political system. Mr. Chairman, why have we insisted that we constitutionalize the issue of political system? It is for the very reason that the people of Uganda have been disorganized by the way they have been organised before, and they want to make choice. Mr. Chairman, when you elect Members of Parliament, you are not electing people to go and decide on the system. Indeed you can have a multiparty candidate advocating for multiparty politics but if the people have decided that you are going for a Movement system which they want, that candidate will have to go and organize themselves along the Movement lines. He can organize from within but we come up with a system of empowering Parliament to put the question back to the people through a simple majority of 51 per cent. We empower the people who made the decision to primarily elect you to come to Parliament through a 51 per cent decision to put the question back to the electorate, do you want a change in the political system?

Mr. Chairman, the argument that when you are not performing in power and the people want to change you does not carry because your being in government and you do not perform may not be because of the system. This argument has been repeated in this House over and over again. If you want to change a government, you have already put in place a system where Parliament will impeach a President, where Parliament will impeach a minister and this is the executive arm of government. If it is the political system which we have insisted we constitutionalize and which has made our colleagues go, I do not see where you are even going to come up with a consensus. The consensus should be among the people who elect us to say we want a change of system. If they come up in a referendum and say we want a Movement system, let it be a Movement system, if they say they want a multiparty system, let it be a multiparty system. Otherwise, through an election, our colleague here, Hon. Mateke from Kisoro is a known multiparty supporter but when we voted to constitutionalize the Movement because his people say they want a Movement on this question not on his representing them on other issues, but on the question of the political system, Mateke said, I am a multiparty supporter, I am known in this country I have never been anything else, I will not vote to delete this article because on the question of political systems, the people of my constituency in Kisoro said on this question I must vote to constitutionalize the system. It was not him as Hon. Mateke coming to represent him, they were other issues they were considering.

So, Mr. Chairman, I really have a fear that if we say we constitutionalize this, it is the people who are sovereign and on the question of a political system, we go back to them because we are politicians here, we say that well, when we get to Parliament we can actually decide for the people. No, do not decide for the people, come up with a mechanism to go back to the people and ask them to change the political system. Mr. Chairman, I thank you for the opportunity. I support the deletion of "elections".

LT. COL. KIZZA BESIGYE(NRA Delegate): Mr. Chairman, I am rising on a point of procedure maybe by way of back a ground of course. I hope Members are aware that in the coming articles, we are going to take a decision on the political system that will apply upon the coming into force of this Constitution, and that we are going to do so on the basis of our election. Hon. Rukutana has been very vigorous in stating that our numbers must matter because the people elected us knowing that we were Movement supporters and we are right to take this decision and I believe so. Mr. Chairman, the point of procedure I am rising on however, having said that is that I seek your guidance on the question of procedure since this has now come up. I would like to get a ruling as to whether really debating this would not contravene the provisions of our rules of procedure rule 48 sub-rule 17 which says that "no amendment shall be made which is inconsistent with any article already agreed upon by the Assembly."? When a decision already taken - when a decision has already been come to by the Assembly and that "*the Chairman may at any time during the discussion of a proposed amendment withdraw it from consideration of the assembly if in his opinion the discussion has shown that the amendment contravenes the provisions of this sub-rule*". And I am saying, Mr. Chairman, that what Hon. Kutesa raised that article 1 clause (4) states that "*the people shall exercise their will and consent on who shall govern them and how they should be governed*

through free and fair elections of their representatives." I would like, Mr. Chairman, that you rule whether "*how they should be governed*" does not include the system of their governance and if it does, whether therefore, this Motion is not in contravention of rule 48 sub-rule 17? Of course, if most Members would like to, we can suspend the rules. I would like your guidance on this, Mr. Chairman.

MR. KAVUMA(Kyadondo South): Point of clarification! Mr. Chairman, I wanted a clarification whether when we talk about agreeing or having taken a decision, taking into account that we have several stages in reaching decisions and we have just considered Article 1 (4) during Reconsideration Stage, and Reconsideration is still there where we can take final decisions, Mr. Chairman, democrats always want to listen to their fellow democrats, I am seeking clarification whether we can at this stage be said to have taken a definite position under agreement and decision on any article of this Constitution and therefore, the question of inconsistency.

MR. KUTESA SAM: Point of order! Mr. Chairman, is it in order for Hon. Kavuma who is so well acquainted with these rules, to try and distort them through seeking clarification when in fact those rules relate to rule 48 that has been cited, it relates to Consideration Stage and this is what we are at? So, when he brings in Reconsideration and what have you, is he in order to misguide this House that the rules change midstream when rule 48 relates to nothing else other than Consideration Stage?

MR. AMAMA MBABAZI: Mr. Chairman, I just wanted to give information on that. That as a matter of fact this is a matter on which there is a President which has been raised in relation to the Dick Nyai Motion, and on which you ruled Mr. Chairman, very clearly that that was a question of harmonization of provisions of the constitution, and you said at that time that harmonization will be done by the Legal and Drafting Committee at the reconsideration Stage. That is a ruling you have already made. So the idea being that if the Legal and Drafting Committee finds inconsistencies, and in harmonizing or trying to harmonize those, they find that maybe there is a point of substance on which a decision is required of the Assembly, then of course that is why there is reconsideration. I was just giving that information to re-enforce what Hon. Kavuma was saying that you have a ruling already made on that particular point. Thank you.

MR. MWESIGWA RUKUTANA: Mr. Chairman, in law there is a clear distinction between the general and the particular. Here, article 1 (4) deals with general principles of governance and representation. So it is just in wide and general terms how the people are to be governed may or may not include political system. But here in this article, we are tackling specifically the political system. If we put a proviso here touching political system, in law it will not be looked at as contravening the provisions of Article 1 sub-article (4), but it will be specific on political system. And when we come to consider political system, it will take precedence over any other article that could look in contrast with it. So my submission and in answer to Hon. Besigye's point of order, I am saying that one; there is no inconsistency between the two, one is dealing with the general situation and the other is dealing with a particular situation.

MISS. BYANYIMA(Mbarara Municipality): Mr. Chairman, I think Hon. Rukutana is trying to confuse us. The provision in chapter one about how people will be governed is a broad definition. It is indeed general but therefore, the political system is in fact as sub-set of the general situation and as such, the broad definition should in fact apply to the specific one. It is only the specific one which may not apply to the general case, not the other way round. That is a rule of logic whether you are a lawyer or an engineer. And, therefore Hon. Rukutana should not confuse us here if we have already said that the people will determine how they will be governed through such and such means. When you come to the specific one of the political system, you cannot contradict that general one. Mr. Chairman, I beg that you rule and that we do not twist these rules to write a constitution that people will respect. We should obey the rules that we have set out ourselves. I thank you.

DR. MAGEZI DAUDI: Mr. Chairman, I do not think I want to make my contribution on the Motion before us but I am getting increasingly worried that our Legal and Drafting Committee has not fully embraced the implications of these articles we are trying to pass before us. There are several deficiencies as far as I am concerned; first, we must move forward only when we are satisfied that the Chapter One provision of sovereignty of the people - Article

1 sub-section (4) is fully and properly addressed. The second point is what Hon. Kizza Besigye has quite indeed explained here. Whether, in the subsequent articles which we are trying to put in the constitution the mandate we have that the Movement can continue in place for another period of four years, can properly be addressed within this chapter through a method which we have defined that it must be by a referendum. I think we need guiding notice from that position. Thirdly, even under the proposed Article 94, there is a lot of missing information. For instance, we can see on page 2 that we are talking about the four years within which there can be a referendum, but we have not even tackled the position of the frequency of the referendum, because in fact this referendum is likely to be held in the same year as general elections. So I would beg, Mr. Chairman, that these learned friends of ours, including those of us who are not learned, we should actually re-address some of these issues otherwise there will be several contradictions in the final stages of the work we are trying to do, Mr. Chairman. I think we must give the Committee the rest of this afternoon to come up with answers and a clear position so that we are not derailed by doing some work which will look irrelevant to what has already been put before us.

MR. WAGIRA(Kibuku): Mr. Chairman, this issue appears tricky but we have to examine it very scrutinously. Mr. Chairman, I want to start with the point which Hon. Kizza Besigye did point out. If people of Uganda cannot determine a political system of their choice through free and fair elections, the question then remains to say, where will the CA get the mandate to legislate the system or to choose for Ugandans the system which should take place from now? Mr. Chairman, what are we trying to protect by this amendment? I am told that we are trying to protect manipulation of Parliament, but Mr. Chairman, I would like to ask one question here, if people go into elections, the country is strong enough, we give people liberty to declare which system one will stand for if voted in Parliament. And it so happens that actually two thirds of the people who have been returned to Parliament are actually for multiparty politics. Must the Movement cling there?

Mr. Chairman, we must not forget the powers which we have given to Parliament. Parliament is going to ratify all appointments, all! Parliament is going to endorse all important offices. Now, Mr. Chairman, I see no way how such a system is going to operate with such a hostile Parliament. Mr. Chairman, some people are saying there can be a possibility of somebody crossing over after he has been voted in Parliament, but I think this is already taken care of. There is a right of recall and this can be a very strong ground if you told us you are going to defend Movement, you get there and you are a multiparty supporter, this can be a strong ground for recall. We have already said that a Member of Parliament who crosses - that this crossing can also be looked into not in terms of a political party. If it is during a Movement time or another system which is no party, if somebody crosses and begins acting contrary to the system which he promised people that this is the system I will represent, this is the programme I support, then I think that is also taken care of. Mr. Chairman, why don't we save this country from expenses?

I would like a clarification from Hon. Rukutana when his time comes, supposing we go into a referendum, after getting into this referendum - I mean we go into free and fair elections, the people who are voted into Parliament, two thirds of them are actually against the system that has been in place. Say, for example, people in free and fair elections have returned two thirds of the Members of Parliament who are actually multiparty supporters and yet the Movement is the one in charge, must the Movement still go ahead and institute a referendum? This in fact would just lead to what Hon. Kutesa was saying that it is actually a way of really finding another technicality to defeat what people have decided. Mr. Chairman, in my view -

THE CHAIRMAN: Hon. Wagira, I thought you were going to help us with the question of interpretation but you went on to debate.

MR. WAGIRA: Mr. Chairman, I can go to interpretation if I should conform to that.

THE CHAIRMAN: Now we know which side you are on, you have made your point.

MR. WAGIRA: Can I go ahead to interpret, Mr. Chairman.

THE CHAIRMAN: If you think you will not continue with the debate.

MR. WAGIRA: Mr. Chairman, since I have made my point I can at this point stop there, Mr. Chairman. Thank you.

THE CHAIRMAN: Anyway, the issue which was raised by Hon. Kizza Besigye was whether we are not contravening rule 48 (17) which says no amendment shall be made which is inconsistent with any article already agreed upon by the Assembly and a decision already come to by the Assembly and that the Chairman should withdraw it from consideration"i.e. if it is a Motion like it is, and if it's being passed would have that effect of creating a conflict. Now the problem as I can see it arises from here because what was approved which is now Chapter Two although it could have been chapter one in the text, says that, "*the people shall express their will and consent on who shall govern them and how they should be governed through regular free and fair elections of their representatives.*" This particular provision was not, as we have been told, in Chapter One. It was a general statement on principle and then it was transferred to be justiciable under this provision. The problem it has caused is that not only would it - is not just one which has been raised, but even within Chapter Two itself, it is because of bringing things together that there is some internal inconsistency. For instance, the same article, clause (1) says; "all power belongs to the people who shall exercise their sovereignty in accordance with this Constitution." So it gives the people power and people can choose to give it to you through a referendum or through elections. But this other one comes to narrow it down and what we are trying to do is opening it up if you pass the Kania one. It goes beyond just election to give also a referendum. What the Rukutana amendment is saying is narrowing it down again. So it is actually zig-zag.

So the problem is, that the various provisions have to be synchronized, all these have to be synchronized at the reconsideration stage because of the fact that we have been taking from here, putting there, and taking from here and putting there. But for purposes of interpretation, the law is very clear, when you are interpreting laws, the particular excludes the general. *(Applause)* It is the principle he was talking about. But whether this is particular, to the question of the people to have power to give it to you, I do not know. That is why I am saying really the answer lies in the eventual synchronization of the various provisions which have been taken from here or there. The position being so therefore, let us do it this way. We shall have to make a choice and leave it to the technocrats to synchronize various provisions later on. But let us take a principle, should determination of a system of governance be exclusively determined by a referendum or it could also be determined through elections so that the rest then can be decided for synchronization. So, we continue and debate and make a decision on that issue.

MR. RWABIITA(Ibanda South): Mr. Chairman, I must thank you very much for at least getting my hands because for many days I had not had a chance and, nevertheless, Mr. Chairman, I stand to oppose Hon. Rukutana's amendment.*(Applause)*

Mr. Chairman, as you have already said, we must be consistent in the former article (1), Chapter One, we have already provided that all power belongs to the people who shall exercise their sovereignty in accordance with this Constitution. Now, Mr. Chairman, the people have got a right to make a choice. They can make a choice in different ways. One, through regular elections as we have provided. For example, we have provided that every five years the people will have the right to elect a new government, and that is a very important government and that means elections are regular. But referenda are not regular, they are called upon when there is a specific problem which is national in character of course but, Mr. Chairman, according to the new Constitution, it will be difficult for a government to frustrate an election programme. But a government can frustrate a referendum, it can because it has got the power and it can always say we have no money; we have no logistics, wait for another year. A year becomes two, it becomes three before the people can use their power - (*Applause*)- to choose a system they want. Now Hon. Kania's amendment, especially in clause (2), we are going to allow for a possibility of having either political parties or Movement or any other new system that will be democratic. Now in future, it can happen that during the regular election every five years, the people prefer to elect a government, a President who is one of these three and they also elect a Parliament who can be from any of these three. Then the people have made their decision, they have made their choice. Will you stop them and say that we must first wait for a referendum? No way!

So let us give the people their power to either make their choice through a regular election, or use a referendum whenever it is necessary. And as I have said already, a referendum is difficult to implement but the regular system of elections, as we have put every five years, will be according to the Constitu-

tion and definitely, any government will have to make sure that elections are there, and people are there and then will make their decision of the choice either of government or of a new system they want to have. Thank you, Mr. Chairman.

MR. MBABAZI AMAMA: Mr. Chairman, I first of all would like to answer the argument raised by Hon. Lt. Col. Kizza Besigye saying that by this Assembly deciding on the next political system, we are using an election. That is half the story really. Because, Mr. Chairman, you know very well that what happened is that this assembly is part of a process, planned out process. There was a commission that went out and received peoples' views. Those are well documented, that was stage one. Stage two; people were asked, the population was asked on just one question to vote people to go and promulgate the constitution. This is the single issue on which a vote was cast last year. So to equate this to changing systems through a general election which includes all other things, including the making of roads, including this and that, is not fair, and is not correct. So I think this Assembly is fully mandated by the people of Uganda to promulgate a constitution and make a system therefore.

Secondly, Mr. Chairman, I have a bit of a problem with the argument presented by the Chairman of the Legal and Drafting Committee because he said he was not supporting he was reporting. He said in answer to the question - I would like particularly Hon. Kutesa to listen because he seems to have missed this point. The question was, if you leave in election or referenda, who will choose which one to use? According to Hon. Kanyeihamba, it is the government of the day that decides whether you use a general election or a referendum. Now I want to ask this Assembly following on what Hon. Kazibwe said, what is the intention of our people, what were our specific instructions? Do the people of Uganda want to empower either Parliament or government to change systems, or did they specifically reserve this right to themselves that this is a very fundamental question, the question of systems should be decided upon by the people themselves.

Mr. Chairman, of course, I have heard an argument being raised on the Floor that supposing in an election people who do not support the system in a place become a majority in Parliament, I must say that by the end of the exercise of promulgating our constitution, we will have provided for that. That is why precisely we provide for an amendment. If the provisions of the constitution do not tally with the opinion of the day, then there is a provision within the constitution itself on how the constitution can be amended. So if they were elected and they were in the majority, then this avenue is available to them to change. Mr. Chairman, I want to submit that Parliament does not necessarily reflect the wishes of the majority, definitely not, and it does not matter. I am not saying this - even still I can give you examples, Mr. Chairman, I am being challenged about CA.

THE CHAIRMAN: No, the challenge does not come from the chair - it does not come through the chair, so if you answer from various murmurs on the Floor, then you will not finish. I think proceed with your line

MR. AMAMA MBABAZI: But I want to give information just to illustrate my point. In this CA election, just a random selection of results; Hon. Sekwayaama got 8,000 votes out of 24,000, that is 30 per cent. Hon. Mayanja Abu got 7,000 out 21,000 that is 30 per cent, Hon. Omoro Peter representing Soroti Municipality got 2800 out of 12,800 that 17 per cent of the votes cast. Hon. Mwondha Patrick representing Bukooli North got 9520 votes out of 27,596 that is 30 per cent of the votes, Hon. Kawanga John representing Masaka municipality got 806 votes out of 1981 that is 42 per cent of the votes. Lastly, Hon. D. Sakwa representing Bungokho South got 14,665 votes out of 37,456 representing 38 per cent of the total votes cast. Mr. Chairman, what this shows is that you can have a House of people who were elected a according to the system in place of the day but who do not represent the majority of the population. *(Applause)*

Mr. Chairman, we know very well that in the election in Kenya, if I may be as express as that, the last general election in Kenya, the President of Kenya won only 30 per cent of the votes cast, and he is President of Kenya today. What we are saying is, the people of Uganda, certainly the people of Kinkizi West that the question of political system - I have actually discussed it with them that is true - the question of political system is a fundamental matter on which they reserve the right to decide themselves. So Mr. Chairman, I would like to say that it is easier - to answer the Hon. Father Gaitano's point, it is easier for the government of the day to connive with Parliament or the elitist

group in the capital than it is for them to connive with the population as a whole in order to change the system. *(Applause)* I therefore think that in order to keep within the - anyway in my case - within the instruction I was given by my people, we should support the question of deletion. I think there is an avenue. If at the end of the day people are tired of a system and they elect Members of Parliament who oppose that system, then obviously Members of Parliament will use the provisions of the constitution to start an amendment or even go to a referendum in order to change the system. I therefore, really think that those who oppose this deletion had not fully understood the full import of it. Because the import of keeping elections in this provision is to short change the people. You are providing for the situation where the people may not be involved at all in the change of a system. I therefore, think that if we are really to keep consistent with Article 1 which talks about the sovereignty of the people, if we are to keep consistent with the revolution NRM brought about which was to empower the people, then people must always be given the right to choose what system they have to have. Thank you very much.

DR. HIGIRO SSEMAJEGE(Lwemiyaga): Mr. Chairman, I will be very brief. But without going far, I would like to say that I am standing to oppose the deletion. I oppose it for many reasons but I will mention a few. Many Members who have spoken in favour of this Motion have failed to see that all that we are doing here is to provide alternatives for the people of Uganda in case that alternative will be wanted. We are not saying that referenda should not be used, far from that. We are saying that the referendum will be used, and in fact, Mr. Chairman, the people of Rwemiyaga say that after five years of NRM from now, and when people are being taught about both systems, and they have got knowledge to choose, then they should go on for a referendum. But at the same time, the people of Lwemiyaga said that it would also be possible for people to choose through electing people who have declared themselves in advance. If for instance a President as we have said the President will be directly elected, the President will be following the principles of the Movement and another one says I will follow the principles of multiparty politics, but eventually the man who wants a Movement system wins and also the majority of Parliamentarians who support the Movement win, then the people of Lwemiyaga say that, that also could show singing of the people. They also say that it could also minimise the costs because here, as you provide for a referenda, it means that every five years also we are likely to have a referendum; we have a presidential we have parliamentary and we have local elections, and they think that is a are very expensive idea.

Mr. Chairman, while the next referendum could be okay, but the people of Uganda in future - and Mr. Chairman, we are writing a constitution to go for many years to come. The people of Uganda should have the choice to come to an alternative at that stage and we should not limit it, particularly as an earlier part in Chapter Two of this Constitution provides that we can change how to be governed through elections. So Mr. Chairman, without really bothering much, I can see that even the whole House here, except very few people, are supporting the word to be kept in and Committee Five supported it, and supporting it whole heartedly. Mr. Chairman, I think the people of Uganda are intelligent enough, they should be given that alternative. We are not saying that the referendum is cancelled, we are saying both can be a way of solving the national problems. I think, Mr. Chairman, we should support this word whole heartedly. I thank you, Mr. Chairman.

THE CHAIRMAN: Hon. Delegates, I can see - I can now hear from the Floor that people are tired of debating this. They are now debating twos. I think we can make a decision now. The question is that the Motion by Hon. Obiga Kania be amended by deleting the words *"elections or"* So that it reads: "*The people of Uganda have the right to choose and adopt a political system through free and fair referenda"* instead of "*free and fair election or referenda*". i.e deleting the words "*elections or*" which appear in that Motion. I now put the question by Hon. Rukutana. I now put the question.

(Question put and negatived)

(The Chairman's ruling challenged)

THE CHAIRMAN: You do not constitute 51 So we proceed. Now Hon. delegates, the Motion by Hon. Obiga Kania remains as it is this other one having been negatived. Now we have debated this Motion, we should move to other provisions. Now I would like to put this other one first and then the second one as well which is Clause (2). Let me now

put the question on the Motion by Hon. Obiga Kania that "*the people of Uganda have the right to choose and adopt a political system through free and fair elections or referenda.*" I now put the question.

(Question put and agreed to)

THE CHAIRMAN: Now Hon. Kania's Motion had two legs to it, we have debated this one as well, which is Clause (2) that: "*the political system referred to in clause (1) of this article shall include (a), the movement political system; (b) the multi-party political system or (c), any other democratic and representative political system.*" I now put the question.

(Question put and agreed to)

THE CHAIRMAN: Now, can I get clarification from the Chairman of Committee Five. Article 94 had two clauses, there was a clause which now should become Clause (3), or do we retain it there or do we remove it. What is present in relation to the original text?

MR. AMAMA MBABAZI: Mr. Chairman, I know that one of two people have some proposed amendments and I have one definitely.

THE CHAIRMAN: On 94 (2)?

MR. AMAMA MBABAZI: On 94 (2). Since the Chairman of Legal and Drafting Committee did not report because we had not coordinated, they had not synchronized the amendments on 42 clause (2), can I propose that as we did in the case of Clause (1), the amendments on Clause (2) are synchronised before we debate them?

THE CHAIRMAN: But I want to find a home for it. Is it going to be part of 94?

MR. SAM KUTESA: Mr. Chairman, as I informed you yesterday, even with intentions of Hon. Mbabazi to move amendments and others, what is envisaged by both the Committee Five and what I have had the opportunity to look at as proposed amendments which are going to the Legal and Drafting Committee, it is intended that this does not constitute part of Article 94 and that it shall be transferred and it becomes Article 95. There will be, I understand, amendments which would change our Article 95 as indeed in our Committee report, Mr. Chairman, when we were dealing with Article 94, 94 became 95 so it is intended that when we come to Article 94 (2), we should now consider it as new Article 95. So, if there are any amendments it should be as Article 95.

THE CHAIRMAN: Thank you. If delegates will refer to the report of Committee Five, you will notice that 94 was a reformulation and it was a smaller provision with only two clauses. We have now had it reformulated as per Terego and approved it in respect of these two provisions. Therefore, the only thing now we are left to do is to pronounce ourselves on 94. So, I want put the question on 94 which we have just passed in two clauses to stand part of the Draft Constitution. I now put the question.

(Question put and agreed to)

THE CHAIRMAN: 94 bearing the formulation as Hon. Obiga Kania and improved upon by other Members this afternoon and passed in the Plenary hereby stands part of the Draft Constitution. *(Applause)* Now because 95 requires synchronisation of amendments, I will not proceed with any further business, I will therefore wish to adjourn early to give the Chairman of Legal and Drafting Committee and others to synchronize their amendments so that tomorrow, at 9.30 a.m. we continue with new 95. Accordingly, I adjourn the House to reassemble tomorrow 9.30 a.m. in the morning. Thank you. We stand adjourned.

(The Assembly rose and adjourned until 9.30 a.m. on Friday 23rd June, 1995.)

THE REPUBLIC OF UGANDA

PROCEEDINGS

OF

THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

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FRIDAY, 23RD JUNE 1995

MOTION:-
Consideration of the Draft Constitution of the Republic of Uganda [Pg 4962]

PRICE: SHS. 2,500

Friday 23rd June,1995

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

PRAYERS

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

(The Assembly was called to order)

COMMUNICATION FROM THE CHAIR

THE CHAIRMAN: When we adjourned yesterday we had completed consideration of a Motion by Hon. Obiga Kania together with such amendments to it as were moved and approved, and that constituted the article 94. Article 94 Clause (2) of the text from Judge Odoki was, however, to be shifted and considered to take the place of 95.

Now I intend to call on the Chairman of the legal and drafting committee to give us the statement as to how we could proceed, but I do not see him in the Chamber. He was supposed to have synchronised in that committee, the provisions of 94 of the text and those included in clause (2) of Article 94.

MR. KARUHANGA: Mr. Chairman, the Legal Committee Chairman is around. We have been meeting and we synchronised the amendments for article 95. The amendments are being circulated right now by the administration, and our Chairman is just about to enter in a few minutes I am sure, and I think the other Members are with him. But I was wondering whether we can either have a little break and wait for him, for 15 minutes so that the other Members who have been signing the register but not entering can also enter. I am up to your ruling Sir.

THE CHAIRMAN: I will ask the martial to go and ring the bell for a few minutes.

MR. KARUHANGA: The Chairman has now come as I had promised, we can now take over.

THE CHAIRMAN: The Chairman, of Legal and Drafting committee, I had stated that we are going to seek your guidance as to how we should proceed. Seeing that we did agree yesterday in the House to shift what is Clause (2) of the Odoki article 94 to become 95 and that there were a number of amendments which were in the pipeline on that one, we need to be guided by you on how we should proceed, so that we start the business of the day. I give the Floor to the Chairman of the Legal and Drafting Committee, Hon. Kanyeihamba.

PROF. KANYEIHAMBA GEORGE: Thank you Mr. Chairman. The Members of the Legal and Drafting Committee met with persons who wanted to propose amendments on what was previously Clause (2) of article 94, and in the end it was agreed that this Clause, the way we synchronise amendments, should be a new article 95. That is what was Clause (2) of original article 94 now becomes article 95.

The amendments which we synchronised on this new article 95, Mr. Chairman, have been circulated on a document dated June 23rd, which is today and I believe every Member has got a copy. Just in case they are not enough, I can read the new article 95. Clause (1), this is under Movement political system. Clause (1) is to read as follows: *the Movement political system shall conform to the following principles:*

(A) Broad based politics at all levels.

(B) Participation in public affairs of Uganda by all Ugandans

(C) Be under the control of the people of Uganda, for their benefit

(D) Be democratic accountable and transparent

(E) All positions of leadership shall be accessible to every citizen of Uganda in accordance with provisions of this Constitution and

(F) The election to public offices shall be based on individual merit.

Then there is reposed Clause (2) of this new article which reads, Mr. Chairman, as follows: *Parliament may create functional organs under the movement system and define their roles.* But before I hand over, I think I want to remind Hon. Members of the sequence of how these Clauses are appearing. Mr. Chairman, you recall that in the new article 94, we stated that *the people Of Uganda shall have the right to determine a political system through fair and free elections, or referenda.* Then we enumerated the different political systems from which they could choose.

Having done that, Mr. Chairman, we are now moving to the third stage where we are describing

these political systems. We are starting with the Movement political system, then after this has been disposed of, we shall move to the multi-party political system, and so on. I beg to move, Mr. Chairman.

The Only point I left out of this amendment, Mr. Chairman, is to be moved by Hon. Faith Mwondha and is seconded by Hon. Gaston Maliro.

THE CHAIRMAN: Thank you Hon. Kanyeihamba and members of your committee. Now by way of method of work, the Motion will be moved that a new article 95 be inserted immediately before the current 95 within the text, and then of course, if it is adopted- no but it would appear that this would even supplant the other 95 if it is carried? Is there a sequence of events as to how these Clauses and articles are going to proceed? So we are saying that after 95 there will be 96 dealing with what?

PROF. KANYEIHAMBA: Mr. chairman, after 95 which I have presented, there will be 96 dealing with multi-party political system.

THE CHAIRMAN: But remember when we were doing amendments from the Legal and Drafting Committee, it was always helpful if we had a report on the whole chapter so that we know how we are proceeding. It helps Members, because when they read they know that this one is coming now but there is another one. As it is now, we are only handling it piece meal.

PROF. KANYEIHAMBA: Mr. Chairman, it is because of the way we have been involved in intense debates, that we have not had opportunity for the Legal and Drafting Committee to meet and consider all the amendments relating to this Chapter. This has been the problem.

Secondly, Mr. Chairman, my understanding was that we would deal with original article 94 and 95 that is of the Odoki report through the plenary in which case it is the work of the Legal and Drafting Committee to synchronise on that. However, there after, we would resort to the report of committee 5. The only controversial articles when we had a walk out, were 94 and 95 and that is what is really being synchronized by the Legal and Drafting Committee for the purposes of discussion in the plenary.

When we have finished those two, then for the others we shall go back to the select committee 5's report. This was my understanding, Mr. Chairman. Consequently, we have synchronised amendments on original 94, including the ones I have just presented, and the only article left in the original which was controversial, is 95 which will now be new 96. It deals with the structure and nature of multi-party political system.

Mr. Chairman, sometime today we should be able to synchronise the remainder of the amendments on article 95 and that will complete the work for the Legal and Drafting Committee as far as clause (94 and 95) is concerned. Then thereafter, we shall go back to the select committee 5 report.

MR. ELYAU: Mr. Chairman, I am finding a problem from the expression from the Chairman of the Legal and Drafting Committee. Especially, when yesterday we married multi-parties plus Movement as we passed article 94. Now I seem to hear from him that we are going to finish the Movement and then come to multi-parties. But then I seem to see that this number calling the political Parties 97 is also affected. Might he tell us whether all these will be working together so that Members can follow the sequence of the discussion?

Although I agree with him that you must define the Movement and then define the multi-party system and others. Does he suggest that we are going to work on even 97 at ago as we go on those sequences. Can he clarify on this.

PROF. KANYEIHAMBA: Mr. Chairman, I apologise. I was distracted by Hon. Babu.

MR. ELYAU: Mr. Chairman, I was saying, although I appreciate the Chairman's explanation this morning, regarding article 95 as being proposed, I find a problem because yesterday we had already put together the Movement plus the multi-parties and others. Now he is saying we are going to discuss the set up of the Movement this morning as far as the proposed amendment is concerned. But I am wondering what will happen to article 97 which talks of political parties.

It appears we are now concurrently discussing both 95 and 97. Now when he tells us that after disposing of the Movement set up we shall now go for multi-

parties and others. Can he clarify on this so that Members do follow and we should not get lost.

PROF. KANYEIHAMBA: Mr. Chairman, ideally it would have been much better for Hon. Delegates to have the two set together so that they can see how each of them is shaping up in the Constitution. Nevertheless, according to the sequence of the events when we adopted new article 94 , we named them consecutively, Movement political system first, political party system second and then any other democratic representative system third. Those of us who were synchronising these amendments thought we were assisting the assembly if we synchronise amendments as they came first.

The first one was a Movement system. But, Mr. Chairman, if it is the wish of the assembly may be we could find sometime and complete synchronization of the articles on political systems and then they appear together, in sequence. But what we were trying to do although the Hon. Member who has just left the Floor mentioned 97, we thought that logically after we have dealt with this 94 which deals with Movement political system, the next sequence should be Multi-party political system. So we were bringing it forward rather than discussing it in its original position.

MR. AMAMA MBABAZI: Mr. Chairman, as the Chairman of the Legal and Drafting Committee had reported earlier, I think his duty and the duty of his committee was to synchronise amendments on article 94 because we had gone to the original Odoki draft. But hereafter, the committee 5 takes over the stage again, and presents its report. Unless there are amendments brought up from the fioor, then this House can refer that to the Legal and Drafting Committee. The person to answer is not the Chairman of the Legal and Drafting Committee, but the Chairman of committee 5.

THE CHAIRMAN: Okay, what we did nearly two weeks ago was to re-open article 94 following a promise I made to the Members of National Caucus for Democracy so that we sort of put aside the report of the committee on article 94, of the text and re-opened it so that it is discussed in the plenary. I do not know what has happened, but as of yesterday we had been able to adopt the formulation that came from the Motion of Hon. Obiga Kania, and other amendments to it.

Now what the Chairman of the Legal and Drafting Committee has reported upon is Clause (2) of article 94 the one we re-opened, and, therefore, we still have that. The only thing that it does, as I can see from the text is that it seeks also to handle article 95 of the text by making it appear to be clause (2) of the Motion to be moved by Hon. Faith Mwondha and Hon. Gaston Maliro.

So we can continue to discuss the second leg of 94, and if the House so wishes, take into it also what appears as 95 of the text, relating to the formation of organs under the Movement system. After that, it is the Chairman of committee 5 to report on the proceedings of the various provisions of their report.

Now if Members have amendments to make, then they can raise them so that if they are many we get them synchronised. If they are few on each of the recommendations, then we can handle them straight away on the Floor without having to waste time going back into the Legal and Drafting Committee to synchronize those amendments.

MR. RUZINDANA: Mr. Chairman, I have seen these synchronised amendments concerning the Movement. But I think it would help us if we also had the synchronised amendments relating to political parties, because I do see certain things here which could also relate to political parties. I would like to see whether they are also reflected under them, in which case we may not need to duplicate them.

For example if you see (b), democratic accountable and transparent, that could apply to political parties also and so on. But I also really have a problem with these things which are here. Unless the Legal and Drafting Committee comes up with definitions, some of these things are mere platitudes which really do not have a lot of meaning.

Participation in public affairs by all Ugandans. We have already put a principle of periodic free elections. Now how different is this one. What is broad based politics at all levels? This has to be defined. Besides, the Legal and Drafting Committee will do us a lot of good if they come up with certain very definite things rather than very general statements that really cause problems. Election to public offices public office, we have already defined this in the Constitution. It is very clearly defined and now we are introducing it here and so on.

Mr. Chairman, the essence of the comment I am making is that we should really come and declare rather than confuse the situation more than it has been. It looks as if we are going to do so with what comes here, and I do not know whether the Chairman Legal and Drafting Committee has got a comment on these generalities. The generalities do not seem to be very helpful and I want to see what relates to political parties, side by side with this Movement thing so that we can debate more intelligently on these systems without just passing things and glossing over things and end up passing things we are not very clear about ourselves. Thank you Mr. Chairman.

THE CHAIRMAN: Could I ask the Chairman of the Legal and Drafting committee whether they looked at the amendments of Hon. Ssekandi relating to political organizations when they were synchronising the amendments.

PROF. KANYEIHAMBA: Mr.Chairman, we invited, in fact we invited the Members of the Assembly to submit their amendments, indeed one of them who had an amendment was Hon. Magezi and when eventually we met they were not there. So we did not look at the amendments submitted by Hon. Ssekandi or Hon. Magezi who had told me that he had an amendment and I had informed him of where we were meeting, but eventually he was held up somewhere so he did not turn up. So the fact of the matter is that we did not do so, Mr. Chairman.

But in response to Hon. Ruzindana's point of view, the work of the Legal and Drafting Committee is not to put substance in what people have proposed. We simply receive amendments and synchronise them, this is what the movers wanted and we synchronised them to see whether they were not conflicting with anything else.

It is not for us to define what people want or indeed to put substance in what they have suggested. So if he wants that really that is a matter of debate. It is for him to oppose what they have put here, rather than bringing the matter back to the Legal and Drafting Committee. Thank you Sir.

THE CHAIRMAN: But I think the matter he was making was that, isn't it possible that you can have one article talking about the principles that should govern both, so that you do not have to say this relates to that and this relates to this. And if possible even go as far as defining them. I think that is what he was saying.

MR. KARUHANGA: Mr. Chairman, I think that possibility cannot be ruled out, but I think that what is very important for us to be able to move is really what Hon. Mbabazi said, that although you had said that article 94 in its entirety be re-opened without using the committee 5 report, I think once we dispose of 94 (1), and go to Obiga Kania's Motion, we should go back to the report, although it seems to me that there would be consensus.

Once we have the Chairman of the committee leading the discussion, it then becomes very easy for us to debate this Faith Mwondha's amendment. After that we will be able to refer to the report on what has been provided for the parties, and amendments then become easy. Those who want to unite them can unite them, but at the moment we are stuck in a straight jacket of the ruling that you had made.

However, there seems to be a consensus that we have finished the bit that had constrained us to do without the committee's report. We took a lot of time and it was expensive to form a committee, why don't we go back to it and everything else follows naturally from it? Unless there are objections on the Floor, I would like to move another Motion that we go back to the report so that we can be able to proceed. If we proceed like this, it is going to be very difficult.

MR. CHEBET MAIKUT: Mr. Chairman, in light of what the Chairman of the Legal and Drafting Committee has pointed out, that they did not in their committee get enough time to synchronise all amendments which some Hon. Delegates had, I would like to suggest that, it would do this assembly good if the Legal and Drafting Committee would be given some ample time perhaps today, to synchronise all the amendments. They should address some of the questions raised by some Hon. Delegates like Hon. Ruzindana, to see if we can come out with a set of amendments which we can debate logically.

As you correctly put it Mr. Chairman, it will be very difficult to look at this provision alone in isolation of the provisions or those amendments that seek to entrench the political system, the multi-party political system. I would like to suggest that, we give the Legal and Drafting Committee time to look at all

these possible amendments, synchronise them properly, and address some of the questions that have been raised by Hon. Delegates here as to the principle that should be enshrined in each of the political systems that we intend to put in the Constitution.

MR. MWESIGWA RUKUTANA: Mr. Chairman, before I give my suggestion, I want clarification from the Chair. Did we re-open debate on article 94 alone or did we re-open debate on the entire Chapter of political systems? Because if we re-opened on 94 alone, to me we have no problem. If I could get that clarification then I could give suggestions.

THE CHAIRMAN: You remember that what led to the walk out in committee 5 was in respect of 94, and so the chair's promise was to re-open debate a new on 94. We have done that except that the second leg to it is what is now before us by way of a recommendation from the Legal and Drafting Committee.

MR. MWESIGWA RUKUTANA: So for that matter, Mr. Chairman, the Obiga Kania amendment we passed yesterday has an effect of substituting what was formerly article 94. We are now going to another article. Now we would have no problems technically to say that now we can go back to the report since what was re-opened was 94 and it is disposed of.

THE CHAIRMAN: No, we disposed of Clause (1) of 94, and inserted another Clause, Clause (2), but the recommendation before us is that this clause (2) of 94 if you may look at the text, should be taken out to be a separate article and brought as 95, hence this recommendation which is before us. Actually we are still dealing with 94.

MR. RUKUTANA MWESIGWA: We are still dealing with 94, Mr. Chairman, but in effect we are making it a new provision. If that new provision we are proposing is contained in the report and if we have disposed of 94, can't we go back to the report of committee 5?

THE CHAIRMAN: Yes we had already stated that yesterday's Motion which was passed took care of 94 (1) and also inserted a new Clause, clause (2) setting out the choices available to the people of Uganda. Now the proposal before us is combining what is 94 (2) of the text and 95, if you look at what is recommended as Clause (2) of the new 95.

After that, we would then go to the report of committee 5 and proceed from there. But what is confusing Members is that they do not know whether the committee 5 report now would follow logically from where it was, or we would now proceed as the Chairman was suggesting that after we have done this one, the next one is to deal with political parties.

MR. MWESIGWA RUKUTANA: Then, Mr. Chairman, my last suggestion for that matter, would be that I appreciate the concerns of people like Hon. Ruzindana and Hon. Chebet Maikut who say that we should not debate this thing piece meal by handling Movement system, exclusive of multi-party system.

There was a suggestion that the two could be accommodated in one article since it is comparative and balancing, but that may not be possible or even desirable. So, I suggest that nevertheless, it is still important if we are to debate on this Motion to also get what the proposals are for the multi-party system. What we are doing is really trying to make a balance between Movement system and Multi-party system. It is, therefore, important that Members get exactly all the proposals on the systems whether they are in one article or in different articles before we can effectively debate.

We stand a big danger debating the two systems separately. Even if they are two articles, I suggest that the amendments on the systems be synchronised Members get them, they balance so that they can adequately contribute to the debate. I would propose that we give time to the Legal and Drafting Committee to synchronise and supply us with a completed form of amendments. Thank you Sir.

MR. KARUHANGA: Mr. Chairman, I want to inform you that, it seems to me that article 94 (2) in the Odoki draft is to be deleted and substituted by article 95 in one part. The second part is to substitute what was 95, and the amendment we have from the legal committee is article 95 but not article 94.

In that case, why don't we delete just completely your ruling on 94 and by consensus say that 94 (2) is deleted. We can then vote on 95 and accept or debate Mwondha's Motion as a substitute to 95,

since it is already combining 94 and 95, and it is different from 94 (2). It seems nobody is interested in 94 (2) as it stands.

THE CHAIRMAN: That is not quite correct. What we agreed yesterday was that we pronounced ourselves on 94 as reformulated, and that 94 (2) of the text, was to be taken out. It was so agreed by the House, and reformulated in the light of amendments proposed to it and sent to the Legal and Drafting Committee. Now the report has come back. But the concern of most Members which I can see here is that should we handle one side of the coin at a go or should we have the full coin and we look at it together.

MR. NGOBI: Mr. Chairman, my proposal agrees with the view that it would be better for us to proceed with the second leg of 94. There might be a bit of merit in trying to see what would be provided under all the systems, but I think the that the Movement system is different from the Multi-party system, and therefore, I think we can consider the conditions that relate to the Movement separately as has been presented in this legal committee report, instead of waiting for the conditions and the principles of multi-parties, because these are two different systems as we have agreed under the new article 94 (2).

Therefore, let us proceed to consider the principles of the Movement separately. We will of course bear in mind what the principles of Multi-partyism will be, but it will be wrong to say that may be these principles are *equated* because these are two different systems as we have agreed, and therefore, I think we better proceed with this second leg of article 94 which is now new 95. Let us consider the merits and demerits of what has been proposed and finish with it, then we can proceed with the others. I do not think it will cause us any confusion.

MR. KABAYO JOHN: Mr. Chairman, on this matter my view is that, since we opened and reopened discussions on 94, and 94 touches on many other articles following it, it is a fact we have to discuss them all again. Especially, after we passed amendment 94 (1), and passed a new inclusion the aspect of 94 (2)where it says other systems. That is a new aspect. So that may also may affect the other articles in a new way.

Mr. Chairman, I think we have to discuss all the remaining articles again but also consider what was discussed by committee 5 and synchronise all the amendments with those of committee 5.

THE CHAIRMAN: Okay, I think we can proceed. Hon. Elyau, you said you have a problem.

MR. ELYAU MIKE: Mr. Chairman, I am foreseeing a problem, because we are not to appear as if we had a delegates conference for those Parties or the Movement. We are people who are trying to see the essence of helping Ugandans to understand these things as they come. As long as this one is already presented, it is good, but we thought there could also be another proposal either proposed by multi-partists themselves to help us understand whether there should be control with one section instead of separating them, since they are all political systems.

I still think that we should give the Multi-partyists a chance, because when they walked out of committee 5, maybe they did not put forward their proposals as opposed to what is here. They have continued to walk out.

We are in a dilemma, to be really in a right position to see how we can help our people to understand when we are putting these things to our Constitution. What is wrong in asking the Legal and Drafting Committee to continue giving us the other part of the coin so that we take the view as different people independently? This is how I see it Mr. Chairman, and that is where I have a problem. Thank you.

THE CHAIRMAN: No. I think if you look at the report of Committee 5 on page 33 you can see that they have set out what they think. This was agreed on by the Committee by the way, and they made recommendations to us on various aspects relating to what political parties should be. For instance it starts by saying, a political party should be free to participate in shaping the political will of the people of Uganda. Then (b), every political party shall have a national character. (c), The Internal organization of a political party shall conform to democratic principles.

What they are now saying, according to the committee Chairman, is that these will be moved forward to reflect the other side of the coin, with regard to political party and the Movement arrangement. So, I can now ask the Members to do it this way; We have a report from the Legal and Drafting Commit-

tee recommending attributes relating to the Movement type of politics or Movement political system.

You should, however, look at page 33 of the Committee 5 report if you want to be guided with regard to what they say about political parties. That way, while you debate this aspect of the Movement, you will have in mind and keep in mind the provisions which committee 5 recommended to this House as desirable attributes for the Political Party organizations or system. With that, I think we can move in full knowledge.

Now I will give the Floor to Hon. Faith Mwondha to move a Motion which seeks to insert a new article 95, and also take into account that this proposed new article also actually seeks to retain as Clause (2) the old 95.

MRS MWONDHA FAITH: Mr. Chairman, I beg to move a Motion that a new article 95 be inserted replacing Clause (2) of article 94. This very Motion also seeks to move a Motion that former article 95 in the Draft Constitution becomes new article 95 clause (2). It will read as follows: *The marginal notices are, Movement political system. "That the Movement political system shall conform to the following principles. (A): Broad based politics at all levels . (B): Participation in public affairs of Uganda by all Ugandans. (C): Be under the control of the people of Uganda for their benefit. (D): Be democratic accountable and transparent. (E); All positions of leadership shall be accessible to every citizen of Uganda in accordance with the provisions of this Constitution, and (F): that the elections to Public offices shall be based on individual merit.* And, clause (2), Mr. chairman, I beg to move that it reads as follows: *That Parliament may create functional organs under the Movement system and define their roles.* I beg to move.

THE CHAIRMAN: Yes, could you justify your Motion.

MRS. MWONDHA: Mr. Chairman, as the preamble says, that the Movement political system shall conform to the following principles, these are principles which are supposed to govern the Movement system when it is in governance. Mr. Chairman, the word broad based politics is the most distinguished quality of the Movement political system, in that it is all inclusive as opposed to the politics of exclusion under the Multi-party political system. It includes everybody regardless of his or her different political ideology.

In fact, Mr. Chairman, it is often referred to as Multi-ideological. It has also a distinctive feature of electing leaders in positions of leadership on individual merit, unlike in party politics where parties impose leaders on the people and deprive them of their right to choose leaders of their choice.

Mr. Chairman, under broad based politics, people come together and work together as beneficiaries of the system and all, of course, for the development of the country. This is as opposed to the multi-party, system where there is a specific number of membership and members can be expelled. Above all, the Movement develops and brings democracy with minimum division, hence it creates fertile ground for unity.

Mr. Chairman as far as Clause (2) is concerned, it is straight forward. It just says what it reads. I beg to move, Mr. Chairman. Thank you.

MR. MAZIMA: Mr. Chairman, I seek clarification on paragraph (c) of Clause (1) of the proposed article, which reads as "be under the control of the people of Uganda for their benefit." First of all I would like to be assisted on who the people of Uganda are, and can the organs of the Movement be regarded as the people of Uganda? How are the people of Uganda going to control the Movement?

Are the people going to determine what the Movement should be, which in my view is left out? Because determining this would be determining the direction of the Movement which includes division, values, goals and other things. How is this going to be achieved? Is the direction of the Movement going to be determined by, may be, a certain organ of the Movement and then be brought to the people to control that direction? I would like some clarification on those issues.

DR. MAGEZI: Mr. Chairman, I have no problem with the principle of describing or stating what the Movement system shall conform to while in office. But I find a lot of problems in the detailed positions. I will start with position (a). It is broad based politics at all levels. Broad based politics, I take it to mean that the participation of all political groups is to be Broad based. It, therefore, depends on the willing participation and cooperation of all political groups.

This may be difficult to attain, and I would think we are talking about non partisan politics at all levels rather than a system being broad based. It is difficult to enforce that it must be broad based when some people are not interested in coming in, and they can challenge that it is not broad based because we are not there. We do not agree.

On position (b), participation in public affairs of Uganda by all Ugandans; I think it is important and it is basic but I do not think really saying it here is relevant. It is obvious. I think the Movement has to be under control of people of Uganda. Is there a possibility that the Movement will be under the control of foreigners? I say this, because I believe that at some stage, Parliament will define actually how these various organs or systems can operate, and this is so much encompassing that it will affect anyway all other political organizations.

I think I have no problem with position (d), (e), all positions of leadership shall be accessible to every citizen of Uganda, I entirely agree up to that position. To state that is in accordance with provisions of this Constitution. I think first is to assume that the Constitution of Uganda is necessarily appended to the Constitution of the Movement. I think, the Movement itself as a caucus or whatever the form it has, should be able to define itself. There must be some organ of the Movement which can provide the provisions or positions of leadership. Because we must be very clear, the Movement will be all embracing. There are sections of Ugandan people, who will always find differences to differ from the Movement, and I think we can propose an amendment to stop at this position, that all positions of leadership shall be accessible to every citizen of Uganda.

Now on (F), the election to public offices shall be based on individual merit. I think public offices if you can look on page 122 we have already said, public office means an office in the public service, and I do not think this is what we mean here. I think we mean that election to any office within the Movement structure shall be based on the individual merit which is the cardinal position, as far as I am concerned, of the Movement. In fact, to me that alone would be featuring very high in the order of these Movement principles, and have no Parliament creating functional organs under the Movement system.

Then defining their roles again is also really debatable, because since there is a position for people to descend from the Movement to make a Parliament of the whole country start describing the functions, is again going to cause problems where there are sections of people who are disassociating from the Movement. Given the position that the Movement is going to try and feature from time to time in the politics of Uganda, one must also understand that there can be a Movement, a new Movement political system different from the National Resistance Movement.

Now, probably we can start by saying that if one forms a Movement I can see Uganda having (4) or (5) Movements, with different ideological framework different from the National Resistance Movement but fitting into this political outfit here. So, I think, Mr. Chairman, to avoid serious controversies, in the future, we should limit these (A) to (F) to make them as broad as possible, but just embracing those very salient features which must distinguish the Movement from a political party.

I support the Motion, but I would wish the movers to address those particular points I have raised, Mr. Chairman.

THE CHAIRMAN: I think in view of the fact that Members are raising various questions I would have thought that Hon. Maliro can wait and speak later so that we may answer some of them together with the Chairman.

MR. RUZINDANA: Mr. Chairman, the first thing I want to say is that, the report of Committee 5 is superior to this amendment. The report of Committee 5 is very clear about what it is stating. What it is stating is during the period the Movement is in governance. The current amendment, however, is for all periods whether the Movement is in governance or not, or at least it is not clear as to what period it is referring to, and that is why the phraseology of the amendment is a bit of a problem.

In the Committee 5 report, the broad based politics is really in the formation of a government. It says every Ugandan is entitled to participate in public affairs through the Movement. Now this other one says broad based politics, either in the formation of government, or in its own internal working, and that creates a problem in this amendment.

Besides, it is referring to two types of scenarios. Scenario one is about the workings or the functioning of the Movement internally, and the second scenario is its functioning as in government and I think we really would need to clarify which one of the two at any one time we are talking about. And I think if we do not revert to the report of Committee 5, we have problems because we do not know at what stage we are talking about.

What I am really saying is that, the movers of this Motion should take it back and have it clarified. It is very difficult to debate it the way it is. We want the Movement defined, but not in this unclear manner. Broad based politics we all agree with it, but when. Broad based politics refers to the formation of government, to the electoral process and so on. Now here we have just broad based politics at all levels, what levels are we talking about? If we are in government we know which levels we are talking about.

Participation in public affairs, that is the same, and if we do not reverse to the text of Committee 5, we are really going to create problems for ourselves if we pass something like this. The issue of being democratic and accountable and transparent refers the internal workings of the Movement itself,it should be accountable, it should be democratic and it should be transparent. But the Committee 5 report was more clear; "the Movement shall operate on democratic principles in all its aspects, and shall be accountable to the people, that is when it is in government." But now in this case, is it accountability only to membership? Because the situation is not clear.

Elections to public office as Hon. Magezi has said, is out of the question. Public offices are appointive, they are not got through an election. You do not elect a Permanent Secretary or DES, and that is what a public office means in this Constitution. Now this one must obviously change, I suspect that this election refers to the offices of the Movement.

The individual merit which we are talking about is the election to official positions within the government, to representative organs like Parliament for example or district councils and so on. I suspect that is what the individual merit here means and that is what we generally mean but it is now confused with public offices yet public offices are not elective, they are appointive.

So, Mr. Chairman, my prayer is that we either revert to the report of Committee five or we request the Movers of this Motion to go and frame it more properly or in a better way so that we can be better able to discuss it. As it is, I am sorry to say it is really highly confused. Thank you Mr. Chairman.

MR. KAIJUKA: Thank you Mr. Chairman, I thought this practice of no interruption was only temporary and that now that we are back in our normal mood, people would be free to give information especially where it was useful to clarify any confusion in the debate. The clarification I want to give after listening to Hon. Ruzindana and some other people, is that Article 95 as proposed by Hon. Faith Mwondha, seeks to talk about Movement political system. It seeks to describe, to define what the system entails as opposed to a political organisation.

A system cannot have organs, it cannot have officers; that is not the idea. The idea here is to describe the system. You remember in the Kania Motion which we passed yesterday there is a menu. The Movement political system, Multi-party political system, so the idea here is that you describe what each one of them means. The principles, as it is stated here, will be applied during the era of that system and it has nothing to do with the component parts of say political organisations within that system.

I thought I should make clear distinction so that people do not mix up the two, because the Movement political system does not necessarily mean NRM. It just describes the system which is going to be there whether it is NRM or many other component parts in terms of organisations. I hope, of course, I will have opportunity to debate it. Thank you.

MR. MUSHEMEZA (Sheema County South): Thank you Mr. Chairman. I have a slightly different view from Hon. Ruzindana because in my view, with some few amendments, this Motion is better than the original 94 (2) and better than 95 in the committee's report. Why do I say this? I want to approach this by discussing the concept system and also try to distinguish the difference between a system and a political party. The concept system itself means a variety of things. You could talk of a social system, we could talk of an economic system and we could talk of a political system. It is

important to note that common to all systems there is an element of decision making, authority and coordination and these variables lead to predictable results.

In systems there are interactions which affect everybody in that system. Now, what is a political system? In my view a political system is a mode of governance of society in which various political forces relate to each other. They do so in terms of resolving conflicts, in society particularly the method of governance and sharing of resources. So the institutions and structures we have created in this Constitution, the roles they will perform and the behaviour of the participants all constitute a political system.

It appears we have used the concept political system to mean a system of representation, and I hope when we come to Article 286 the technical committee will help us to define how we have used the political system to mean a system of representation. This means that we must realise that a political system is a totality of all this that I have mentioned and if that means so, especially in our case where we have used a political system to mean a system of representation, we should be able to distinguish between that system of representation and a political party.

This is important and I will relate it to the principles we are discussing, because some times I am perturbed when I hear the phrase *"extension of NRM for five years"*. As far as I am concerned, once we finish the first elections, if it is in December, there will be no NRM government. It will be the government of the Republic of Uganda. So the question of extension of NRM does not arise at all. That is why we continue talking of a government instead of talking of a system of representation.

There will be no NRM government, it will be a government of the Republic of Uganda and even the character and the composition of the Movement will have changed. We shall have different personnel in various positions and even the method of work will change. Where you have like the Vice Chairman now of NRM you find that we shall have a Speaker elected in his own right.

Mr. Chairman, this confusion must be cleared so that we understand that there is a difference between a system of representation and a government. A government can change and the system of representation remains. That is why even yesterday some people had a problem. You could have a non-performing government in the system of representation. It is defeated but the system of representation remains.

Mr. Chairman, I have already given reasons of why I find this Motion a bit superior from the other ones, for instance, in the original 94(2) and in 95 of the committee report it talks about no Ugandan shall be expelled from the Movement. How can you be expelled from a system? You can only be expelled from a political organisation or a political party. So here in this Motion I see participation in public affairs of Uganda by all Ugandans, it is fair compared to the other one which says *"no one shall be expelled from the Movement"*. I submit you cannot be expelled from a system.

I would like also to point out that Hon. Magezi was correct when he pointed out that we could stop at *"all positions of leadership"*, that is in (e) *"shall be accessible to every citizens of Uganda"* and leave this in accordance with the Constitution, because if we do that we shall be fusing Movement political system of representation with the state and that is why somebody will be saying but where is this Movement? Because you will find that its positions, and may be cadres have been fused with the state. So here it is important to live in accordance with the provisions of this Constitution and delete that aspect.

Again on (f) Hon. Ruzindana was correct when he queried this election to public offices", what type of offices are you talking about? Are you talking about the offices in the state or are you talking about the offices in the organs of the Movement? I submit we are talking about the organs of the Movement. We could then say "the election to the offices of the organs of the Movement shall be based on individual merit." That would make it more clear, Mr. Chairman.

On clause (2), "Parliament may create functional organs under the Movement system and define their roles." It is correct to have these organs of the Movement defined, but there was an issue of saying if some people do not believe in the Movement how will they participate in creating organs of the Movement? But if the Movement is to be of benefit to all Ugandans and Parliament will consist the repre-

looking for? I would like to add that the Movement shall be accountable to the people and transparent at all levels. So, Mr. Chairman, those are my observations and I thank you very much.

MR. BWANIKA BBAALE (Katikamu county): Thank you very much Mr. Chairman. I would like to say that I support the amendment, because it now attempts to answer the question which our colleagues were asking as to what we meant by the Movement in Article 94 which we amended. So this amendment actually tries to explain what Movement we are trying to entrench in the Constitution and the content of the amendment are actually clear.

As Hon. Bateganya has said, my problem again is on this concept 'broad based.' If you say you are going base the RC. 1 and RC. 2 on this concept, then may be you can fail to get somebody who can represent all the other political interests in the area. You can go to an area which is predominantly a DP or UPC area and if you are talking about broad baseness, then you will not find any other person from other groups to represent them at that political level. Therefore, I think that one should be re-examined by ourselves and see how we can really re-define it.

Mr. Chairman, with regard to (f), all offices in the Movement should be occupied by people elected on merit. I think this is the weakness which other people have been citing of the National Resistance Movement, that the people who are occupying some of the offices have not been elected. This amendment, however, is trying to answer that problem that whoever occupies an office should be elected, he should be democratically elected and occupy that office.

Mr. Chairman, let me also take the opportunity to state my position in regard to the Movement. When I came from Katikamu North, my people mandated me to come here and ask for the Movement to be allowed to continue for another five years. It would have been very sad for the people of Katikamu to hear that I did not support this amendment to entrench the Movement for the next five years.

Mr. Chairman, I am happy to say that you gave this debate a very good time to be debated. I mean the Motion of the Movement to be debated for quite some time, and my people only regret that the time you gave to this Assembly to debate the federal issue was not enough because many of us who had views to say about the federal system were not given the opportunity, and we only discussed for only one day. I wish we had time to discuss the federal and put up positions very clear.

Having said that, Mr. Chairman, I would like to say that this amendment is quite clear, and I will request my colleagues to support it. I only regret that our colleagues who have been here to contribute and may be to make contribution on this issue are not here, because this is an arrangement which is going to take care of all the interest of the people of Uganda. I wish to thank you very much, Mr. Chairman.

DR. BYARUHANGA (Kitagwenda County): Thank you Mr. Chairman. The problem we have had, Mr. Chairman, all along was the ceiling which we have had. Some people have had over the last nine years that the Movement was a transitional sort of political arrangement. This came about by the fact that when the NRM Government came into power it said it was going to stay for four years, and thereafter organise democratic general elections but the fact is that whatever these people who brought us to the Movement might have thought at that time and whatever they think now, the Movement no longer belongs to them but now it belong to the people of Uganda.

It is the people of Uganda who shall decide the fate of the Movement, and it is the people of Uganda who also now define the characteristics of this Movement. Now, Mr. Chairman, we as Delegates of these people of Uganda have already said in the Article we passed yesterday, that is Article 94, that the Movement political system can be a permanent system. It can be an alternative political system to the multi-party system and any other system that may come afterwards. Therefore, this amendment to Article 95 is very pertinent because it tries to define what the people of Uganda now mean when they say they want the Movement political system.

The good proposals by Hon. Faith Mwondha have some weaknesses. One, in (a), this broad based politics at all levels. A number of people have already commented on this issue, but do we suppose that political polarisation is permanent in this country? Why should we suppose that we shall always have political polarisation? Why do we

suppose that at all times we shall have different views virtually on every issue that comes up in this country as we have now in 1995? Because this broad-baseness is based on that.

I would have wished the Movers to use probably some easier to define words, like multi-ideological. But then, when I discussed it with one of the Movers he said that multi-ideological was not enough. He was of the view that when we talk of multi-ideological we are talking about the type of politics but with the broad baseness they even include gender and what have you. I, however, think that whoever reads this Constitution later, may get various interpretations from what we meant by broad baseness so, although I do not have the words myself, I wish the Movers came out with a better word to define, or tell us exactly what they mean, as in their minds. Then (d). One thing people have liked about this Movement is the direct democracy, the participation, the direct participation at grass-root level, so when we say that participation in public affairs of Ugandans, affairs of Uganda by all Ugandans, does it really bring out this innovation of the Movement? This innovation of direct democracy at grass-level where you go and decide something without passing through the representative. I thought that probably this one should also come out directly that the Movement political system shall be characterised by direct democratic participation at grass-root level.

Clause (c) as far as I am concerned is useless. Do we expect this Movement to be taken over, to be hijacked by foreigners? I thought that all along in this Constitution we had agreed that at least the politics of this country will be handled by Ugandans. Then (d) talks of being democratic, accountable and transparent. This word democracy is confusing. As you know even among ourselves here as a CA, for example, we have some people who call themselves the National Caucus for Democracy, and some of us charge that those people although they call themselves democrats are not democrats. So, this word should always be used sparingly because I think it is often used just to bluff people, to blind people but it virtually means nothing.

I would have preferred that for example the most important characteristics of democracy are participation, which we have already talked about, representation which is talked about later and accountability which is also taken in (c). So in my view since we have already dealt with participation in (b), in (d) we would only deal with accountability and then later like in (f) we would deal with representation, because this word democracy has been so often abused and it is amorphous and often meaningless.

Then (e) is okay, but (f) as most Members have said, when we refer to public offices in this Constitution we are not referring to the elective offices, we are referring to appointive offices in the public service so it must be re-written. From this, one could interpret it in two ways, one is that the Members were referring to the political offices in the government; another interpretation is that the Members were referring to the offices that are created by their proposal in 95(2).

If the members are referring to the offices in government, I believe that is no longer necessary since all the offices in government are taken care of in other Chapters. If the Members are referring to the offices that are going to be created by (2), the so called functional organs of the Movement, then this (f) or a better written (f) should come as a 2(a) or (b). So it should leave this 95(1) and come to 95(2).

Now, having said that, Mr. Chairman, since I also did not get an opportunity to talk about the Kitagwenda position, about Article 94, I wish to say that the people of Kitagwenda understand what happened on the 26th of January 1986 as a revolution. They did not see it as a coup, they did not see it as an unpopular bunch of small people, but they saw it as culmination of the struggles of the people of Uganda to create democracy in this country.

In fact when I was talking with them they said that they did not even believe that this House even had the mandate to discuss the destruction of the Movement, fortunately when we discussed the fate of the Movement we did not destroy it. We accepted that it can continue according to the wishes of the people, and I believe that the people will use this Movement system for their betterment and for the creation of real democracy in this country. With those few words, Mr. Chairman, I beg to request the Movers of this Motion that they should agree to make a few improvements before we pass it. Thank you.

MR. KASAJJA(Bulamogi County): Thank you very much Mr. Chairman. Mr. Chairman, I support the Motion moved by hon. Faith Mwondha. This Motion conforms with what the committee has recommended on page 33, since on page 33 the committee has already talked about the principles and virtues governing the political parties. It was also imperative that virtues and principles governing the Movement are being incorporated in this Constitution, so that people are aware about what the Movement system of governance is all about.

Mr. Chairman, on page 33, the committee talked about political parties, and specifically the right of political parties to be formed and the right is guaranteed. Then in (b) they have talked about every political party having a national character and membership and should not be based on sex, ethnicity, religion, district or other sectional divisions. So if you go to the Movement political system we are also trying to define the principles which are governing this system.

In (1) where the Mover is talking of broad based politics at all levels, I share the clarifications that have been sought by the Hon. Members that (a) has some inconsistences, because it has that element of forcing say the multi-partyist to work in a Movement, when actually they may not at that particular time be prepared to do so. So, if the Mover is willing to put right some of these inconsistences in such a way that we make smooth this broad base attribute to reflect an element of voluntary action, I think it will be appropriate that anybody at the political level or multi-political level can decide as to whether to work with the Movement or not to. That element should be reflected in this Motion so that there is no element of forcing somebody to work within a system which he does not accept.

Now, on (b) I share the view of most Members who are saying that participation in public affairs of Uganda by all citizens has no question, because we are talking of an all embracing system. Since it is all embracing, somebody accepts voluntarily to work with the Movement. Therefore, this self participation has to be seen to work.

Now, Mr. Chairman, when we go to (c) that the Movement political system shall be under the control of the people of Uganda for their benefit. This one, in my view, is stating the obvious. It is not necessary that we should put this thing there because if people have already accepted to participate in a system, then it means that the system is good for them and it is going to be under their own control. With this, there is no need to mention the obvious. So on that one I will not be willing to endorse its retention of this provision.

Where (d) talks of the Movement being democratic, accountable and transparent, I think I see no inconsistency. What we are trying to do here is to create a system where everybody will be free to come in, and take a decision. So I think democracy here is necessary. Now, some Members have said that the word "democratic" has been interpreted in different arena differently, fine. But if we do take that interpretation then we can also go to the other extreme and say that if we prevent some of these people who have failed to be democratic and at the same time they have let down the Ugandans whom they have poorly represented, because they have come here and done the opposite of what is expected of them, this one would tantamount to saying they are undemocratic. If we interpret it that way then we say that this word "democratic" is not appropriate, I think it is not acceptable.

Interpretations are there, people can interpret any word or situation the way it is, but since this one is internationally recognised that democracy means the rule for the majority of the people, I would appreciate that (d) should be retained to read *"be democratic, accountable to the people and transparent"*. I think this would be favourable.

Now, Mr. Chairman, if you go to (e) which states that all positions of leadership shall be accessible to every citizen of Uganda in accordance with the provision of this Constitution, my only problem here is, I do not know what some of these provisions are. otherwise, I think this one also has no major problem and I would beg Members that we do accept this provision subject to the Mover of the Motion may be clarifying to me what some of these provisions which she is talking about are.

Mr. Chairman, to come back to some of the problems which have been pointed out by Hon. Ruzindana, I do completely agree with him that there is a problem to do with how we are going to define how this Movement is going to function internally as a Movement and how it is going to function as a government. I also see some inconsistences in here because if it is going to be

allowed to stay in the Constitution as I am proposing, we shall need at least an explanation on how that will work, so that there is no inconsistence. This is so, because there can be a situation where if you are going to take a Movement in government, like we have now, with a Secretariat.

Some people may say that the executive at the Secretariat have not been elected democratically. But if we are going to take the government say operating under the Movement and we have accepted to go for general elections, the positions that shall be competed for let me say the electoral positions may not be necessarily the same as those that are going to be at the Secretariat. So here there is going to be a problem as to whether people are going to be allowed to be elected by an individual or by an organisation.

Mr. Chairman, I have a problem here, if there is going to be a secretariat, is that secretariat going to be elected universally by everybody or somebody is going to elect that Movement on his own merit? That is the inconsistence which I am seeing, otherwise I would like to finally say that subject to some of my queries which I have put, it is appropriate and consistent that we accept to put the Movement political system in the Constitution.

By so entrenching it, we shall be doing it in conformity with what the Members of the Committee have done since they have already put something to do with the parties, we should also put something to do with the Movement system. So with that, Mr. Chairman, I would like to support this amendment. Thank you very much.

MR. KASUJJA AZIZ (Presidential Nominee): Thank you Mr. Chairman. Mr. Chairman, I have a problem. Originally 94(2) if it is being transferred to 95, then the meaning is lost completely as it is proposed by the Movers of this current Motion on the Floor. What was intended here as far as I understand, was the enumeration of these principles because the Movement was going to exist in power or government, but the way it is proposed by my Colleagues here in the present Motion is that the Movement can stand alone when it is not in power.

Even the Select Committee Five report starts very well, and then enumerates these characteristics. The original intention of 94(2), was in reference to that period when the Movement political system is in charge of the government of Uganda. So if this one is left out, I do not know how the Movement can stand as it is when it is not in the government. It cannot be under the control of the people of Uganda.

I seek clarification, Mr. Chairman, on why these Movers left out the period when the Movement is in charge before this enumeration, because that is the original intention but otherwise it cannot stand without that clause. When it is not in power how would we control the principles? How would they be implemented? I find it difficult, and require some clarification.

MR. SEBALU (Youth - Central Region): Thank you very much Mr. Chairman. Essentially I do also have a similar problem with Hon. Kasujja as regards the way this amendment is brought forward. Principally it brings me one problem, and it leaves me wondering whether this amendment is addressing the Movement as a political organisation or just as a system just like Hon. Kasujja has said. How are these principles going to apply when the Movement is not in office or when it is not in power?

You find that these are going to be abstract and they cannot be in place as long as the Movement is not in power. Even if we are to go along with them as they are, some of them leave a lot of room for confusion. When you look at (a) broad based politics at all levels; yesterday we already passed the Obiga Kania amendment which gave the Ugandans the right to choose and adopt a political system of their choice through election and referendum. Now, that one already presupposes that Ugandans have a right to choose and if there is choice, you know that there are some who are going to choose that system and some may not choose it.

When you bring in the aspect of broad-baseness, therefore, those who may not be in favour of that system may not be willing to work with that system and as a Constitutional provision becomes a bit tricky to implement. It is the same when you look at participation in public affairs of Ugandans by all Ugandans, I feel this one also needs to be qualified. How do they participate in view of the fact that some may not have chosen that system? So how do you get all Ugandans to participate where you have a situation of some of them not being willing to participate due to the fact that they may have made a different choice?

(c) should be done away with because it is obvious there is no way this Movement can be under the control of some other people other than Ugandans. Sir, I find it superfluous. (d) is quite clear. I agree with (d) as a very clear and straight forward provision that it should be democratic, accountable and transparent. That one is okay but it should also be read in light of the fact that we have those fears like the ones I have articulated.

Now, all positions of leadership shall be accessible, that is (e), to every citizen of Uganda in accordance with the provisions of this Constitution. This one kind of tends to suggest that the Movement system or the Movement is synonymous with the state, because if election to offices is going to be in accordance with the national Constitution, then it brings a problem and I tend to agree with someone who said we should stop at Uganda for clarity and for avoidance of doubt, otherwise if we go beyond and also bring in the aspect of "in accordance to the provisions of this Constitution" then it kind of presupposes that the Movement and the State are one. This needs to be really very clear to our people and I do not think that is the intention of this clause (e).

And (f) stipulates that the election to public offices shall be based on individual merit, the aspect of individual merit is okay and that has always been the main and the stronghold of the Movement in terms of appointments, but when you bring in public offices then you are already bringing a problem so it should be to the organs of the Movement.

Mr. Chairman, I feel we need to address that fundamental question which was read by Hon. Kasujja. I do share similar sentiments so that we come up with provisions which are very clear, because this is already a constitutional matter and must be very clear and our people must understand it properly. I beg the Movers to clear that and we come up with a very clear decision when we know what we are providing for in this Constitution. Thank you Mr. Chairman.

MR. BAGENA (Bufumbira East): Thank you Mr. Chairman. Mr. Chairman, if there is any Movement that Ugandans have tested the fruits of it is the National Resistance Movement. If we are to take it as model for all political systems, Movement system that will deserve the name of Movement which we rightly constitutionalised in Article 94 clause (1), then it is quite in order to highlight some of those attributes that make the Movement system of governance attractive to the people of Uganda.

When I look at the amendment proposed here I must say the Movers have had very good principles to advance and the spirit behind the statements that are in these amendments indeed are something we really want to preserve. After going through the various statements made I am of the view that they have tried to achieve and express a lot in very few words, with a result that in the minds of some people there are doubts as to what exactly is meant by some of these statements.

Take the example of (a) broad based politics at all levels. I know we have had this statement made at rallies and seminars, but when you closely examine what broad base really means, there are questions at how broad someone is supposed to be. I know we have some times substituted it with all embracing, and non-discriminatory.

I do not know whether the Movers, with broad based politics, meant to reflect this all embracing, non-discriminatory politics at all levels. If that is what they meant to me that is more in line with what a common person will understand. That all embracing means that nobody will be discriminated against and will be welcome. Nobody can start calling him or her names for not having been at a particular point in time within the known circles of the Secretariat.

Now, I have no quarrel with (b) but then I have a question on (c) under the control of the people of Uganda for their benefit. What does it mean to be under the control of the people? Which people? What is the extent of the control - the people as such how will they really exercise prerogative? To be democratic, that is (d) I have no quarrel, with being accountable and transparent.

Mr. Chairman, all positions of leadership shall be accessible to every citizen of Uganda. That is a very good attribute which attribute I think if the parties were even to ever hope to come in leadership position in Uganda, they should opt for this attribute. If you stopped at that, you have put in as much as you want because this Constitution is going to cover whether multi-party system, politi-

cal system or Movement political system, all these will be covered under that kind of attribute.

Now, for the elections, to public offices, Mr. Chairman, I would understand civil servants. Stating this one in the Movement political system I think is not necessary, unless what is really meant is political office or an office in the organ of this Movement political system. In summary I would propose to the Movers to probably examine some of these general statements and probably use simpler words which will be more precise and to the point. Thank you Mr. Chairman.

MR. LIIGA (Buvuma Islands): Thank you very much Mr. Chairman. Mr. Chairman, I rise to speak on this Amendment in the following manner. To begin with, I do not know why the Movers of this Motion forgot to arrive at a period during which this type of political system should apply. The formulation of committee 5 in article 95 provides for a period when a political system should apply; say during the period when the Movement political system is in charge. This is also repeated in respect of political parties at page, 33 and that one is clear because it gives us a definite period when the political parties should be in place. I pray that the Movers do take note of that.

Mr. Chairman, on (a) broad-based politics at all levels; I think, I agree with Hon. Ruzindana and a few other speakers that, that one is not good enough. I envisage that during the Movement administration the politics that is going to be engaged in will not be controlled by, or under party control. For that matter, I pray that the Movers do consider adding these two words at the beginning of that clause *'non partisan'* then *'broad-based'* politics at all levels. Mr. Chairman, I make the proposition considering the current administration, Movement type of administration where all sheds of opinion, I think, are accepted and the Movement is all embracing. In that regard, Mr. Chairman, I think that type of system if the people chose should be strictly non-partisan.

Mr. Chairman, I am worried about sub clauses (b) and (c) and each talks about the people of Uganda and the affairs of Uganda. I think we are not making this Constitution for other people except the nationals of this country. Because if you say it shall be under the control of the people of Uganda for their benefit, what exactly are you saying? Do you want people who are not Ugandans to benefit from that control? I think, Mr. Chairman, if again the Movers agree with me (b) and (c) should be deleted. It is just stating the obvious which is not necessary to be restate.

With respect to (d), I think I take it, this is quite okay. But as again we notice from the current administration, the system is not only transparent but it is also tolerant and it is also forgiving. Mr. Chairman, here I will just give two examples. I have not yet seen a system, fellow Delegates, where a minister is dropped and sometime later the same, man is brought back into the system as a minister. I think, among us we have three examples; Hon. Kiyonga is around here, you remember he first held the *purse,* later on he went out and he is now back in full swing; we have Hon. Steven Kavuma, if you remember he first held the purse in custodian board, he went out but he is now back, perhaps, he fits best in the Judiciary. Another such person is Hon. Brig. Moses Ali, this man had even to be charged in court, but after he won he is back in the system, and I am told Hon. Baguma Isoke. You see, that is the type of system which every Ugandan should be proud of, and if it is put in place without any sinister motives, we certainly have a system that is worth supporting.

Mr. Chairman, with respect to (e) and (f) I think, this is just stating an administrative detail which should not be constitutional. The situation has been taken care of under article 101 which provides for Parliament to set out rules and regulations with respect to the whole chapter as we are discussing it. I think, if the Movers agree with me these two provisions should also be dropped.

But before I conclude my remarks, Mr. Chairman, I am a little perturbed about what we shall do with article 94 clause 2, in respect of (c) any other system, because I am not seeing anywhere any Amendments or drafted suggestions as to what would happen if the people of Uganda decide on any other democratic represented political system. I think we should make a provision encompassing that one, so that all the three systems are catered for.

Mr. Chairman, if the Movers agree with me, I would wish they could recast this article 95 in the following terms. During the period when the Movement political system is in charge of the governance of Uganda, the Movement shall con-

form to the following principles; (a) nonpartisan broad-based politics at all levels, and the Movement shall be democratic, accountable and transparent and stop it at that. Mr. Chairman, with those remarks, I wish to generally support the proposed Amendment. Thank you.

MR. MALIRO (Mwenge County North): Thank you Mr. Chairman. Mr. Chairman, I think, I will start by answering some of the questions which people have put in form of clarifications. Hon. Magezi and some others wanted to know what we, actually, mean by broad-base. First of all, I want to inform the Hon. Delegates that the Movement we are looking at is not the same as the National Resistance Movement.

The NRM when it started had an organisation which started all this affairs until it spread to the countryside. This time what we are talking of is a system whereby there is no-party participation; non-partisan, as somebody is putting it. In that system the politics we are talking of is not limited to Parliamentary politics, it is extended right down to the grassroot to the Resistance Committee 1.

We are saying at RC 1 a person whose belief is that UPC should be the best form of political party or DP or whatever, if this person stands and wants to be on the committee, nobody should say no, you do not go to the committee because you prescribe to UPC or to DP. We are talking of a system whereby a person is not barred from being on a council or a committee simply because he is a Protestant or a Catholic and such things, that is what we mean by broad-base. So. the broad-base politics extends right from the grassroot up to national level and extends beyond political parties and goes to religious beliefs and tribal affiliations.

Hon. Magezi wanted to know what would happen if some people who believe in parties refused to participate in this Movement which you are saying is broad-based, to include them without their consent. We are saying, in the Movement political system the multiparties will not be existing as such, there will not be a party called 'x' or 'y' which is operational during the time when the Movement is in operation. For that matter every Ugandan will be a member of the Movement, because there is no specific requirement. You do not need a card, or you do not need to apply to be a member of the Movement. So, that is what we mean by the broad-baseness of the politics of the Movement.

Somebody wanted to know about the accountability. He said why do you say it will be accountable to the people of Uganda. Mr. Chairman, what we had in mind is that we are not talking about accountability in terms of funds. We are saying, Mr. Chairman, that the accountability we are talking of, every person who is in a public office whether political office, shall be answerable to the people at whatever level. Therefore, even the committee at RC 1 is answerable to the council of the village, and that is what we mean by being answerable to the people of Uganda.

Mr. Chairman, there was a pertinent observation in (f) where people said that how can you have people elected to public offices. I think, Mr. Chairman, this was a slip of a pen. It should be election to all political offices, because public offices are supposed to be civic offices and, therefore, usually not elective. Therefore, Mr. Chairman, there I agree with them and I think a correction can simply be made to replace public office by political offices.

Mr. Chairman, Hon. Kasajja Patrick was agreeable to all but then had a problem with this question of the multipartists not accepting to be members of the Movement. That one I have already explained, that there is no membership. Everybody is a member and even if you are not actively participating, you are free and you are accessible to all the benefits of the state. For example, nobody will refuse to appoint you a Permanent Secretary or Minister because you do not prescribe to the Movements system. I want to give you an example, Mr. Chairman, we have got the NRC, not all people who are in the NRC do prescribe to the philosophy of the Movement. I want to also add that even members of the Cabinet, not all of them prescribe to the view or to the philosophy of Movementism, and so are other RC. committees from 5 up to 1.

So, what we are trying to say is that even if you do not think that the Movement is the best type of arrangement for governance. In it, you are still free to participate to get the benefits, unlike in the past when you had multi-partyism where in order to be in a certain office you had to be a member of that party and to bear a card to show that you belong to that party.

Another question, Mr. Chairman, which was posed was on paragraph (c) that how can the Movement be under control of the people of Uganda? Do you

think there will be outsiders who are going to be in charge of Uganda? they continued and then they went on to dismiss the provisal as irrelevant. What we had in mind, Mr. Chairman, is that in the past we have had organisations, which are owned almost by the head who is sometimes a President General of the party and the NEC. Those people are the ones who control the affairs of the country, and then only transmit what should be done to the grassroot. This time we are saying there will not be such an organisation, but the Movement is the system which will be stretching right from national level to village, and it will be under the control of the people of Uganda. It is in compliance with the article in which we have said that the people of Uganda are supreme.

Somebody wondered why we had included the word democratic and accountability and transparency. This is simply for avoidance of doubt, because some people were saying that the Movement is a closed organisation whereby you have got a Secretariat which has never been elected by anybody. Others were saying the Movement is undemocratic. Who elected your President? They would charge. We are saying that the Movement we are entrenching in this Constitution, which is not the NRM, in this case all organs, all officers, all officials of that system will be elected or appointed democratically as provided for in this Constitution.

Then another one was a problem in (e), people kept wondering why we had added "in accordance with the provisions of this Constitution' and querying whether the Movement is part and parcel of the state? Now, Mr. Chairman, we have said we are not going to have a separate Constitution for the Movement system, because a system cannot have a Constitution. If you have got multiparty as a system, you will never have a Constitution for the multi-partyism, you will only have a Constitution for UPC, for DP, for CP, for UPM as political organisations, but not as a system. Therefore, the Movement as a system cannot have a constitution.

We are saying that the difference between the Movement and the State is almost limited or not there, because as long as the Movement is in the hands of all Ugandans and there is no specific group which is claiming to be the owner of the Movement, then you cannot have a separate organisation which is to be answerable. That is why we said that the rules should be those stipulated in this constitution. An Hon. Member wanted to know what the rules are. We have said that for political offices, all positions will be elective, and some are appointive, and where they are appointive we have provided for, where the appointment shall be with approval of Parliament or where the appointment will be with approval of any other organisation, that is what we meant with in accordance with the provisions of this Constitution.

Mr. Chairman, to summarise, I want this House to understand that the Movement we are talking of is a situation whereby you do not have a party operating; where you do not have people saying we belong here or here; where people all belong to one same organisation. I want to inform people that this is not knew. During the colonial time, which I do not think we want to go back to, but it is only a similarity, we never had any political party. We did not have people belonging here and belonging there. Even in America after promulgation of their Constitution, when Washington took over, as the first President, they did not have parties immediately until up to 1860 under Abraham Lincoln when they started the parties. In fact, Abraham Lincoln was the first President elected under the Republic Party. During that period there was governance, that governance was not partisan, and that is the form of government that we are talking of as the Movement which we are entrenching in this Constitution. I thank you Mr. Chairman.

THE CHAIRMAN: I take note that there are still a number of Members who would like to speak on this subject, but I think it will be time if we adjourn for lunch. The Chairman of the Legal and Drafting Committee reported in absence of the Chairman of Committee 5, that on completion of what we have here we would go to the text of committee 5, but at the same time, he pointed out that the next thing that will be considered will be the other side of the coin, that is to say in relation to political parties. Now, some Members were confused but they also wished that they had everything infront of them.

A number of issues have been raised on the Floor, although Hon. Maliro has answered some of them, I do not know whether the Members are fully satisfied that the text is in the form in which it should be. It has been suggested that, maybe, there should be a meeting to take into account some of the issues which have been raised so that we proceed from there.

I would like to suggest that we do it this way. That we allow this afternoon for the various groups, and Members who would like to go and take part in reframing or framing the text in view of the comments that have arisen right from Hon. Ruzindana's contribution, the various Members, the contribution of Hon. Aziz Kasujja as to how it can work; there was a formulation suggested by Hon. Liiga there, and many others. If this be acceptable, I would like to suggest that we use the afternoon for this, so that on Monday we have two things; the text as reformulated in view of the comments if necessary, so that we do have all these ideas coming by way of Amendment.

Then two, for the Chairman committee 5, to make an extraction from his text as to what he thinks would be the other side of the coin, so that when Members are debating they have the two sides playing a fair game rather than appearing to be stressing on the Movement, when in fact, also at the same time they would like to handle the multiparty side as well. That way then we can come back on Monday at 9.30 and proceed in light of all these matters which I have mentioned. Is that acceptable?

That being so, I would like to adjourn to Monday, but I would like to warn you to come on time, we have again relaxed and we are coming late. Do not forget, on Monday, I do not think we shall go for too long on this text. We will have to make a decision and decisions are made when there is a quorum. Therefore, I would like to urge Members to be here early on Monday, so that we start on time and we dispose of these matters then proceed to other matters as we go towards the end of our Constitution making process.

I thank you very much for a very busy week and wish you a good weekend, and I adjourn the Constituent Assembly to Monday morning at 9.30. Thank you. We stand adjourned.

(The Assembly rose and adjourned until Monday 26th June, 1995 at 9.30 a.m)

THE REPUBLIC OF UGANDA

PROCEEDINGS

OF

THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

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MONDAY, 26TH JUNE 1995

MOTION:-
Consideration of the Draft Constitution of the Republic of Uganda [Pg 4982]

Monday, 26th June, 1995

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

NATIONAL ANTHEM

PRAYERS

(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 6

ARTICLE 94 - POLITICAL MOVEMENT SYSTEM

THE DEPUTY CHAIRMAN: Hon. Delegates, before we adjourned on Friday we had referred Article 95 to the Legal and Drafting Committee to synchronise the amendment. As of now I do not have a copy, but I have learnt that Hon. Medi Kaggwa was in the Chair, can you advise us? Yes, Hon. Mwaka, do you have any information on that?

MR. MWAKA DAVID (Nwoya County): Thank you very much Madam Chairperson. I do not have any information on that particular issue but I would like to raise a different issue, Madam Chairperson, with your permission. Madam Chairperson, we have all learnt with deep sorrow and grief about the death of our friend, the late Hon. Moses Kintu and we have been informed that the requiem mass will be taking place at All Saints Church this morning at 11.00 O'clock. I know, Madam Chairperson, many of us would like to attend that mass. I would like to move, therefore, that we adjourn this morning Session to enable us to attend this mass and then we resume this afternoon at 3.00 O'clock. I beg to move, Madam Chairperson.

MR. BAGEYA (Kigulu County North): Madam Chairperson, I was just rising to support the Mover because I am directly concerned over this issue, since he has been my CM. So I rise to support the Motion.

THE DEPUTY CHAIRMAN: Any contrary view?

BRIG. KYALIGONZA (Buhaguzi County): Thank you very much Madam Chairperson. I would not like to appear as if I am a sadist, Madam Chairperson, but I would like to bring to the Hon. House that a lot of happenings have taken place. People are continuing to die unfortunately, but members of the family sometimes are attended to by the members of the family.

It is true Hon. Kintu was a national figure but he is not directly connected to this C.A. business. Those people who would like to go can take leave and go and pray for the soul of our comrade, but it is obviously unreasonable for this House to adjourn for just going to pray, and then stagnate all other business when the dead person is not a member of this House.

PROF. NSIBAMBI (Presidential Nominee): Thank you Madam Chairperson. I think what we need to do is to have a policy, because what has been happening is that whenever a dear and a national figure has died, we have been handling that matter on an adhoc basis. Given our African culture where we commiserate spontaneously with those who have died, it is very difficult to argue that we should continue. It becomes difficult and yet modernity demands that even when people have died sometimes we have to continue with the work and cases have been known where, for example, one missionary, Dr. Billington, lost his father but he first carried out an urgent operation then he went and wept afterwards. That was a sign of modernity because life has to continue.

Given that Uganda has now to embrace the harsh realities of modernity, we may have to distinguish between allowing people to go for the funeral itself as opposed to attending a service. Now that we have not had a clear policy, we may have to grant it this time, that we adjourn and go because we have not had a clear policy, but I would suggest that in view of the fact that there are a lot of deaths taking place and a lot of us will be dying, it is important to ensure that we continue with the demands of completing not only this Constitution but other national assignments and then we weep later on.

I suggest that we discuss it as a policy from today but we grant it this time, because we have been handling it in an adhoc, manner without a systematic approach to that matter and yet it is persistent. I thank you Madam Chairperson.

THE DEPUTY CHAIRMAN: By the way, what is the time for the service?

MR. KARUHANGA (Nyabushozi County): Madam Chairperson, I wish to join others in expressing my deep sorrow and condolence to the bereaved family of the late Hon. Moses Kintu, and to salute his conduct in public affairs with high respect, regard and esteem. Madam Chairperson, having said that, we now address the question of the Constituent Assembly adjournment.

In my view I think this is really in your own discretion. It should come under Rule 45 on matters not provided for in our Rules which would be your own discretion considering the request you have been handed, but as far as we are concerned, I think we should learn to separate institutions and institutional responsibility.

As a Member of NRC I know that Parliament is busy organising to lay his body in state at Parliament and as we talk now the organisation is going on at Parliamentary Chambers. We, however, have to know that the CA is not Parliament and he is a brother from another family, but I think if we have to adjourn we should take into account the fact that our work is scheduled and if we can adjourn and this adjournment is taking into account for the extension of the days we have been statutorily given, that is absolutely in order. If it is cut off that period stipulated, I think the job we have is too enormous. I would really advise that as CA we should express our united condolence, sign a book, send a message, send some Delegates to represent us to the occasion and let the national business continue In the CA.

I am sure that tomorrow, NRC will be opening and probably they will continue inspite of what has happened. As somebody said if we paralyse ourselves in this situation, chances are we may have a very long explanation to give to the people of Uganda about why we did not finish our work in time and I do not know whether they will accept it. So I would advise that we really send a message and Delegation and sign a book and send Mabugo and continue.

MR. NGOBI (Presidential Nominee): Thank you very much, Madam Chairperson. I would like to join those who have expressed grief for the death of our dear friend. I think as Hon. Nsibambi has said, since there has been no policy, it would be proper that we are given opportunity to pay our last respect to this gentleman who has actually served the nation very well indeed. I happen to have known him, even back at home. I know he is a man who is devoted, and I think that much as we would like to complete the work it is also very important that anyone of us if he dies, we should recognise his contribution for this is the base and the only thing that remains to be done for somebody who has been serving the nation.

Even if it means adjourning for one hour or two hours, that will be a sign of recognition of the work that has been done. Now, should it be necessary, as it probably will be, to come out with a policy that is known then that would be okay. I, however, think that for now many of us would like to attend this prayer. We would like to pay our last respects, although Hon. Kintu has not been a member of CA. I know that in spirit and in every way he has been with us and definitely he has made a mark in the contribution and advancement of this nation.

I, therefore, support the view that we should adjourn for a reasonable period in order to show our respect. Thank you.

THE DEPUTY CHAIRMAN: Hon. Delegates, I have been informed by Hon. Karuhanga that there are arrangements to have Hon. Kintu being honoured in Parliament. Is there a law prohibiting the CA Delegates to go and pay their last respect when the honourable is laid in state in Parliament? If not, why do we not kill two birds with one stone. It is open there but then there is no time specified.

Usually when we are meeting here people can walk out spontaneously five minutes and come back. Parliament is just on the other side, that means not clearing the whole House. For example, the Chairman and his Deputy sometimes sit here for nine hours but you have the freedom to march out, come in, as you want. So why do we not strike a compromise and agree that at any one time in a moment one person can go, one by one, pay respect. For the prayers you do not have to be like the Pharisee to show that you have prayed.

As we go, because I will perhaps go at lunch time, we have the whole of lunch time, two hours. We can go, bow and you pray for the man to rest in peace and I think that should be a good compromise. So we agree that as they have arranged another alternative at lunch time we all go, you can even forfeit our meals like the Moslems do and like we do during lent. We sacrifice our lunch time and go to Parliament if he is there, or if you know that they are going at 6.00 or 7.00 p.m. we can adjourn early in the afternoon at around 5.30 p.m. to release more Delegates to go and pay their respect to Hon. Kintu. Thank you very much.

Now, we have committed ourselves to go at lunch time, and if necessary we may adjourn early in the afternoon at around 5.00 or 6.00 p.m. and we go and pay our last respects. I think that chapter is closed. I have already ruled on that one. Hon. Maliro what is the problem?

MR. MALIRO: Madam Chairperson, I was given the responsibility of presenting the recast amendment.

THE DEPUTY CHAIRMAN: Okay, let us see this properly. I do not have the amendment but let us have it properly tabled. Can I have a copy? I do not know how many Members have that re-cast document.

Hon. Delegates, as I had told you earlier, we are on Article 94 (2) as in the Draft, but new Article 95 as will be amended and we had taken this back for synchronisation. I learn that Hon. Maliro was the Chairman of that committee. Now, I call upon Hon. Maliro to introduce the synchronized version.

MR. MALIRO: Thank you, Madam Chairperson. On Friday when we adjourned the people who had moved amendments and those who were interested all came and we converged in Committee Room B and we re-cast the amendments taking in consideration the views which were given on the Floor here.

If I may remind the Delegates of the views which were given on the Floor here, some people had wanted to add the words *"non-partisan"* on l(a) to read *"non-partisan broad based politics at all levels"*. Some other Members had wanted Clause (b) deleted. Others had wanted it re-cast. Some other Members had wanted clause (c) which reads: *"be under the control of the people of Uganda for their benefit"* to be deleted as irrelevant and superfluous. Others had wondered whether in (d) the word *"democratic"* was necessary since it was obvious under the preamble that all political systems would have to be democratic, while some had a problem with (e) about all positions of leadership being accessible to every citizen of Uganda in accordance with the provisions of this Constitution.

Madam Chairperson, when we sat we re-cast and removed some of the anomalies which they did not want, and also retained some which we felt were very necessary. Madam Chairperson, in (a) we maintained that the Movement political system shall conform to the following principles: (a) broad based politics at all levels. We did not add the words "non-partisan" for the reasons I am going to give.

It was agreed that this term is wide enough and includes diversity in political opinions and, therefore, caters for non-partisan. That it also caters for regional, ethnic and religious balance and, therefore, was adequate enough not to need the addition of the word non-partisan which would, perhaps, be misinterpreted to the disadvantage of the Movement. And also Members said that since there is (e) which reads that elections to political office shall be based on individual merit, that this one automatically rules out the question of partisan affiliations so (a) was maintained as broad based politics at all levels.

Sub clause (b), Madam Chairperson, was re-cast to read simply participatory democracy instead of what it was, the original one read "participation in the public affairs of Uganda by all Ugandans". In participatory democracy, Madam Chairperson, it was said that this one denotes participation in all public and social affairs of the country by all citizens regardless of their political, religious or other sectarian affiliations and includes grass-root participation in deciding their own development. So that one came as that.

Madam Chairperson, for (c) which reads: "be democratic, accountable and transparent", Members said this looks obvious. It looks obvious that all political systems will be democratic, accountable and transparent, but then they said since its inclusion does not prejudice the whole affair it was better to maintain this statement for the avoidance of doubt and for purposes of clarity. They said that

may be in a hundred years to come, perhaps there will have been an interlude of multi-partyism and some people who will want to bring back the Movement system may not know what we people sitting in the CA today have in mind, and they may not know how democratic this Movement system is supposed to be.

It is worth remembering that the Movement has been accused by some people of being undemocratic especially when they refer to the Secretariat. They say they do not know who elected the members of the Secretariat, they do not know how they were appointed and things of that nature. So this clause is intended to cure that disease, that feeling that there is an element of undemocratic arrangement in the Movement system. This is for the purposes of the future arrangements for the Movement system.

In (d) which states that "all positions of leadership be accessible to citizens of Uganda in accordance with the provisions of this Constitution" was changed slightly to remove the words "every citizen" and to remove the word "shall" which makes it almost mandatory. Now, in the new formulation it simply states a principle that "no person shall be denied a right to any political or public position for any reason."

"People wanted to know why we added the phrase" in accordance with the provisions of this Constitution". Madam Chairperson, you will remember that when we were dealing with different appointive positions or elective positions we were given certain conditions under which a person can be appointed or elected to a certain office. So we want that in future any person who runs the Movement system must comply with those provisions which we put in the Constitution.

For (e) Madam Chairperson, the only contention were the words "public office" which public office meant civil service. This one has been replaced with "political office" and it now reads "Elections to political offices to be based on individual merits". Madam Chairperson, it was agreed that this last statement is very important and characteristic of the Movement saying that in the past in multi-party or one party systems that used to be, if you were not a member of that party you did not hold a card, you had not paid membership fees, you were not eligible to certain offices whether political or public. But we are saying that with the Movement type of governance there will be no necessity to belong to the Movement.

Every Ugandan belongs to the Movement by virtue of being a Ugandan and, therefore, as long as that person qualifies in other fields to be elected to any position in the Movement political system, then this person will be elected on his or her own personal merits without reference to any partisan arrangements whether political party, religion or tribe.

Those are the amendments we made to the previous amendments circulated. Madam Chairperson, I beg to move.

THE DEPUTY CHAIRMAN: Okay, any comments?

MR. KIRENGA EMMANUEL (Mityana North): Thank you very much Madam Chairperson. My quarrel is not with the contents of this article but in the wording, because in (1) it says "The Movement political system shall conform to the following principles." So we assume that (a), (b), (c), (d) and (e) are principles, but the way they are adopted; for instance, if you take (c) is that really a principle? Is (c) a principle?

I think it is a question of choosing a better word. If you are to say these are principles then they must be principles. If we are describing what the Movement political system should be, if we are just using descriptive words then we can say it shall be democratic and so forth. It is a question actually of choosing the right word. The way it is, may be it can be referred to the technical committee so that if they are principles they must be depicted as principles but not just as descriptive words.

THE DEPUTY CHAIRMAN: Yes, but you have the lee-way to advise. If you have identified that they are not principles then you can give advice.

MR. KIRENGA: For instance, in (c) the principle is democracy I think. Accountability and transparency. If we are to spell it as a principle it must be a noun. Any way, I think the technical committee would do it better, but I am just drawing this attention.

MR. MULASSANYI (Rubanda County West): Thank you Madam Chairperson. I rise to support the Motion on the Floor and I want to start by saying that I do not find the necessity for us to bother ourselves with the creation of the organs of this Movement. As long as we state that the Movement will be democratic in all its operations, the organs will evolve gradually as necessitated by the democratic operations of this Movement.

Madam Chairman, you know that multi-partyism does not have its organs. Individual political parties have organs, but they do not include them in the national Constitution. The Movement is not a party and I do not see why it should bother itself with the formation of these organs.

Madam Chairperson, the duty of Hon. Obiga Kania's Motion which we have endorsed is that it does not tie us to the Movement as we know it now. There is latitude to improve on the Movement, overhaul it or even abandon it for a better Movement that we may find better convincing. So if we form the organs now, it will mean we are fixing ourselves and it may not be possible for us to change for a better future Movement. So it is my belief that organs of the state will always be under the control of anybody in power whether this is a political party or a Movement.

So when in power the organs of the state will be the organs of the Movement. Madam Chairperson, I want to support. Thank you.

MR. KARUHANGA (Nyabushozi County): Thank you, Madam Chairperson. I am sorry I was not able to meet Hon. Faith Mwondha or Gaston Maliro while they were formulating this latest amendment. I only interacted with them in the old one. This one which is a new version I am not conversant with the logic and thinking behind it but I have some problems. Really one problem.

I am very happy first of all with the way it looks now, it is much better than it was before but I still have a problem and I think I should voice it out candidly and honestly so that my mind can rest. Is this Article 95 justiciable? If it is and I think it is, because it says the Movement political system shall conform to the following principles, it means that I can go to court if these principles from (a) to (e) are not fulfilled and challenge the system and I would get my right.

Now, my worry is in (a) broad based politics at all levels. Now, this broad based, is it horizontal basing or is it vertical or is it both? If it is vertical, well, I do not know really what the word "broad" in law means. How has this phenomenon of broad base been finally addressed and what has it been decided to mean in this Constitution making? Are we going to give a definition of broad based in the interpretation rules, or are we going to leave it as a general word with a general meaning in everyday usage as understood in Uganda? If it is to be as understood in Uganda generally, without being limited then I pose the following question or may be a scenario, our brothers in Tanzania have now got, I do not know how many parties. When they opened for parties, I was reading in yesterday's paper, I forget the exact number but it was something like 13 parties in Tanzania. Our brothers in Haiti who have I think roughly a million people have registered 26 parties. In Zaire I am told 104 parties.

If this statement remains in our Constitution it only encourages people to make parties so that they can be broad based, so that they satisfy the meaning of the word broad based, to be accommodated. If you form a party it is one of them and if you are making it broad based as understood generally in Uganda, you get one person from the Conservative Party, one person from UPM, one person from DP, one person from UPC and everybody is happy.

Now, if they are a hundred, everybody will say we go to court and move the Constitutional court which we have now opened for everybody to go to and say, according to Article 95, Clause (1) sub-section (a), I wanted a declaratory statement from this court that my organisation has been discriminated and we have not been considered in the broad based politics at all levels. I would like that declaration and the court should be duty bound to say yes, they make a declaration that you are not broad therefore this government is unconstitutional.

Do we also take into account only the political parties? Supposing we also take into account religion, I am sure that tomorrow or a day after tomorrow there will be another two religions coming in Uganda at the speed at which they are coming in. If we also take that into account, how do we go about that? Then we have these other institutions, the youth, the children, now I have a law for children here, okay the law on children may affect

that but the youth, disabled, my neighbour here, if they are not made ministers they come and seek a declaration that this government is not constitutional.

Honestly I am a believer in NRM policy of broad based politics. I believe that any government which will ever succeed in Uganda will be a government which will accept coalition, which will accept government of national unity, which will be broad based in order for it to succeed and function. What I am worried about is the legal question of "shall".

MR. BIDANDI SSALI (Nakawa Division): Madam Chairperson, I wanted Hon.Karuhanga to try and address the problem differently. He has I think convinced me about the likely legal dilemma, but he also has stated that the present politics has had a principle of broad baseness which he appreciates and recognises as having been one of these good principles. Could he, as a lawyer, now or later try to draft us something to bring out what we want, because I think the Mover is talking about this principle of broad baseness in the sense that we have seen its advantages.

There is also the element of ideological political inclusion. I would like him to address himself not so much as to pointing out to the Floor as far as the law is concerned, but now that he appreciates what the Movers want or wanted or had in mind, -the inclusion of the non-partisan aspect could he come out with a formulation that will be justiciable as he has already pointed out? Thank you Madam Chairperson.

MR. KARUHANGA: Madam Chairperson, I really at the moment only make what I would call a tentative proposal coming out of my mind, just off cuff and it is unfortunate that I had arranged to meet the Movers for discussion on Friday and I was not able to be around. But my fear about the justiciability of this problem is that if we say broad based politics at all levels, actually what we mean, the way I understand the Movement to be is that it is a non-partisan system. That the government shall be non-partisan. The politics will be non-partisan politics based on individual merits. That is, I think, what is really meant by broad based politics.

If we can marry broad baseness with words that give it form and make its contents understandable to judges and spell out the meaning of the Movement and use the word "endeavour" because if we do not use the word "endeavour", if we just say "shall" it makes perception difficult. I think as a principle it is very important that the Movement leadership shall endeavour to make sure that we are broad based in the sense of being non-partisan and stressing the individual merits of the participators, since (b) solves our problem of broad baseness in the sense that it says it is participatory democracy, meaning it is the type of democracy that is going to be allowing every Ugandan to participate equally. It is the merit which will bring the difference.

I would ask the Movers to see whether they can accommodate my fears, otherwise I support this Motion. I am very happy the way it has finally come out, I am very pleased with that. I would like this question of broad baseness cleared and I am appealing to the lawyers in this House really to see whether I am making a point or not. Thank you.

DR. MAGEZI (Jinja Municipality East): Thank you Madam Chairperson. Madam Chairperson, I think I will take off where Hon. Karuhanga has stopped, because I think the issue at hand is if you talk about broad based politics at all levels, who are the actors in the broad based politics. This to me means that the political actors have to come together with various political forces, and these are groupings or parties then they agree that we shall make a broad based government for that matter.

Now, when you say that the Movement political system shall conform to the following, you are expecting that the political actors of the day will agree to come together and form a broad based system. Whereas I see in the Movement it is the individual who says I agree to go and work not a group, not a party because it is only such individuals who can commit themselves. To avoid conflicts, I think as Hon. Karuhanga has said, this element of (b) which is participatory encompasses the individuals coming together at all levels and participating in the democracy of the day. It is not enforceable that you can say we are going to have a broad based government because we have seen it has happened now.

Some people have said, no we do not agree, we are walking out. We cannot now continue saying that we are going to have broad based politics whereas if it is participatory, I think, that is by people coming forward in their individual status and coming in, it

could be more understandable. But the problems I heard on Friday I think are still being evident here in that even here, except for (a), I can see that (b), (c), (d) and (e) are all applicable to a political party.

I think we really must be able to say that whereas these apply to Political party system too, the Movement system is like this, for avoidance of doubt. I think if we do not come out with a clear difference between the Movement and the political party, people will continue confusing multi-party system and the Movement system of governance. We must be able to say here - even a political party cannot say that it is broad based so that is one key area. But on the other hand, we are saying it is not very easy to force it to say that this Movement is broad based because the actors will say no, we are not part of you.

So I am calling on the Think Tank, this is a concept issue now, I am finding it a problem to say that this can define a Movement to me, it does not because in my UPC I believe in participatory democracy. I want it to be democratic, I want all positions to be to citizens of Uganda who feel like I feel that we should belong to UPC and I want elections to political offices based on individual merits. So there is no litmus test here to distinguish between a Movement and a Political Party.

In what we have said these are the principles so we need to go back to the drawing board to avoid ambiguity and be able to say no this is not a party for these reasons. One of the attributes I see is that the Movement has a branch at every village in Uganda, the structure of the Movement is such that every village in Uganda has an RC.1. there is no political party to date or even in the history which had its branch at every village. You could find that they are only in some areas and our failure to clearly distinguish between the Movement's type of organisation and the multi-party type of system is going to lead us to the need of a lot of answers to be provided and I also still wish to say that we are going to repeat this No.1 here to 97 but we must say notwithstanding what we have said, the Movement is this, which is the real test that this is what defines the Movement system and one of the issues in the Movement is individual merits and it is non-partisan or it is a no party system, therefore, it has no ideological framework.

The ideology comes when the Movement supporters come together and they say now for the next position this is what we are taking. It will not have an ideology which is going to run from year to year, and there must be something very basic, this is what must come out of this. Otherwise we are likely to have a lot of conflicts. I thank you Madam Chairperson.

DR. MUGYENYI (Isingiro North): Thank you, Madam Chairperson. First of all, I want to commend this good spirit which is emerging in the CA of cosponsoring Motions with Ssemogerere and Cecilia Ogwal and Gaston Maliro. I think it is a good system which we should encourage.

However, madam Chairperson, I stand to support the Motion which Hon. Gaston Maliro and Hon. Faith Mwondha are moving. First of all, this Motion has evolved over a time and I think this is may be the tenth version which Members should appreciate that a lot of work has gone into this Motion. As the Mover has said, those who had interest gathered on Friday and tried to look at the Motion and I think this is a product of many thoughts. At first, the Movement political system was looked at as a transitional arrangement since some of our Colleagues believed so and still do even now, but most of us believe that it is an alternative system. That is why these principles are applying in general, although at first time people believed that we could spell out Movement political system, principles that can apply when it is in governance.

I am happy that this Motion is not having anything to do with governance meaning that this system can apply when it is in governance and even when it is not in governance making it purely alternative. And, Madam Chairperson, this Constitution we are making can be used by other countries as a text of reference and our system if it works very well here it can be copied and applied in other countries. So I am very happy with that one that it enshrines principles which are general and which can apply even when the system is not in governance.

I also want to talk about sub Clause (b), 1 (b), which is in a way trying to open up the Movement. You do remember Hon. Delegates that during the general debate there was a general complaint that the Movement although we support it, it is a closed system and many questions were raised as to how one can ascend to the chair of the Movement, how one can be the National Political Commissar, how

one can be the Administrative Secretary etc. Sub clause l(b) here is trying to answer those questions and say that all positions of leadership shall be accessible to all Ugandans in accordance with the provisions of this Constitution. I think that is also a very good clause since it is answering many queries that have been put against the Movement and it should be supported very strongly.

Clause (e) also is so good in that it is making a contrast with the multi-party system, whereby in a multi-party system people vote representatives on the merit of the group, on the merit of the policies of a particular party but this one is actually saying that people can only vote you when they know you are capable as an individual. His Excellency the President has always, and I think he said when he was opening the last NRC session, talked about leaders who should be community leaders and if one is standing on the merit of him as a person the population, the electorate, can judge him whether he himself or herself can be a good community leader. If it is a group merit say voting on the merits of the policies or a manifesto of the party, whether somebody is good as long as he has been accepted by the National Executive or the powers that may be, then the electorate who believe in that particular party have got to elect him. Therefore, (e) is also bringing up a very important principle which is peculiar with the Movement system and not with the other multi-party system.

I think it is good that somebody should be judged whether he himself or herself can deliver rather than judging the manifesto of a particular party. However, Madam Chairperson, although I participated in re-framing of this amendment after Friday when we talked about this amendment I have been approached personally by many people who have given me some questions on the second clause and some of the questions I failed to answer. I would want lawyers here to look at it.

The second clause says Parliament may create functional organs under the Movement system and define their roles. This is very fine when the Movement is governing but we are saying the Movement is an alternative system in which case it can exist even when it is not governing. So the question some of my Colleagues posed was, if these organs are created by the parliament then they are statutory organs and if these are statutory organs, what happens to these organs when the Movement is not governing? I would want the Movers to look at it on that side.

If the Movement is governing that is fine, it is understandable, but when it is not governing then these statutory organs, take an example of NRM Secretariat, if it is created by Parliament all its departments and directorates are created by Parliament and their roles clearly defined by a statute. Now, when the multi-party system is governing this system, the Movement system is not governing. What happens to these statutory organs? Do they still claim official responsibility or not. So I want the movers to look at that point also before we can pass it, because we may pass it and then such questions arise later and I think it is very paramount that we look at some of these questions before we can pass this important Motion.

I, however, urge Hon. Delegates to support this Motion because it has evolved after a very long discussion and it has been refined and I think generally it is a good amendment except for my purpose on Clause 2. If a proviso can be made to cater for these organs, what happens to them when the Movement is not in governance. I thank you.

MR. WAGIRA (Kibuku County): I thank you, Madam Chairperson. Madam Chairperson, you will remember that so far we have entrenched two systems and also made room for any other, that may evolve in the course of time. What we are doing in part, Madam Chairperson, including what the spirit behind this amendment is all about, is to spell out some basics which these systems which we have entrenched in the Constitution should actually conform to. The amendment, Madam Chairperson, is meant to perfect one of the systems and I am sure in the course of the debate we shall also be spelling out basic principles on which the other alternative systems could also be based.

This amendment is also meant to answer some of the sentiments which were being expressed about the system. Very many Delegates as it has been pointed out were expressing reservations about the Movement. Some were saying it is actually a one party state under the guise of the Movement and here they were citing as evidence that it is undemocratic, not accountable and transparent. They were saying some positions of the Movement are closed to an exclusive group and there is no room or no avenue through which another or any Ugandan

who is not part of that exclusive group can ascend to some offices of this Movement.

Madam Chairperson, when we say that the Movement shall be broad-based and shall practice broad-based politics at all levels, in my view, it means, for example, that somebody can come and participate as a Councillor at the lowest level possible, the grassroot level, RC 1 structure, we want somebody to come in and participate as a councillor in that RC without being hindered because he believes in a certain political opinion, like the RC structures that we have now. You find people who are UPCs, people who are DPs, people who do not believe in politics of multi-partyism, they are all there on the council, settling and making proposals as to how they can develop their community.

Some fears were expressed about this word 'broad-based' some were saying now on what criteria is this broad-based, how do you base it? I believe the Movement system of government that we are trying to talk about here is one which is multi-ideological. The spirit behind this is broad-baseness, a principle that should be entrenched in the Constitution, for its inclusive system of governance, where somebody is not locked out in the management of the affairs of this state.

This is where I would like to echo what Hon. Bidandi Ssali said, that if we are all agreeing that this is a culture in our politics that should be promoted, and yet there are those legal reservations that are being expressed, I would suggest that we pass the principle the way it is. Our intention is to entrench this culture in our politics; the politics of inclusion, the politics of non-discrimination, and then we also by way of side notes, instruct the Technical Committee to have this kind of provision within one of the best principles which the Movement should conform. It should at the same time take care of the fears which were being expressed by some Members here.

There is also that question as to what happens to the functional organs of the Movement, if it is Parliament that is supposed to spell them out, at the time when the Movement is not in governance. Madam, I would like to say that we shall in the course of time be getting to that part. We should cross that bridge when we reach it by, actually, spelling out what happens to this particular system of governance when it is not in power. What is intended here is, actually, to spell out that unique character which makes a Movement far above a political party.

We did agree that when you spell out the functions of the Movement in a Constitution you are, making a Movement a kind of political party as such. That is why we say the people of Uganda themselves through their elected representatives can, actually, go ahead and spell out the kind of structure that they want this Movement to be in light of the prevailing circumstances. They should, however, leave room for them to adjust structures and organs of this Movement to conform to the prevailing circumstances of the day.

So, Madam, while I wind up, I would like to implore Hon. Delegates to, consider this amendment in the positive. It is, actually, one of the amendments in the Constitution which is helping us, through ourselves as the elected Delegates, to tame one of the political systems which is going to take charge of the affairs of this country.

The issue of political system has been so central in determining the politics of this country, and it is important that, actually, this Assembly goes out to mention some basics from which Ugandans should choose, and to which the systems shall conform. Madam, I beg to support this Amendment and implore Hon. Delegates to pass this Amendment without much ado. Thank you.

MR. LUBULWA MIGADDE (Katikamu South): Thank you Madam Chairperson. I also rise to support this Motion. I want to make just a few comments, especially, on the points raised by Hon. Karuhanga on l(a). According to Hon. Karuhanga l(a), he was saying that he has got a problem if it is going to be justiciable, as the lawyers say, in the sense that when you talk about the broad baseness of this amendment it becomes a problem. He cited instances when you have got so many parties in a country. But, Madam, as we have been talking about this Movement all along, the idea in l(a) is that we are trying to stress the fact that the Movement is multi-ideological. I think, this is the point.

Maybe, it did not come out very clearly in l(a) when we said that the Movement will practice broad-based politics, but I think, the point we need to stress here is that it is multi-ideology in that the Movement will accommodate all people. The people do not have to lose their identity, as far as multiparties

are concerned but they can come and work together for purposes of forging forward for the development of this country. I think, there might be need to improve on l(a) before we pass this Motion, so that the meaning comes out clearly. If we do not do that, we shall have to go back and define what we mean by the broad-base in the Movement system. Otherwise, Madam, I for one support this Motion that we should have the principles spelt out in the Constitution as laid down in this Amendment, except that we need to be clear on exactly what we mean by that word 'broad-baseness of the Movement.' As far as I am concerned, it means multi-ideology, that everybody is supposed to come as he is. In fact, I am not a Christian, I am a Moslem, but I hear Jesus said you come as you are and we work together. So, I think, the Movement is telling Ugandans that come as you are. You are DP you come; if you are UPC you come; if you are no-party you come, let us put our heads together and forge forward to see this country in development.

It is all embracing, it is all inclusive, as opposed to the argument that when we talk of broad-baseness we mean that when a Movement government is formed it must consist of all parties, and that by necessity, they must be included. This is how I understand this l(a) Madam. We, however, need to put a definition of what we mean by this broad-baseness. Thank you Madam Chairperson.

MR. HASHAKA: Point of clarification. Thank you Madam Chairperson. I would like to get clarification from the Movers of this Motion, especially, on (d) all positions of leadership to be accessible to citizens of Uganda in accordance with the provisions of this Constitution'. It is a good provision, but I would like to know who the auditors will be to determine and inform the country that all positions have been accessed to all citizens, perhaps, equally.

The reason I am saying this, Madam, is that during Amin's time even, those who were sweepers became managers. During Obote II, all positions were held by his tribesman. There is an accusation that during this time all positions are held by Westerners. I want to find out who would be auditor during this broad-based system, to inform the country that all positions of leadership have been accessible to all citizens equally to avoid all these counter-accusations. I want to get this clarification. Thank you Madam Chairperson.

MR. DIDI AGARD (Moyo West County): Thank you Chairperson. I also want to support this Amendment, but I wish to propose to the Movers some slight variation. I was not here on Friday to have made my input. My input is that, Madam, before you spell out this conformity guidelines, having passed Obiga Kania's 94, I believe there is a need for us to link subsequent provisions with import of what is contained in 94 having provided that the political systems shall include Movement and multiparty. It is known that multiparty organisations are exclusive, they provide for their own method of electing their leaders, and in the event that any one of them wins it is a winner take all.

Ugandans told the Odoki Commission that the experience they have had under the NRM is better and that they want this type of system. Now, this is an opportunity to be a little bit clearer about what the Movement people want is. Even if it means an improvement of what they have seen, although the Movement, as we have seen may not be very perfect in all respects. The essential is that it has tried to provide what everybody has agreed is multi-ideological but inclusive.

These are, I think, two guiding words, because multi-ideological refers to political formation. You will find Hon. Nekyon is able to tell you here that the C.A. elections were the most corrupt, he does not tell you that the 1980 election which he does not blame saw him running to exile. This one which he says was corrupt has brought him to this House. So, even if he disagrees with other people his right to be elected is what must be guaranteed.

I prefer the word 'inclusive' as opposed to broad-based to avoid the confusion of broad-based governments being broad-based of political parties. The history of Uganda has seen intolerance of tribal or religious groups. We have now seen some attempts to correct this to say that the best way forward in order to promote national reconciliation and tolerance, and to ensure that we all share the national cake let us try to be as inclusive as possible. Inclusive would be referring to our diversities which today are more geographical and tribal.
If the Movers agree, I think the way forward should have been to say, the Movement political system. I do not mind whether this is provided for here or in the interpretations, but it is clear to say that the Movement political system is multi-ideological and inclusive. Once you have stipulated this con-

formity, principles as Hon. Magezi did say could even apply to a political system. You would like any political system to be participatory, to be democratic, to be accountable! The essential, therefore, would be an attempt to describe what the Movement is, because subsequently you are going to talk to the other multiparty political systems. We want to concentrate in saying that the Movement is multi-ideological and inclusive.

The reason we said Parliament can legislate is because that is the only representative body to bring out the inclusiveness. So, with regard to things like the Secretariat, why do you not give that responsibility to our elective representatives, rather than haggling over who should elect here or there.

Finally, having passed the provision for a President to be elected by national adult suffrage, we are almost giving the first principle of a Movement so that whoever is to aspire for the highest office must indeed put his own character on the line. He should not hide under a party. So, essentially, what the Movement is upto is that type of politics whether at the top level or at the district level, as much as possible trying to bring out the character of the individuals. This is the essential take off of Movement politics, so that even if it is not what has been known, it is the lessons, from what we have experienced, that Ugandans expect this august Assembly to come out with clearer guidelines of the Movement they want. I thank you.

MISS. NABAFU (Women- Mbale): I thank you Madam Chairperson. I stand in strong support of this article 95 as proposed and moved by Hon. Faith Mwondha and Gaston Maliro. I do not agree, first of all, with Hon. Dr. Mugyenyi who compared the Movers of this Motion to Hon. Member for Lira and Hon. Ssemogerere. They are far apart, and I disassociate myself from that kind of analogy, because Hon. Faith Mwondha and Gaston Maliro are in the same camp but the other people are not in the same camp.

Madam Chairperson, Hon. Delegates, I support this Motion because in my general contribution to the general debate at the beginning of this Assembly, I was one of the people who were very concerned about the broad-baseness of the Movement political system. I want to thank God that finally we are debating, and most of the Members are accepting the fact that we need inclusiveness and to be clear that it is multi-ideological in its nature. Our people, particularly, the people of Mbale are ever keen to hear these very clearly articulated principles enshrined under the Movement political system.

I believe that as they have always desired to support the Movement political system, they will support it even stronger now that we are going to very clearly in a way mention these principles. I see that the principle of broad-based politics at all levels is going to be taken care of by (a) which says election to political office will be based on individual merit. In that case, Madam, we shall see very good leaders coming up to be elected on their individual merit, as opposed to a situation where the people of Mbale and most of the people of Uganda have often seen, candidates being fielded by secretariats or political houses just because they are wearing certain colours or singing certain slogans.

It is high time that the people of Uganda, and particularly the people of my district see people coming up to stand as individuals judged by their good hearts and good ideas, not necessarily because they are wearing certain colours. I think the people of my district, especially, are tired of this kind of election. Therefore, elections to political offices based on individual merit is very welcome to me and my people. This will reduce on the frustration that people receive after electing certain individuals who turn around to be wolves, because they say they have many times seen wolves clothed in sheep clothing coming to be elected.

Madam Chairperson, broad-baseness will also serve to bring about the issue of gender balance and, at least, I see that many ideas will be borrowed from different manifestos and from all sorts of ideologies. We shall borrow good ideas as long as they can work in this nation. That is a very welcome venture and I think, that the Movement political system will be rich in ideas, because it has allowed broad-baseness. It will also be a system that will bring about unity. When it is broad-based we have unity, like we have already seen in the nation. There is a lot of unity; there is fast development, and fast advancement because so many people of all walks of life, of all abilities have been brought together and there is no monopoly.

Of course, many Delegates have contributed towards the participatory democracy cause and I

want to add my voice to the support, because there are certain people who have even found themselves in the CA or even in RC positions, simply because the Movement political system has offered participatory democracy. We know very well that in the past, political institutions have been nominating people and you find that time and again the same faces will always surface to participate in elections as candidates. When you offer participatory democracy, then anybody who is able, who has the capability is allowed to surface in this kind of democracy as a leader.

To be democratic, accountable and transparent are yet other principles which the people of Uganda have been looking forward to having in any political system clearly spelt out. This will help us win a lot of admiration and respect from the people of this nation and even internationally, because there are many countries where people do not know what is going on. In some countries, nobody is accountable to the voters and there is hardly any transparency. Accountability and transparency, will go a long way in giving stability to this nation because everything will be clear.

We have already passed the article and the chapter on leadership code of conduct, and people have been asking us how will this work, how are we sure it is going to work? But when we come to a political system that is going to rule or lead a nation for a number of years, and we have already passed the leadership code of conduct, then we can be pretty sure that when we are electing our leaders, the people are going to follow the leadership code of conduct as guidelines in singling out certain leaders. They are, therefore, bound to get leaders who are accountable to them and who are going to be transparent, because the leadership code of conduct will be in operation.

This will also help to put such leaders on their toes to perform as people expect them. I am really excited about this Motion, because I am one of those people. I may not end up as a leader tomorrow, but even then when I cast a vote as a mere voter I would like to see a leader who is on her toes to satisfy my aspiration as a voter. If I put myself in the shoes of the voters, or the electorate, I think God is answering their prayer.

When we come to Parliament creating functional organs under the Movement system and defining their roles, Madam Chairperson, I see that the Parliament will take care of who acts in what organ. The Hon. Delegate who went out asked of who is going to be the auditor of who is to sit where? When we have an elected Parliament we can trust these representatives to put forward certain ideas which will control who acts in which organ under a given political system. We can, therefore, be sure of the inclusiveness that Hon. Didi has been emphasising. He can be sure that everybody will be taken care of because the representatives will be there to articulate the expectations of the people from all corners of Uganda. I want to thank you and I want to stand in full support of this Motion.

MISS. BYANYIMA (Mbarara Municipality): Thank you Madam Chairperson. Madam, I too support the spirit of this Motion. In as much as it is an attempt to describe the Movement political system in the Constitution, I would like to support it. Madam, I was also one of those people who in the general debate asked that we define the Movement political system. Of course, there was a structure which came but which I did not support, because my idea of the Movement political system was that the Movement really embodies a set of ideas, or principles which permeate and are reflected through the existing organs of state.

It is really a set of ideas that we have come to believe in, as a result of our history. Ideas that we have come to be committed to, and that we effect through the existing organs of state, the Parliament, the Executive, the Judiciary, the Army and so on. I had not supported the structure, but I am happy that the principles here are those that our people have come to identify with the Movement.

Having said that, when I come to this amendment I too have similar reservations as has been expressed before. I will not repeat some of them, except to say that it will help us very much, like Hon. Karuhanga has said to use the word 'endeavour.' If the Movement is an embodiment of ideals and principles that we want to see effected through some organs, (I will come to the organs later) then let us talk about endeavouring to achieve them. I think that may get us out of the legal complications of conformity.

Then coming to broad-based politics. I think we use this word 'broad-based' very often but it is really a political word which is difficult to capture in legal

terms. I would go along with those who want to use the word inclusive, and I think, multi-ideological would leave out a lot. In broad-based politics, we are even talking about accommodation of inclusion of ethnicities, of diverse regions; of categories of people, women, youth, disabled. We are talking more about inclusion of all shades of opinion, that is ideas, but also categories of people, including as I have said, the Christian religion.

I would, therefore, like to use the word 'inclusive' and maybe, also add the word broad-based, if you want to include it, although I think it may not have a lot of import in legal terms. We should also include the words 'none partisan.' It is important because it is really stating that there are political parties, but they are not a consideration in playing Movement politics. During Movement politics, political party affiliation is not a main consideration. So, the word non-partisan, I think, should feature somewhere.

Coming to (b) (c) and (d) participatory democracy, to be democratic, accountable, transparent; accessibility to positions of leadership... I think that these are general principles of democracy and as such will apply to any system that Ugandans may adopt. Do not forget that we have said in Obiga Kania Amendment that Ugandans may adopt either of these two systems or any other that is democratic. Now, I think that these principles (b) (c) and (d) apply to any system that Ugandans may ever want to have, and as such, I request that we put them somewhere else, where we are defining democratic ideals, rather than to put them here as a feature of Movement politics. Sub clauses (b) (c) and (d), in my opinion, should be general principles of democracy. They should be moved somewhere else, though I feel I agree with them.

Sub clause (e), is vague because when you say elections to political office based on individual merit, and you do not add non-partisan or disallowing party platform in elections, you remain vague. Even political parties will say that they choose people on individual merit. I think, we could clarify this by adding that election to political office be based on individual merit and not on party platforms; or words to that effect, to show clearly that what we are disallowing are party platforms in elections.

Coming to 2, functional organs, I think, we are being verbose here. I need clarification on what we mean by functional organs. I thought organs were supposed to have functions anyway, why do we not just say organs. Parliament will create organs under the Movement system and define their roles. Having said that, I think that the question that Hon. Mugyenyi pointed out here or raised that what do we do when the Movement is not in governance, is really a non-question because we have said that the Movement is a system of governance.

When it is not in governance, then it is not there because we have already debated and said the Movement is not an organisation! Personally, I think it should be, but we have said that it is not. We have said it is a system of governance. So, when it is not there, and there is another system then you do not raise the question of what happens when it is not there. It is not there! I think, it is a conceptual matter that we should set out now.

We are talking about the Movement as a system of governance, and we prescribe it as such and do not bother ourselves with questions of what happens to it when it is not. So, 2, I think is appropriate. We can leave it there, but I think we should delete the word *functional* and say Parliament may create organs, or even other organs because for me I believe that the Parliament, the Judiciary, the Executive are all organs of the Movement. That is my understanding of Movement. But there can be other organs under the Movement system created and defined by Parliament. That is how I would see that.

Lastly, therefore, I would suggest that we retain two main principles of the Movement system; the (a) which is broad-based politics, but let us include words like *inclusive* like *non-partisan* and use the word *endeavour*, and then (e) which talks about elections to political offices under a Movement system.

As for (b)(c) and (d), I think they are very appropriate but they should apply to all systems of governance. Thank you Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Delegates, we have done some debate, and there is, actually, an emerging consensus and spirit that something must be replaced with regard to the principles under which the Movement system will operate. Two, there is also some emerging similarity in the way the debate is going on. So, I want to request one of the Movers, Hon. Mwondha to answer some of

those queries which have been raised. Then after that I propose that we go systematically and clear one by one, because the thing, actually, is generating back to a general debate.

So, let her answer, then we shall go to 1 and see what will do; and that point is when I shall allow specific amendments or Motion to amend either (a), (b) so that we move systematically, and that is when I will come to Hon. Karuhanga. Hon. Didi Agard, has another Amendment. But let us hear an answer from Hon. Faith Mwondha. But before you come in, I think, Hon. Mugyenyi says he has an apology, I think I should allow him to give the apology.

DR. MUGYENYI: Thank you Madam Chairperson. Madam, it is not an apology but a correction of the mind. I definitely was misquoted by Hon. Nabafu and he got it quite wrong. I was meaning gender balancing, and definitely it would be in order to say that Hon. Nabafu is six feet and Hon. Cecilia Ogwal is six feet, although they may have different political ideologies!

So, I definitely meant gender balancing which I think everybody here should have no quarrel with. Otherwise, if it was taken in bad faith, I think, I do apologise to Hon. Faith Mwondha, and Hon. Gaston Maliro. I thank you.

MRS. MWONDHA (Women - Jinja): Thank you Madam Chairperson. I think I have four queries on which to give some information or clarification. Madam, Hon. Karuhanga was raising a question of enforceability of these provisions in the Motion which we are trying to debate. But, Madam, in my opinion I feel that the question of enforceability, actually, cannot arise. It cannot arise because these are principles. These are principles which we are trying to put in place to guide the Movement political system when time comes for it to be in governance.

When we talk about democratic broad-baseness and adding it to the query by Hon. Hashaka of who will be the auditor, in my opinion, I feel the question of auditor should not arise at this point. As I have already said, these are principles and at an appropriate time laws are going to be put in place. If it is time for elections, electoral laws are going to be put in place by Parliament in accordance with these provisions or principles. Now, if these electoral laws go against the rights of a particular individual, then one can petition depending on those principles from which these laws have been derived. The ones the electoral law will have deviated from.

When it comes to asking who the auditor will be, although I had said that it should not arise, in this circumstance, I think, it should be the people who will be the auditors. It will be them to complain that the electoral laws are not complying to the principles as embodied in the Constitution.

Hon. Mugyenyi raid a question that he has been approached by many people asking him what would happen when the Movement political system is not governing, and yet we have given a go-ahead for Parliament to create functional organs under the Movement political system. But this is a very straight forward and simple question. In fact, it was one of the reasons why we decided that instead of enshrining the organs in the Constitution, we make provision for parliament to create them, because it is very easy to amend a law or a Statute made by Parliament. It is more cumbersome to amend a Constitution, and that is one of the reasons.

The Movement political system is dynamic, and if it is dynamic then there is more room for Parliament to change the functional organs depending on its dynamism. The simple answer I give to this query is that, after the Parliament has created functional organs under the Movement political system, and then the people whom we have said are sovereign have decided to say they do not want to be in the Movement political system, then certainly those organs cannot be functional anymore. Even then, the Parliament being the supreme legislative body of the country, will have to repeal those laws since they will not be effective anymore.

I do not think that should raise a problem or a mountain in somebody's mind to fear what would happen to these statutory organs which will have been created by Parliament. The Parliament is the supreme legislative body and, therefore, if the people have chosen another political system other than the Movement, then the statutes creating the functional organs would have to be repealed.

Madam, Hon. Delegates have raised a lot of queries on this concept of broad-baseness, or broad-based politics at all levels. According to some of the Hon. Delegates, and the one whom I heard very clearly was Hon. Magezi, he understands broad-baseness

as a system in which political groups can be accommodated, maybe, to form a government and rest of it. Madam Chairperson, I wish to submit that I think this is the beginning of a misconception of broad-based politics at all levels within the context of Movement political system.

I think when we are debating this Motion they should bear in mind that these are principles which are supposed to guide the Movement political system when it is in governance, because we have already entrenched the two specific political systems in the Constitution. I do not think that Hon. Magezi, as he said that in his UPC, wants to compel us also to understand it in the way the UPCs understand it. This is Movement political system, and Movement political system is quite different from a political organisation which is UPC. Therefore, let us get matters very clearly right from our minds that we are talking about broad baseness in Movement political system.

What does broad-base politics mean in the Movement political system? Madam I wish also to contend that in a Movement political system the politics which is played there is inclusive, it is multi-ideological and it is, actually, a system which makes strategies for sustenance or achieving democracy with minimum division. It is all inclusive, it includes everybody, whether you are in UPC, whether you are in DP, whether you are in CP, mention it. So, this business of saying that it is as far as other people understand it they consider it to mean the bringing together of different political groups to form a government for governance, I do not submit to that, Madam.

I think here, Hon. Magezi tended to confuse it with a front, because usually in fronts, different political groups with different political ideologies come together to form a coalition government. This is different from a front, so, I do not think that we should get that misconception to impose it on a Movement political system.

Madam, when we talk about participatory democracy, this is all broad-based politics is about. It is all inclusive, and to me I do not see anything which really jeopardises the other. We cannot go ahead to define what broad-based politics means in a principle, otherwise, we will have failed to understand what we are doing! Maybe, to react to the query by Hon. Byanyima where she said that why do we not leave out the word *functional organs,* I think the word *function* is very important because there are functional organs and many functional organs. Since we are in a broad-based politics which is all inclusive, I do not see any harm in leaving functional organs there. Thank you very much Madam Chairperson.

THE DEPUTY CHAIRMAN: Okay, Hon. Delegates, I have here quite a number of Amendments. I propose that rather than asking individual Members to move, we can be attentive and I read them out, and as I read them each Mover of an Amendment would see where a compromise can be struck.

Hon. Didi Agard has an Amendment on 95.1, he is combining the small preamble on 1. with some other aspects. He is saying that the Movement political system shall be multi-ideological and inclusive and shall conform to the following principles. Now, somebody else had put in another aspect of endeavour and which case if you include the word endeavour it would read that "the Movement political system shall be multi-ideological and inclusive and shall endeavour to conform to the following principles;" Then somebody else included non-partisan and it would read that "the Movement political system shall be multi-ideological, non-partisan, inclusive and shall endeavour to conform to the following principles." That is as far as Didi is concerned.

Now, Hon. Kweronda Ruhemba and Hon. Kutesa are saying we leave 1, as it is that the Movement political system shall conform to the following principles, but I also think that they would agree that we could insert the word that the Movement political system shall endeavour to conform to the following principles, and for them they want to change (a) to read 'shall conform to the following principles; broad-based, inclusive, non-partisan politics at all levels.

So, we are saying, Hon. Didi is combining (a) and then l(a); Hon. Kweronda is saying no! 1 should remain as it is, then for (a) we follow the format as presented in the report. So, now our work is to see whether Hon. Didi and Hon. Kweronda can strike a compromise. Then there is another one which I have not received.

MR. KARUHANGA: Madam Chairperson, the amendment which came from that wing of Hon. Kweronda and Hon. Kutesa is close to mine, but it is being typed and not ready. I was proposing that

in light of so many Amendments plus mine which is slightly a different version, why do we not ask the Legal Committee to synchronize these Amendments for us. We can be able to call the people who have interests in moving these Amendments to meet under the Legal Committee and then we will come back with a recommended one from the synchronized Amendment, instead of just debating all of them at the same time, since they are so close.

MR. BIDANDI SSALI: Madam Chairperson, I would like to support Hon. Karuhanga, but differ with him. I would think that instead of now waiting until the other committee sits, the three movers of these Amendments could get together - in fact- as we continue to debate here. I am sure they are able to come up with a synchronized version, instead of referring it back to the committee.

THE DEPUTY CHAIRMAN: Now, Hon. Delegates, there is that proposal which I think I would really buy, I do not want to bias the House, but we have gone out so many times. That means if we go out then it will be lunch time and we will never finish. I would have wanted to finish this before we go for lunch so that we know that we have done some work this morning. So, I request Hon. Agard Didi, Hon. Kweronda and Hon. Karuhanga and any other interested person, like Hon. Kanyeihamba, can also put in his professional input so that they bring us something well done to which we can agree.

Then I see the Chairman of committee 5 is around. If article 95 does not contradict the other provisions he can start introducing those provisions as we wait for the Amendment. It will not do us any harm. I do not know whether that would make sense, Hon. Kutesa, otherwise, if it contradicts what is following or what we are discussing, then we will have any work to do as these people are making the syncronisation.

MR. KUTESA: Madam Chairperson, article 95 in the report was what was article 94.2 which in this Amendment is being combined by 94.2 and 95. That is where you have 1 and 2 in this proposed Amendment. However, the next one that follows is new article 96, because 95 in our report has been combined with 94.2 in the Odoki Draft. So, 96 does not in any way contradict what is being proposed here or affect it. It deals with what has been called regulations or sometimes restrictions of certain systems when they are in place and others when they are not.

This 95 deals with principles. However, having said that, Madam, I am informed by the Chairman of the Legal and Drafting Committee who I met this morning on my own, that he has received other Amendments which are being proposed that would become an insertion prior to our 96 in the report to make it more orderly. Now, I do not know the contents of those proposed Amendments, but I am quite prepared to go on and introduce article 96 of our report. If he has these amendments already and he wants to come along with them as an insertion prior to this one, that can be done. If he does not want to do that we can go on with our report and he can introduce his subsequently, and the question of finding a home for them will be part of the work of the Technical Committee.

But certainly to answer your question more directly, article 96 which follows these proposed Amendments does not affect the outcome of what we shall have in this proposed Amendment by Hon. Mwondha and Gaston Maliro.

THE DEPUTY CHAIRMAN: And according to your report that will be new 97?

MR. S. KUTESA: Yes, that is correct, Madam.

THE DEPUTY CHAIRMAN: Yes, that is actually, what I was trying to see, that because 96 is already catered for as clause 2 in 95 we should be going to restrictions on political parties.

MR. MALIRO: Thank you Madam Chairperson. Madam, the Amendments which are going to be synchronized all revolve around clause (a) of article 95.1. There is nothing wrong with going on with (b) which is participatory democracy, and the list which follows and we can even pronounce ourselves on those, because (a) does not affect the rest of the list.

Since we are now going clause by clause, Madam, would it be dangerous if we continued with these other clauses so that by the time they finish then we go back to 1, and we complete this article? Because, Madam, on (b) which is participatory democracy there is no complaint, we could pronounce ourselves on that one.

On (c) apart from one Hon. Delegate who thinks it is irrelevant, we would only discuss whether it should be there or not. Then for (d), nobody has proposed an amendment apart from questioning whether it should be there on not; on (e) the only amendment which has been proposed is to add 'and non-partisan'. So, I think, the rest will be completed, Madam, and then we only wait for (a).

THE DEPUTY CHAIRMAN: Hon. Maliro, I think, you are not right on that, because when you look at Hon. Didi's Motion he is trying to add the non-partisan, and multi-ideological and inclusive, which also appear elsewhere. I do not see how we can proceed when we are not yet sure whether 1, is remaining as it is and then we have (a) (b) (c) or they will take the other version of combining 1 and l(a), in which case the order of the flow of the logic will depend on what they come with as the preamble. That is why I was suggesting that we wait for them to see whether they take Hon. Kweronda's version - you are assuming that Hon. Kweronda's version will be taken, you are right in that context, but if they take the other alternative, then - I do not know what the other Members feel.

MR. MALIRO: So, Madam, this Hon. Agard Didi's version and that one of Kweronda Ruhemba do not really defer, it is only synchronizing the words, except that one would like to have it in the preamble and one would like to have it in (a). If it is in the preamble, still it will not remove participatory democracy, and still it will not remove (d) and (c) either, and would not remove (e) either. So, it is whether we are going to have it in the preamble or whether we are going to have it in (a). Even Hon. Elly Karuhanga has shown me his Amendment it is also on (a) and Hon. Kweronda is also on (a). So, they are all revolving at the beginning of the article.

THE DEPUTY CHAIRMAN: Okay, that is noted. Then unfortunately, Hon. Byanyima has gone out. I do not know whether she has been convinced because she was saying that (b) (c) and (d) are not unique to the Movement system only, but it is applicable to all forms of governance. So, that is why we have - let us now address ourselves to that aspect.

MR. MALIRO: Now, Madam, since she is not around, I could remind this House what we discussed in that group which went to synchronize this. It was recognised that really these ones can also occur in other political systems which are democratic, but it was said that for purposes of emphasis it does not cause any harm. It is more harmful to remove them than to leave them here. Although democratic systems are supposed to be democratic, accountable and transparent, they may not be.

But for the purposes of emphasis if we kept it here, apart from one line which we add in our Constitution, we do not lose much. We lose more if it was not there and somebody again used its absence, to say that we told you that the Movement is not going to be democratic. Then when you look at (c) that all positions of leadership to accessible to citizen of Uganda, Madam Chairperson which Ugandan does not know that in the regimes which we have had in the past these ones were either based on the party which is in power or based on the leadership which is in power? Who does not know that people had to go for circumcision because they wanted jobs during the time of Amin? People know that, it was becoming religious based, and they also know that if you were not a member of the UPC you were not allowed to be a Permanent Secretary, or something of that nature.

Now if we are emphasizing here that for the purposes of the Movement we shall not mind about whether you are a Catholic, whether you are a Protestant, a Moslem, whether you belong to DP or CP, but we shall involve you as long as your personal merit qualifies you to be in that position, what is the danger? Leaving it out is more dangerous than putting it there! We discussed that one in detail and found that there was no danger in having those articles entrenched in the Constitution.

MR. AMAMA MBABAZI: Thank you Madam Chairperson. I just wanted to make two points, one procedural and the other is clarification on your ruling. Are we back to debate article 95 or we are going to receive a report from the Chairman of committee 5?

In light of your earlier ruling that since the late Moses Kintu's body is going to lie in state in parliament from 2.00 O'clock onwards, you would give us an opportunity over the lunch hour to go and pay our respect. Is it not possible to combine the two! In other words, to wait for the outcome of the Legal and Drafting Committee report, and then we go for the lunch recess and hopefully use it for paying respect to the late Kintu. While the Legal and Drafting Committee presents its report.

MR. KATUREEBE: Thank you Mr. Chairman. As regards to what Hon. Mbabazi has said, we have asked this Draft Committee to go and look at Clause 1, and we have been pronouncing ourselves on clauses. Now, what Hon. Maliro is saying is that, we now pronounce ourselves on paragraphs. Now, when they come up with a drafted thing, you may find that, what we will have passed or pronounced ourselves on, has been re-drafted in a different way. The best thing is, to leave this clause now, and then get back to it when we get a report of the drafting committee and the movers. We cannot start pronouncing ourselves on paragraphs of a clause.

THE DEPUTY CHAIRMAN: Okay. Actually, I was very uncomfortable to cut off the head of one, and continue with ABC without a head. That is why, I had requested the Chairman of Committee 5, whether 95/96 contradicts what we shall be following on next. That would be article 96, new 97 on political parties. But also, another dimension has emerged that, we give ourselves time to go and pay respect to the late Hon. Kintu Moses, which I think could make more logic. There are two alternatives, either to go to the committee's report and discuss 96, new 97 on the restrictions on political parties, or given the time which is nearing 1.00 o'clock, and if we have to come back at 2.30 p.m. assuming that, the Legal and Drafting, would be ready with amendment; perhaps it will be more orderly to adjourn now.

Then Hon. Kuteesa and Hon. Faith Mwondha please be around, because I assume when we come here, we are not going to debate. We shall be polishing point by point, and we clear them, out of the way. After that we shall come to 96, on the restrictions on political parties. I request that, the insertion should be around. I do not know who is trying to move that insertion.

MR. KUTESA: Madam Chairperson, as I said, I was informed by Hon. Kanyeihamba, Chairman of the Legal and Drafting that he has received amendments which need synchronizing to make an insertion before the old 96 to be 97. So, if you appealed to him to make sure that it is ready by the time we re-convene this afternoon, then it may be more orderly in my opinion to finish this proposed amendment, by Hon. Mwondha and Maliro then go to that insertion, if it necessarily comes before new 96 and 97. And then subsequently, go back to the report.

The way Hon. Kanyeihamba was talking about it, it was like he has got amendments that would also, state the principles of parties. I think it would be orderly to state the principles which the Movement shall conform to, the principles which the parties will conform to, and then go to the exceptions or the limitations or regulations, whatever we want to call them. If Hon. Kanyeihamba Chairman of the Legal and Drafting has finished synchronizing these amendments which he says he has received, then it would be I think more proper for him to have it circulated by the time we convene so that we follow these things in an orderly manner. I thank you.

THE DEPUTY CHAIRMAN: So, can I request you, I presume that you will be more accessible to Hon. Kanyeihamba, outside there, than me who is going to pass here. So, get in touch with Hon. Kanyeihamba so that, we do a clean job. And instead of coming at 2.30 p.m., you come back at 3.00 p.m. This is to make sure that, the document should be on our table before we proceed. So, I propose that we stand adjourned until 3.00 O'clock. We stand adjourned.

(Assembly adjourned for both Lunch and paying of last respects to the Late. Hon. Kintu Moses and resumed at 3.00 p.m).

THE DEPUTY CHAIRMAN: Hon. Delegates, the committee to which we gave some work, has finished its work, and I can see the Secretariat are distributing the document. I, therefore, propose we give ourselves about three minutes or so, to let everybody, have the amended version, then I shall request the Chairman of the Legal and Drafting Committee or anybody who is capable of moving it, to move the new Motion. Now, everybody has the amendment.

MR. KARUHANGA: Thank you Madam Chairperson. As you may recall Hon. Delegates, just before we broke off for lunch break, the Legal Committee was assigned a duty of synchronizing various amendments that had come up on the Floor in the morning regarding article 95. Madam Chairperson the Chairman of the Legal Committee, Hon. Kanyeihamba has delegated me the responsibility to report on behalf of the Legal committee.

Now, Madam Chairperson, in its usual efficient way the Legal Committee met throughout lunch, and has been able to put forward the synchronised amendment, which is now, before the House. Madam Chairperson, I will present this, in an way that, I have been advised to, so that the debate is not

long and tiresome. So that probably after the presentation, may be people can vote straight-away since it was discussed even in the morning.

Before I go into the merit, there are some consequential amendments which I would like to meet in I(c), which starts with accessibility. Please delete - delete in the sense of delete, not in the old sense of delete. Delete the word 'of' and write there *'to'*. So that it reads, accessibility to all positions of leadership. Now, also delete the word 'to' before all citizens and put the word *'by'*. So that it reads, *accessibility to all positions of leadership by all citizens.* Is that clear? Now, the current Motion therefore, would read as follows: *The Movement political system is broad based, inclusive, non partisan, and shall conform to the following principles. (a) participatory democracy (b) democracy, accountability and transparency. (c) accessibility to all positions of leadership by all citizens. (d) individual merit as the basis for election to political offices.* And (2) *Parliament may create organs under the Movement system and define their roles.*

Now, Madam Chairperson, the reason we have moved broad based to the main preamble of one in Article 95, and the other words like Inclusive, non partisan, is because we want follow the Obiga Kania Motion which describes the political system as Movement system, political party system, or any other system. Now, we start by saying, Movement system is broad based, is inclusive, is non partisan, and then, having described what it is, then we say, and it shall conform to. So that, the justiciable element in this clause will be in the *ABC*. But the other one is the name of the Movement, what it has to carry, and how it is known.

Here, we really maintain the understanding of the Movement, as in the eyes of the Ugandan community. We believe that, the Ugandans, understand the Movement political system which they recommended to the Odoki Commission, to be broad-based system, inclusive, and non partisan. And now, we in our wisdom as members of the CA, want that Movement which is thus described to conform to the following principles. But total democracy is what, all systems of Uganda, should participate at the grass root level, in the democratic exercise. *(b) Democracy*: This democracy is the internal democracy of the organs of the Movement. *Accountability:* Again, this is the internal accountability and transparency to them. Then accessibility to all positions of leadership, by all citizens. This is in order to give it avenue, so that everybody feels that they have an avenue and a wide enough avenue to move into the Movement and feel that, they can participate in its leadership. (D) talks of the individual merit as a basis for elections to political offices, not any other value.

Madam Chairperson, we came to (e) and removed the word functional. *Parliament may create organs under the movement system and find their role in an effort to become clear,* we do not want to use our two words which can attract lots of bees and very little honey. We would like to be clear, specific, and to the point. *Parliament may create organs under the Movement system and define their roles.* Therefore, that is what the Legal Committee considered during the last break. I must add that, Hon. Kabayo has another amendment which is not contradicting to any of the things we have. It is only an additional amendment, and I think after we have pronounced ourselves on this, we will recommend that, you give him a chance, before we move on to 96, for him to add his bit.

Madam Chairperson, with those few words, I wish to conclude my report, and then ask the movers of the Motion namely; Hon. Faith Mwondha, Jackson Maliro and their seconders as indicated, to go ahead and move the Motion accordingly. Thank you.

MRS. MWONDHA: Thank you very much Madam Chairperson. I do not have anything more useful to add. Madam Chairperson as you know, I had already moved this Motion. I moved it on Friday and these are just subsequent amendments. So, I do not have to move it now. The Motion is just open to the Floor.

MR. KINTU MUSOKE: Point of clarification. Madam Chairperson, I just want clarification from the committee, where they deliberately used the word *may* to create organs instead of *shall* deliberately. Not that, I am for or against it, but I want to make sure that it should not be "shall create" rather than "may create." Because I see some kind of uncertainty in may, and I see some kind of certainty in shall. So, I want to be sure that, this was addressed and the committee came to this one.

THE DEPUTY CHAIRMAN: Hon. Karuhanga, do you have an answer? Hon. Karuhanga, I think it is better to ask the people of the committee rather than the Chairman.

MR. KARUHANGA: Okay. Madam Chairperson, the word may as used, was not actually debated in the legal committee. But what I am going to give you is, my understanding of this, and of course the movers of the Motion are the ones who are supposed to defend themselves on this. But the word may, as I understand it here is that, parliament may create organs under the Movement system and find their role.

If Parliament is not being forced to do this, especially if say the Parliament in place is a multi-party system, why should Parliament be forced to create organs of a Movement it is not interested in. It will probably create very negative organs. So, when the Movement wins power, then it can create organs of the Movement, because it is interested in it. So, we leave the opportunities there, a little bit fluid. That is how I understand it. Because if we force it, and the majority at that time is interested in multi-parties, they will just create organs of the Movement which are impossible.

MR. KINTU MUSOKE: Madam Chairperson, Hon. Karuhanga has said that, the A and B and C and D, are justiciable. And that, in that also, 2 itself also is going to be justiciable, in case it is not conformed to. But may, makes it less justiciable, because then it is not comparable. But if I may argue out my case for Parliament having failed to do its duty, then it shall be compelling. The friends should be compelling that they must do it. If they do not do it, then I can go to court for it. That is why I would prefer the word shall.

LT.COL.KIIZA BESIGYE: Madam Chairperson I am seeking clarification from the Movers, the expression non partisan. Does it mean that, parties will be prescribed under the Movement system? I would like to know the import of this phrase non partisan, and what it means, because my understanding was that, even under the Movement systems, parties would be around and free to influence political opinion in the country, except that, they would be having some limitations. I am seeking clarification.

MISS. AKELLO: Point of clarification. Thank you Madam Chairman. Madam Chairman I am seeking clarification on the use of the word democracy in (a) and (b). If as I have understood him, Hon. Karuhanga is saying that, *participatory democracy* in this sense means that, the Movement allows all Ugandans at all levels to participate in the decisions affecting their government as well as their development at every level, and in *democracy* he means the internal democracy of the Movement; would he have any objection if we simply put the word, internal democracy in (b) so that it is clear and does not confuse some of us, who are of simpler minds. So, that we know in one sense they are talking about higher democracy at the national level, participation of everybody in the democratic process. And here, when they are talking about democracy in (b), we mean that, within the Movement system itself, there is internal democracy, accountability and transparency.

DR. MAGEZI: Madam Chairperson I thank you. The thought I am having is that, may be in the course of time, the principles we have constitutionalised may increase. It may be bound that, there is a principle which we have not thought about here. But it could be good for the Movement political system.

So, I wonder whether the movers would agree to include a clause apart from A,B,C,D,E, saying that, in case of any other principles that Parliament may from time to time determine when there is a Movement political system may be included, rather than making it a constitutional amendment. We could let Parliament be able to add on principles. Because the society is dynamic and there may be some shortcomings in the near future, which may require other principles. I thank you.

MR. OBIGA KANIA: Thank you, Madam Chairperson. First of all, I want to record my support generally for this amendment. I believe it has brought out clearly my understanding of what the Movement is. For example in (b), it mentions individual merit. And I believe this is one of the most significant and distinguishing futures of the Movement as a political system, In that, it relies more in the individual merit than, the organisational merit, vis-a-viz other organisations, or other political systems.

I also believe that when you talk in (a), of participatory democracy, you have said more than just internal or external democracy in terms of the Movement. Because in the formation of government or administration of the state, the Movement political system by its very nature, is fused together. I mean the system and the state are fused together

in my view. There cannot be a separation between the two.

Now, if that be the case, between the two, it appears to me, the explanation by Elly Karuhanga on (b), with regards to the word democracy, is not satisfactory in that, if the system is infused with the state, then there is no external or internal aspect relating to it. The word democracy in view of the way it appears to me may be a little bit unnecessary.

Lastly, on the issue of non-partisan nature of the political system, I believe that is correct. And my understanding is that, when we talk of the Movement system being non partisan, it does not lie on party organisation as its unity of existence, but rather an individual citizen of Uganda. But that does not necessarily mean that, parties will be killed. All that it means, is the Movement concept does not rely on party political organisation. That is my understanding. Thank you. I, therefore, support the amendment.

MR. RWABITTA: Thank you Madam Chairperson. Madam Chairperson, I am requesting clarification from the movers on a political issue where at one time, we may have a government which has got multi-party, and may be very opposed to a Movement. What would happen under the circumstances? Can these principles still stand?

For example, (c) accessibility of all positions of leadership to all citizens. Will the Movement have the control of availing this chance to every citizen! And when we come to clause 2, it presupposes that the Movement is in government. But the day Movement is not in government, the parliament which may be hostile can at the same time make laws and regulations to sabotage, if not frustrate the Movement system. So, how do we go about this?

DR. KEZIMBIRA MIYINGO: Thank you very much Madam Chairperson. Madam Chairperson. I just want to comment on the principle brought by Hon. Magezi of putting in a new clause to allow for future parliament to be able to put in any principle that could be found during the course of the governance of the Movement, to be characteristic of the Movement and not visualised right now.

Some of us, Madam Chairperson, earlier on, when we were debating this, I had thought that it was very important to have one of the phrases state that the Movement will be under the control of Ugandans, and will work for the benefit of Uganda. But it seems this was left out. But I think, may be in future, Parliament might find out that, this is necessary to put in. So, I think I do support that it is left in.

Now, in the question of multi-parties, and I wish to personally express that, I think non partisan does not really suggest that the parties will be tampered with. Non partisan is quite clear, it has nothing to do with limiting parties. Because members can recall that when we were discussing a chapter on traditional leaders, we did say that, these will be non partisan, but that did not mean that, parties will not be existing or be interfered with. Thank you Madam Chairperson.

PROF. NSIBAMBI: Thank you Madam Chairperson. I have Three issues to question. First; how does the Movement political system differ from a single party system?

Second is that I still maintain that, when you have the word democracy, you cannot put there accountability and transparency. Because the person reading it will assume that, we do not understand what democracy is about. And yet I know that, we all know what it is all about. For accountability, transparency, open contestation, *bla bla*.. they are all embraced by the term democracy. So, why do you put it there, and then put these other things, and give the impression that we are not aware of the different facets of democracy?

Thirdly, there is problem of leaving the organs of the Movement to be defined by a Parliament whose composition and capacity to deliver may be questionable, depending on the infrastructure you give it to perform its functions. As you know, I have studied the current NRC in a document, and I did donate a copy to all members and only three appreciated. The others have yet to appreciate. And I discovered that, sometimes they are extremely compliant and at other times, it is autonomous, departing upon the issue.

So, given that, this Parliament is yet to overcome several obstacles, why do you give it such a fundamental job and not actually define it. Once we define the organ, we shall be endorsing an animal which we understand fully. But by not showing the organs clearly, we are in danger of endorsing a political animal whose dimensions are not fully.

There is another matter which is tantalizing me, and that is the issue of the principle of funding of this institution. Because that is a critical matter. If it is state funded, then there are implications also for assisting political parties officially to get some funding. And also, the funding of this institution may actually weaken it.

Because when we speak of civil societies of its nature, they are not necessarily funded by the state, and they realise their strength by having an autonomous funding, so they can countervail the state. They can enrich the state. But when they get their money from the state, they can be crippled by the state or by the organs of state. They loose their capacity to tame and to actually assist the state. So, there is that, fundamental issue also to clarify. I would greatly appreciate it, if you would clarify that.

Probably the issue of idealogy is also important, although it has not been fully addressed here. When you simply say that, the inclusive and non. Partisan and you think that, the ideological dimension has been taken for granted, you may be wrong. Because these are wider than the institutions themselves. And they may affect the kind of institutions you have on the ground. Despite the current atrophy of the former Soviet Union, one might wrongly assume that, perhaps we are uni ideological, but it is false. There are some major ideological differences. I would greatly appreciate clarification on those issues.

MR. ADYEBO: Thank you, Madam Chairperson. I really have no quarrel with the proposed amendment, because it caters for fundamental issues, which issues are almost the board of contention, in as far as our political history is concerned. What do people fight for here in Uganda? They fight about power in brief.

Now, this amendment is catering for that with one word. And that one word, here is the inclusiveness of the Movement. Now, in detail, what I understand Madam Chairperson, I would try to briefly explain by giving you an example. When Mr. Abiola was campaigning in Nigeria, he considered that Nigeria was divided into four regions. In his campaign, he strategically, categorised them.

Category one is sovereignty, and here he included the Ministries of Defence, Internal Affairs, Justice, and I think Foreign Affairs. Then the second category of the ministries he would have created during the inclusive government would have constituted the financial aspect. He categorised Ministry of Fine Art, Works, Transport and Communication, Natural Resources, Trade and Industry, considering that these ministries consume a lot of money. The third one, he said would be, promotional ministries, by category. And in this he included Agriculture, Education, Health and I think Tourism and Local Government. Now then, the last category was services, where he meant labour, information and I think Lands and Public Service.

Now, then in his Cabinet, he said, if I get into power, what will I do? I will take the first category and slot in. Some eminent Nigerian in the defence and another department to go to East, to Central and so on. And the thing was plausible because it was inclusive, and that is what we are now trying to define. I must take this opportunity to thank those who really came up with this amendment. And I say thank you, it is accommodative. And also here, it has to be non partisan. In my own sense, I think it means, it will be based on merit, just as we have been implementing it. Most of our elections, lately have been non partisan, and all of you who have been elected, have been elected on this basis which we are also including here. I think that is catered for.

As far as participatory democracy is concerned, that caters for what democracy is, whether it is national, external, or internal. The other time, we were in a seminar in Lusaka and we tried to discuss what democracy is, we found that, there are certain few international recognised variables of democracy. Democracy must entail regular elections. We have been holding regular elections since 1989, and I think this is what we are talking about here in participatory democracy.

Another variable which qualifies democracy is that, it must be transparent, and there must be accountability. And I think in my own assessment, the amendment in (b) is a duplication of what is already in (a). (b) here is just a subset of the universal set which is catered for in as far as democracy is concerned in (a). I would therefore, say that, it is a duplication. We should think of crossing either that word, democracy again in (b) or cross the whole thing. Democracy will entail these variables I am talking about. As far as accessibility of all positions is concerned, no problem.

Individual merit. I think that one would have been catered for in the Movement being non partisan. Then in (b) or in two here, Madam Chairperson, it is very important to create an organ or an institution which is going to implement what we are recommending here in one. In one we are talking about the principles under which the Movement will operate. It is important to create an institution which must be independent in order to implement all these principles which are entailing in 95(1).

Madam Chairperson, you will agree with me that we have given Parliament a lot of power. At the moment Parliament has done a lot of good job. To this government, Parliament has passed 113 statute laws plus but Parliament also has its own internal problems. We have committees, and these committees of Parliament, we call them standing committees, have been doing a good job. But from time to time, the recommendations these committees make, are never implemented. And yet they are very important. Now, if we are going to create organs of the Movement, to implement the principle under which the Movement will operate, it is vital to make this an independent institution.

I would propose that the proposers of this amendment would have considered an independent institution like the Ombudsman. And in our case, I think we have already endorsed the office of the IGG. I am, therefore, selling an idea to the proposers of this amendment to think of amending their proposal in full, so that we create an independent institution and empower it, to make sure that, it will implement this principle under the new Movement. I thank you Madam Chairperson.

MR. MUSHEMEZA: Thank you Madam Chairperson. Although I am not one of the movers, I thought I could phon some of the issues raised by Prof. Nsibambi Hon. Adyebo, Hon. Kania and Hon. Rwabiita. Hon. Nsibambi asked a question, that what is the difference between one party system and the political system? He should have realised by now that, the concept political system in this assembly has not been used in the understanding of the traditional political science. It has been used more-or-less as a system of political representation.

If we take that understanding, then it means the one party system he is inquiring about is a substance of a political system. He has also raised the issue of democracy encompassing other ingredients like accountability and transparency. I would like to submit that, democracy emerged, developed and changed historically. It has taken various forms at various historical points. And we are saying, the Movement we want, and the democracy we want in the Movement, must have certain ingredients, which must be mentioned. These are accountability and transparency. Very many ingredients can be mentioned. But we are spelling out that in the democracy we want for the Movement, these ingredients of democracy should be mentioned. This also applies to what Hon. Adyebo was raising.

Prof. Nsibambi also talked about the question of finance of a system. As far as I am concerned, financing of a system does not arise. You cannot talk of financing say multiparty system, but you can talk of financing political parties or institutions or organs of the Movement. And in this case, if organs of the Movement are created in such a way that, positions of leadership are for all citizens, they are giving ingredients of democracy; that is transparency and accountability. It means these organs or institutions are serving the people, and if the people are the ones who pay the money, it is their institution, it is their money. The question of other organisations does not arise here.

Hon. Nsibambi has also raised the question of idealogy. In any institution or any system which is multi ideological, it is obvious one arm of idealogy takes an upper hand. You must have realised that. Even in the Movement, which is multi ideological. One aspect of idealogy which I am not prepared to describe, but on a coffee break, we can discuss. It always takes an upper hand.

Hon. Kania also raised the concept of democracy, when he said that, given the attributes of the Movement, one should not mention democracy if I got him very well. Why not? Because he could have a state and his operations may not be democratic. So, if I had got him very well, arguing against the concept of democracy not being there, I would say, it should be there.

Hon. Rwabiita asked of what happens when the Movement system is not in governance. When it is not in governance, it is not there. It is like, say, if the multiparty system is not in governance, you will not say, what happens to it. It is not there. You do not have to provide for it, if it is not there. What if it is

not there? If it is not there, there is another system. So, that question to me does not arise. I would like to say, this amendment is very good, and well phrased.

Hon. Adyebo was suggesting we have an organ like IGG to implement organs. I think that is not correct. A system of political representation has political aspects which you cannot just assign to an institution like IGG which is a watch dog of some kind of things. I think it is beyond that. I would again of course support the Parliament which involves people's representatives, who will be democratically elected as far as the Constitution is saying, to be charged with this responsibility. Parliament should not be forced as one Hon. Member warned. I do not remember whether it was Hon. Karuhanga.

Parliament should be free to access the situation whether this is a favourable time to create certain organs of the Movement. And since the Movement is dynamic and progressively changes, various organs could be created at various historical points. So, I would say this amendment is well drafted, may be after so long hours of putting many amendments and inputs, and I would implore Hon. Members to support it. Thank you Madam Chairperson.

MR. MULONDO: Thank you very much. Hon. Chairperson. I would like to say, that when we left in the morning, we had agreed that, after all the amendments have been synchronized by the committee, we should spend the minimum time here debating this. In my opinion, I feel that, the Hon. Members have talked very well on this, and I feel it is time we put the question and we proceed. So, I would like to move the Motion that, the question be put.

THE DEPUTY CHAIRMAN: Okay, before I answer that, I wish to announce the presence of three Members of Parliament from Burundi who are here on a week's official visit. They are sitting behind there. *(applause).* You are all welcome to our deliberations.

Now, Hon. Delegates, there seems to be a consensus that I put the question. But there is one burning hand. I think we better have the last one, and then we shall see what to do.

MR. KINTU MUSOKE: Madam Chairperson, I definitely felt shy when I asked for a clarification, because I had not been here this morning. And I may be wasting time of the assembly, raising issues which had already been deliberated. But I thought that, somebody raised a question of repetition of the word democracy appearing in (a) and appearing in (b). And I was going to suggest that, we re-phrase (a) to read participatory and organisational democracy, because they said that, it appears in (b), in order to give the idea that, the organisation shall be internally democratic. I was going to suggest that, it be participatory and organisational democracy, and then delete it in (b), so that the question of accountability and transparency stand alone without the repetition of the word democracy.

THE DEPUTY CHAIRMAN: Is that seconded? I think Hon. Delegates, let us not be bogged down. We debated this the other day - Friday, we have debated it today. Just put your hand down for the time being please. Hon. Kezimbira just give me a chance. Yes I understand, but let me talk. I am going to give you the Floor for your point of procedure, but let me finish what I am saying.

After this lengthy Debate, when I look around, we have a technical problem. Of course I know when we are going to vote, we must have the numbers required. So, we have some alternatives. Yes! We have some alternatives and that is, to see how many we are. If we are not in substantial numbers, we agree in principle. But I do not put the question. Then that would be understood, as if the problem is solved. Then we even have another amendment. Where is Hon. Kabayo? I can see an amendment on 95 (2), in which case, I do not see how we put the question when there is another Motion on the Floor. So, the first item was that, but then also, Hon. Kabayo has a motion. We cannot preempt the debate when there is a Motion which is circulated.

DR. KABAYO: Thank you, Madam Chairperson. It is possible that, some delegates may not have copies, but I think they are being duplicated. It is a very simple Motion. If you give me a chance, I would just explain how it was derived. Madam Chairperson, as we strive to put in place what we recognise as distinguishing characteristics of the Movement System, I wanted to point out that, in a multiparty system, the programme is developed at a National convention, is put in a political manifesto, and presented before the electorate upon which the people vote.

In a Movement system, Madam Chairperson, individuals will be presenting themselves, on the basis of their personal merit. There will be no aspect of a programme. Madam Chairperson, what I wanted to propose is that, we put in place as a distinguishing characteristic of the Movement, a provisal to say that; those who are elected, will be the ones to formulate what is called a National Programme. So, I propose to add on clause 2 of article 95 a paragraph (b) saying that, parliament shall approve National Political programmes based on the principle of the common good for the people of Uganda.

If we do this, Madam Chairperson, it will be in line with what we know of the Movement already, knowing that we do not present a particular programme before we are elected, and that we agree on whatever programme after we are elected. And I think we should recognise this as distinguished from the other systems which we have listed. Secondly, Madam Chairperson, when people are presenting themselves for election, they will not be able to promise this or that. Everybody should know that, the programme that will be developed, will come out of a consensus of those who will be elected in their totality. In other words, in Parliament. They will sit and decide on what programme should be moved forward.

It is not a situation where you present to people a special type of programme or political programme, before they vote. I think this will be an important inclusion in the Constitution, because it will also help us to distinguish ourselves from the one party system, because in the one system you have a political programme which is presented before the election. In this case, we will be formulating it after we are elected.

For those reasons, Madam Chairperson, I thought we should consider the aspect I am trying to raise and agree to include at least a clarification on the fact that, those formulating the political programme will be those that we have elected. They will do it after we have elected them, not before. I beg to move, therefore, Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Kezimbira Miyingo, now I give you the Floor.

DR. KEZIMBIRA MUYINGO: Madam Chairperson, I am a little bit confused because, I had wanted to move that Hon. Magezi's amendment which he had brought in, should not be forgotten. He suggested, the principle of giving Parliament power to be able to enact any other democratic principle that they may see fit at that particular time to be part of the Movement. We were loosing sight of this. Can I put the Motion there?

THE DEPUTY CHAIRMAN: I wonder whether Hon. Magezi was just making a suggestion or it was a Motion! You want to move it? You can move But if it because originally it was not moved. Just hang on. It is on two. Let us clear one, and we have that one out of the way ranter than fidgeting to and fro.

AN HON. MEMBER: Madam Chairperson, I wish to move an amendment to be added as (e) of 95(1) to read that *Parliament may enact any other democratic principle of the Movement as it deems necessary.* I beg to move Madam Chairperson.

THE DEPUTY CHAIRMAN: We were on Hon. Kabayo's motion but then it was noticed that we are moving ahead of what has been suggested. Hon. Magezi made a statement which did not indicate that it is just a proposal or a proper motion tabled. Now, Hon. Kezimbira Miyingo is saying we had overlooked that insertion. I said okay, Hon. Kabayo has given us his motion. Let us clear that (e) then we move to (2) because Hon. Kabayo's amendment is on two, not on one. I think that is clear.

MR. KINTU MUSOKE: What Hon. Kezimbira is proposing does not flow from a, b, c and d because (d) has stated participatory democracy, democracy and accountability, accessibility and so on. Then the way he is phasing it cannot fit in to read logically from that thing. It is not a principle.

DR. KEZIMBIRA: Madam Chairperson, now I can make it flow as Hon. Kintu Musoke would like me to make it. I am saying (e), *any other principle as may from time to time be prescribed by Parliament.* I beg to move.

MR. MEDI KAGGWA: Thank you very much Madam Chairperson. With due respect to Hon. Kezimbira Miyingo, there is no way what he is describing can be a principle. At best, let him move for an insertion but for goodness' sake do not bring that as a principle because it is not one. It can be an insertion, that is a different matter and it can be debated. Thank you very much.

THE DEPUTY CHAIRMAN: Okay, it seems there is a consensus that we take 95 as it is given although in (b) this business of internal democracy; who moved it? Yes, it was Hon. Grace Akello. Do we need that word internal in?

MISS GRACE AKELLO: Madam Chairperson, it was not a proposal. I was requesting that in view of the apparent confusion which can be created in some people's minds between participatory democracy and this democracy within section (b), would it not be simpler if we used the word internal democracy to define this democracy. The democracy within the Movement system itself? I mean I was asking for clarification. I was not suggesting that it should be.

THE DEPUTY CHAIRMAN: Okay, that is why I asked so that we clear that one also.

MR. GASTON MALIRO: Thank you Madam Chairperson. We cannot have internal democracy of a system. Time and time again, we have said this one is not a political organisation like a party. So we cannot have internal democracy. But the difference between the two democracies we are referring to in (a) and (b) is that in (a), participatory democracy is that at the grassroot whether it is elections, or public activity, there is no discrimination. That is what we mean by participatory democracy. But this democracy in (b), we mean in whatever public activity that is being done, it will be done democratically. You cannot talk of internal democracy. We do not have an organ which is called Movement. It is a system.

THE DEPUTY CHAIRMAN: Okay, now there is another one by Hon. Kintu Musoke. You said that we say in (a); participatory and organisational democracy and then (b) accountability and transparency. I assume that was negatived. Which means we leave 95(1) as it is. Now we move to two. We can continue now debating Hon. Kabayo's motion.

MR. KARUHANGA: Madam Chairman, as you will notice on the Kabayo motion, I am his seconder. I hope that now Members have got the circulated amendment of Hon. Kabayo. I would therefore kindly like to read it loudly so that Members can write it down and look at it. It says: "Parliament shall approve national political programmes based on the principle of the common good for the people of Uganda."

THE DEPUTY CHAIRMAN: Hon. Hashaka has emphasized somebody who is disorderly. Hon. Hashaka, who is disorderly?

AN HON. MEMBER: Himself.

MR. HASHAKA: Madam Chairperson, is it in order for Hon. Karuhanga to second another motion when he has already seconded a motion we have debating the whole day?

MR. KARUHANGA: This is additional.

MR. HASHAKA: No, he seconded a motion where (b) reads democracy, accountability and transparency. Then how can he contradict himself again by seconding something else?

THE DEPUTY CHAIRMAN: We are on 95(2). So it seems it is you Hon. Hashaka who is disorderly by the way. *(Laughter)*.

MR. KARUHANGA: Thank you Madam Chairperson. Madam Chairperson, I just wanted to put Hon. Hashaka's mind at rest that this motion is completely different. It is an additional idea, it is not something that has come before us. It is something that the House should look at its own merit. That is why I was taking time to read it out so that everybody has got this motion in your own right and Hon. Hashaka is not even listening to me now. So I cannot even succeed in putting his mind to rest. So if he could only listen to me.

Okay, Madam Chairperson, he shakes his head, to suggest he is not prepared to listen. So can I read it again? "Parliament shall approve national political programmes based on the principle of the common good for the people of Uganda." The reason behind this motion Madam Chairperson, is what actually is coming up in the political parties. If the political parties are campaigning, and in a system when they are allowed, they will be talking and addressing the people using their manifestos. You elect me, I will build a road, I will build a hospital, I will do this and that. Elect me on that basis. While the movement supporters will be saying you elect me on personal merit. I am good, if you elect me, I will do this, I will do that. I really appeal to Members to listen to the argument we have and then we see whether it holds or not.

Now Madam Chairperson, the thinking is that someone can come to the political stage and try to ridicule members of the Movement who are just talking and concentrating on the issue of personal merit and the other guy says, "you see I also am meritorious but on top of that, I have a programme to show you. Here is my programme yet this guy is just standing on the ground that he is on personal merit. He is going to be sent to Parliament, without showing you what he is going to do." You know what politicians like to do when they have an opportunity like that.

We looked at some precedence, the Burkina Faso peoples experience. I have their Constitution, unfortunately, the copy I have is in French. Someone has, however, explained it to me, without interpreting it for me. They have what they call the common good. Burkina Faso under Sankara actually had an organisation like the Movement system. When it came to making their constitution, they had what they call the common good which is agreed on by all the political forces, political parties, political organisations and they have it which in our case is really as we know in the Movement the ten-point programme.

Unless we find a room for the possibility of creating a common good by people which we have already done by agreeing in Clause 1 so far that the Movement political system is broad-based. Therefore, there will be various people from the broad-base inclusive of all shades of opinions, non-partisan, based on no party system. These people when they get together in Parliament, this motion is saying, they should inspite of their supporting monarchy, Republicanism or Communism and what have you ideological differences, should get together and agree on a common good programme.

The common good programme would then be used, and the public would know that you elect me on personal merit, when I get there, I will be participating to create a common good programme which we shall use, and that way we take away these promises politicians make to our people which they can never fulfil just for the sake of votes. So you go there, you create in this non-partisan organisation, you try to agree to a common programme that you will have for the five years. The only way to achieve the common programme, we think, is for Parliament not only to create the organs of the Movement but it should also create a common good political programme within that period when the Movement is in power.

Otherwise I sympathise with politicians who support the Movement line. When he goes before the people, he cannot claim, Constitutionally, how he is going to lead, because one person in the same Movement is saying this, another person is saying that yet the others have organised themselves. So in order to overcome that possibility, I would like Hon. Members to see Hon. Kabayo's motion in its genuineness and I do not see any harm this motion makes if we have it. But I see harm if we do not have it.

It is a pity that this was not been brought before the Members when we were synchronizing or when we had a meeting on Friday. But it does not mean that when new or fresh ideas come on line, they should be rejected because previously they have not been considered. It is something that I know has been beneficial. I know it is one of the top areas of concentration in Burkina Faso. But in our case in the Movement, the system we have created, where do we tell these movement supporters to create something good that is common? Who is going to organise that? Is it the few opinion leaders within the Movement? Is it a certain clique or a certain group or is it an organised organ which we are giving this responsibility to?

I wish to submit to the Hon. Members that Hon. Kabayo's motion is genuine. You may have initial fears about it. You may want to look at it again but I really appeal to you that killing it would be very, very unfortunate in my view. Thank you.

MR. AGARD DIDI: I thank you Madam Chairperson. On a point of order, I want to ask the Chair whether if it is in order for the Hon Mover Hon. Karuhanga to argue in this second motion that *Parliament shall* make regulations about this policy which I support incidentally, yet in the first motion which we have just passed and which he cosponsored, in answer to Hon. Kintu Musoke's query, he refused to use the word *shall* in ordering Parliament to provide the institutions.

I do agree that the essential of this provision now is to prove that Parliament is actually supreme. So to those who have been arguing that oh! the Movement is not described, We have now closed those two loopholes. Is it, therefore, in order for him to

refuse to allow Parliament to go ahead and be authorised by providing the word shall. Because I think in both cases, the use of the word shall is important. Thank you.

THE DEPUTY CHAIRMAN: Hon. Didi, that is not a point of order. You wanted clarification, but I want to rule you out of order. Hon. Karuhanga will take note, and then he will answer when I call upon him.

MR. MULINDWA BIRIMUMASO (Bukoto West): Thank you Madam Chairperson. I sympathise and probably I share the feelings of the mover but I think it has come a bit too late. Some of these amendments need time. Because here, when Hon. Karuhanga is trying to give reasons and you find there is a lot of mix up, you find the fear results from the question that under multipartyism, people go with already prepared programmes by their headquarters. They say if you support us, we shall implement a, b, c and d. Because they have a Secretariat, they have something organised.

Now in the Movement, we have sort of feared to come out that there will be a Secretariat to prepare programmes, so that it does not look like a political party. I think that is why Hon. Karuhanga comes and sympathises with this person who will stand on individual merit. By standing on individual merit, does not mean he may not have something already prepared to give the people! I think that is not the case.

Of course you have to show the people your input in the national programme. But according to my assessment, if you elect me, my input, to the national programme will be a, b, c, d. I think he will be having something to present. So that fear Hon. Karuhanga I think is a bit unreal, and I do not think this motion is actually necessary here. But if it is necessary, I do not see anything wrong with it.

MR. OGWEL LOOTE: Thank you Madam Chairperson. Madam Chairperson, I do sympathise with this amendment because I feel it is already covered in chapter three of the Draft Constitution where we spelt out most of these national policies, programmes and others. I thought this kind of amendment is already covered in that chapter.

Secondly, I talked of the common good of the people of Uganda and I thought most of the articles that we have passed are meant for the common good of the people of Uganda. Now sometimes we tend to manipulate them when we prepare certain policies which are more lenient to them or for the individual interest and then put it to say for the common good of the people of Uganda. I feel this has also already been addressed in chapter three. There is no need of bringing it here again, because there it spells most principles and policies and directives of whoever comes to lay down political programmes for the people of Uganda. Thank you Madam Chairperson.

BRIG. KYALIGONZA MATAYO: Thank you very much Madam Chairperson. Madam Chairperson, I also do sympathise with my comrade Dr. Kabayo in his concept. This is a conceptual problem. I am really confused, and I would beg him to sympathise with me since he is my friend to avoid confusing me more, because I will get lost.

I really fail to understand what makes him imagine that when you are coming into power as a Movement, Parliament should be there to create and pass functions for you to make your own manifesto. Really all these political organs should have their own political programmes made by their own headquarters. Therefore, I would ask my good sober Friend Dr. Kabayo really to save his face and save us. Why shouldn't he withdraw this and we proceed. Thank you very much.

DR. KIYONGA: Thank you very much Madam Chairperson. I would like straight away to oppose that motion on two grounds.

The first, if I follow the logic of Hon. Karuhanga, then this provision is dangerous because he is saying that when you go to campaign for the Movement system, when they ask you that what will you do, you say, when we reach there in Parliament, we shall decide. You will immediately lose the elections.

Second, Madam Chairperson, is that the quarrel some of us have with the multiparties in a country like ours is that they are pretending. The problems of the country are known. We have peasants, they are poor, they have no education. Then they claim that they have manifestos. When you go to look at them, sometimes there is no difference. You will find UPC saying that we shall follow the principle of a mixed economy, whatever that means. You go

to DP, it is the same. Now when they go to the people, they use different arguments. We are Catholics, we are Protestants and that is the basis for being elected.

When we say personal merit, as Hon. Birimumaso was saying, it is that when you stand in your area, you must be able to say that you are good because you have certain ideas and if you go to Parliament, you will work with other people who have been selected on personal merit to make a programme, to put in place what you believe. To say that you will go to Parliament and ask why we should make a programme, means obviously that any serious person in the village will not vote for you. I think we are really wasting time, as Hon. Kyaligonza was saying. We should just throw out the motion.

MR. KIWAGAMA: Thank you Madam Chairperson. I would like to support this amendment. My reasoning is this. We are talking of broad-baseness and by definition in article 95, the Movement is broad-based. Now when you go to elections, at the time you go to elections, you have not assembled the leadership of this broad-based Movement. You cannot know exactly who will be in the Cabinet and who will be in Parliament. Parliament will consist of people with different ideologies, and so will Cabinet.

Now if you predetermine the political programme and economic programme, you may find yourself in problems later. It is only when the Cabinet has sat and people of different ideologies and ideas have discussed and formulated a national policy which they must bring to Parliament for approval, that it becomes a commitment to everybody in the broad-based arrangement. Short of this, you would find it very difficult to convince other people of different opinions to pre-determine a programme.

Maybe you can have a tentative programme at the time of election but eventually it must be approved by the new Parliament so that you commit everybody in Parliament and in the leadership to that programme. Otherwise you will find it difficult to implement and fulfill and implement a programme which is predetermined at the Secretariat before the elections. So that is why I support this amendment. Thank you very much.

MR. URBAN TIBAMANYA: I thank you Madam Chairperson. I am not impressed by this principle of common good because it transcends boundaries. It is not only limited to Movement system of government, but crosses even to the parties when they are making their programmes. They make them in the name of common good. So there is no distinction and nothing to distinguish that between the multipartyist and the movementist in this case.

When we talk of personal merit, it is with regard to what? The movers appear to think that it is not in regard to something. But really it is in regard to what you can do particularly. I think we did agree that Presidential elections could come first and if that be so, then the presidential candidates will have put forward a programme or a manifesto and your personal merit should be in regard to that programme.

You can support it in the name of common good as you say or oppose it also in the name of common good. That is where I see the merit element coming in. I would really say that if the Hon. movers would like this principle to be acted upon by parliament, they could move slowly underground and have Parliament make a programme but not put it in the Constitution. Because as somebody says, you can imagine wanting to be elected, and you simply say we shall form the common good when you elect us into Parliament. It is that funny. I oppose the motion.

MR. BIDANDI SSALI: Mr. Chairman, Sir, personally, I would like to support the motion.

THE DEPUTY CHAIRMAN: You have addressed me wrongly.

MR. BIDANDI SSALI: Oh! I beg your pardon Madam Chairperson. A thousand apologies. I would like to support the idea. The wording may be perfected, but to pick up my Colleagues reasoning, to say look, you go and be elected on merit, and tell the people what you are going to do has its own problems. You tend to have a programme in your own head and we are electing 220 people. What it means is that, you may have as many as 220 different programmes. There is a need to agree on a common one contributing to a common goal by the Parliament so that the government knows that it is in place to achieve certain objectives.

Now Hon. Tibamanya is saying that we agreed that Presidential elections will come first. I would like

to inform him that this is not true. We never agreed on that. We did not say Presidential elections will come first. We only refused to constitutionalise the fact that the two should be on the same day. But we did not address ourselves to saying that it should be Presidential first. That was a correction.

But let us imagine that the President has perhaps his programme, does the Parliament necessarily have to abide by that? Is there no need for the President perhaps to initiate a programme of objectives for the given five years so that the Parliament endorses it? And then the government can set about to achieve those objectives, and Parliament has parameters to judge the performance of the government in relation to how far they have gone to achieve the objectives? I think Mr. Chairman, drafting or wording apart, the idea in my own view is healthy and I would say that opposing this motion on the basis of the wording should come second and we debate the idea embodied in this amendment and that is, there should be a programme.

Lastly Madam Chairperson, Hon. Kiwagama has said that there could be a situation when Movement is voted back after say 20 years of the operation of political parties and it will be circumstances that will force people to prefer Movement system but the parties will be there confused as they might have been, but with their independent programmes.

It is only fair that when circumstances have dictated the parties not to go ahead, if they have to participate in the broad-based politics of the Movement system, then they should have a chance of contributing to the programme on which all of them are now geared to be party to. So I personally think that the idea is okay if only the wording can be improved upon. Thank you Madam Chairperson.

MR. PULKOL: Thank you Madam Chairperson. I would like also to rise up and support the motion. In supporting the motion, I would like the Members to imagine a situation where political parties have existed and because of change of circumstances, the system gets clogged and a referendum is held. The population of this country exercising their will and consent vote for a Movement system of governance, and in that Movement system, we stand on individual merit and find ourselves in Parliament. Surely, what process shall be used to arrive at a minimum basic programme? Take a case of the current NRM, with the ten-points programme. Of course they were hatched and there were consultations and so forth while in the struggle, in the bush. But we are now providing in this Constitution that you do not need to go underground like somebody said they should go underground. We are saying there must be a legitimate way through which such a consultative process can be undertaken and a basic minimum programme can be agreed and be implemented.

I have been part of the policy support undertaking some assignments in South Africa as a country, where the great South Africa is coming together in a government of national unity. There is a classic case where ANC for example has a rehabilitation and development plan, a Reconstruction and Development Plan. Much as ANC won the elections, because of the government of national unity the other parties also had their programmes and they have to sit together and agree on a basic minimum programme of what the new RDP is and that process is going on and for me who had the privilege of participating in shaping the social sector policies within that programme, I know that negotiations are going on within the various parties to agree on the basic minimum within the RDP. I find that very useful because it is now Parliament that will legitimise that to mobilise a consensus, a basic minimum. Supposing we had the ten points programme and subjected it to Parliament, maybe it should have been eleven points or even six points. But I think we should provide for a mechanism under which the various groups of people from various corners of the spectrum will come in and agree on a basic minimum programme.

It is against that background that I would like to support the amendment and I think it should be seen in that light. It could be during a Movement system, it could be a government of nationality, whatever it is. Thank you very much.

DR. BYARUHANGA: Thank you Madam Chairperson. I support the motion only that it was spoilt a bit by Hon. Karuhanga in his explanation. As he tried to sell it to us, he really destroyed it. But otherwise it is quite a good idea because we must understand that as we have said earlier on, this Movement political system is supposed to be multi-ideological, and when these guys meet at a certain point, they should be allowed to formulate the national programme.

However, because we are using the personal merit method in the elections, we should be able to wait until the people have elected the members of Parliament and when these Members of Parliament come, then they should sit and approve the national programme. The key word in Hon. Kabayo's amendment is approve. He is not talking of initiating. Therefore, when you go out to stand, even when there is a presidential candidate, he is free to try to sell a certain programme. But he shall do so well knowing that his programme shall be subject to approval before it is implemented as a national programme. This is what this motion is all about and I do not see why we cannot support it.

Some Members may say that even in multiparty system, programmes are approved by Parliament. But Parliament really approves a package, whereas in our thinking, we would like these programmes to come piecemeal from all these Members who have come from all the corners of the country and then the package would actually come out of Parliament. Afterall, there have also been cases in one party systems where the party is above Parliament and actually something comes to the Parliament complete. It is just an order to Parliament to put into law.

Now in our case, we would not like the Movement system to degenerate into that type of one party system. We would like the programmes of the Movement in the Movement political system to come out of Parliament. In a way, this Kabayo's amendment is actually making Parliament the supreme organ of the Movement that shall be created under the Movement political system, and definitely, I agree with that suggestion. Thank you.

MR. MAZIMA: Thank you very much Madam Chairperson. Madam Chairperson, I rise to support the motion as moved by Hon. Karuhanga and Kabayo. I would like to correct the idea that if the Movement or political parties are campaigning, they will not be having programmes. No, this is wrong. They will be having their programmes as Hon. Byaruhanga has said, but these programmes will be subject to approval by Parliament when elections are completed. What we mean here is that we need a combination of a variety of programmes as presented by different political organisations during campaign, and this one would enable the Parliament to pick relevant issues or some parts of the programmes as related to the resources of the nation during that time.

Now this has got a number of advantages, but I am going to mention a few. The little known parties or new parties that will not have a big following can have a chance of some of the aspects their programme being picked and being national programmes, and I think this is very good and it is very healthy for our own situation.

And again we have stated that the Movement is broad-based, it is inclusive. Now, it should not be only in words. It can also do for the programmes. If maybe DP or UPC had some aspects of their programmes and they are good, then they could be included and implemented. This would be one of the characteristics of the Movement to make it different from the other political parties. Otherwise parties would want to implement the programmes which they have designed for their own purposes but here it makes a very big distinction and it is because of that, that I would like to support the amendment. Thank you very much Madam Chairperson.

MR.SAM KUTESA: Thank you Madam Chairperson. Madam Chairperson, I oppose this motion, first on the ground that I think it is not a constitutional matter. Not that it is a bad principle but I think it is not a constitutional matter. I have not seen any constitution on planet which says that the manifesto must be approved.

Number two, Madam Chairperson, it is a matter of practice. How do governments work? You elect a President, he forms an executive, he has a policy, maybe he can communicate to you from the chair when he is opening Parliament and he talks about legislation that he wants to bring, that will mean certain policies that he wants to put into effect. Then every piece of legislation comes in a Bill form and Parliament considers that Bill and approves it within the framework of the Communication from the Chair. Now, it does not matter, in my opinion, whether elections were held on personal merit or party programmes.

Nobody sits to approve, or Parliament cannot sit to approve a manifesto. I think that is for the executive. Even when a party wins and forms government, they bring what was in their manifesto in forms of legislation to Parliament, and since we know that Parliament is the supreme law making organ and must approve everything, that to me, sufficiently caters for a situation like this. You can

say that NRM has ten-point programme. I do not remember when they were debated in Parliament. But there must have been piecemeal legislation that were answering to this.

Of course any executive or any government that wants to succeed, I am sure will set up something like a national policy commission. This is a supporting institution to help the executive formulate its programmes. If you write a five-year development programme, I do not know whether you will present it to Parliament and they approve it as a five year development programme. But you bring pieces of legislation that are supposed to implement what your views are, and these you submit to Parliament whether you are Movement or Multiparty.

I think this matter is not a constitutional matter and it is a waste of our useful time. I beg that we put the question. I move that you put the question.

MR. AMAMA MBABAZI: Thank you very much Madam Chairperson. I wish to oppose the motion too. First of all, I think it is based on a misunderstanding of what happens under systems. Under the Movement system, there is not likely to arise a situation where there is competition between political programmes; one presented by political parties and another set presented by individuals. That is not likely to happen. As we said, and I hope I will use this opportunity also to answer a question raised by Hon. Nsibambi. I hope Hon. Karuhanga will not walk out as he said. He is threatening to join the walk-outs.

Madam Chairperson, I do not want to go into this Debate. I just want to say that I think we should not preempt the work we have just said or we were about to say should be carried out by Parliament which wants or was to create organs under the Movement and define their functions and roles. I imagine that Parliament in its wisdom will determine which organs will be responsible for formulating political programmes. It will do this considering that under the legislature, we have already passed a clause empowering Parliament to make laws for peace, order and good government and another clause saying Parliament shall make laws for the well being and development of Uganda in accordance with the provisions of the Constitution. I think it is better, instead of repeating this here, to leave it to Parliament to create organs under the Movement and not only define but give roles to each organ and I think it will not be right to preempt it.

Madam Chairperson, as I said I hoped I could use this opportunity to answer a question which has gone unanswered. I think it was from Hon. Nsibambi and I think it has relevance to this because we are talking about constitutional political programmes. He asked the question, what is the difference between a Movement political system and a one party State. I really do not think I have to say much on it. The difference is very, very clear that a one party State cannot possibly be democratic because it is a political party and as we know, a political party is just one constituent part of the people. It is not or does not include everybody. Which means therefore that in a one party State, there cannot be democracy as perceived by this House because it tends to dis-enfranchise a section of that society.

Secondly in connection with that, you know in a one party State; in a political party, you have to have party discipline, you have to have an ideology which you have to stick to and then anyone who deviates may even be expelled. Now this further aggravates this problem of dis-enfranchising. Of course we know that when Kenya was a one party State, you had a situation where political heavy weights like Odinga had been expelled from KANU and they could not stand for election. They could not stand on a KANU ticket nor could they stand on any other platform. So when you compare this with the Movement Madam Chairperson, the Movement is democratic in the sense that it does not bar any body. Competition is open to everyone and you cannot have really greater participation and to use his own word, Prof. Nsibambi, you cannot have greater contestation any where else than under the Movement system.

And of course there is this idea of winner take all. Under a multiparty system, when a party that wins has the majority in parliament, then it forms a government. It has right to form government to the exclusion of the others. Now as we know, we are saying that this is not possible under the Movement system because the Movement system, must be broad-based. It is all inclusive as it has just been said.

These are some of the basic and salient differences between a movement political system and a one party State, and I hope Prof. Nsibambi is better educated after this. Thank you.

THE DEPUTY CHAIRMAN: Hon. delegates, I think what we are discussing is 95(2)(a) is okay

although they have moved it as if it is also a point of contention. I do not see any difference between two in 95 and (2)(a). So it is actually an insertion on (2)(b). So rather than preempting the whole thing, I propose that we disregard (a) for the time being and pronounce ourselves on (b), as to whether it should be inserted or not. If we do, that means (a) would remain and which means that (a) actually is the same as (2) and then we put the question on the whole article.

Now I want to put the question on the whole article. Now I want to put the question on Hon. Kabayo's motion that we include a (b) to take care of the common good and approval of national political programmes.

(Question put and negatived).

THE DEPUTY CHAIRMAN: So that means we passed number one, number two has been taken in. Now Hon. Kezimbira Miyingo wants to introduce a three which would be actually the placement which can be taken care of. Number two can become number three. It reads: *Parliament may from time to time prescribe any other democratic principle of the Movement system deemed necessary. (Interruptions).* This is not a new motion. It was brought in and it was negatived.

DR. KEZIMBIRA MUYINGO: No. People did not get it. Madam Chairperson, may I elaborate?

THE DEPUTY CHAIRMAN: The motion is seconded, so he has a right to. It was seconded by Hon. Pulkol and Hon. Kasajja. But Hon. Miyingo, you spoke. Let us hear from Hon. Kasajja.

MR. KASAJJA: Thank you very much Madam Chairperson. Madam Chairperson, that motion was not negatived as you are reporting. The problem that it had was the placement. In fact we decided to withdraw it pending where we can put it which is appropriate. Now we have found a place which is appropriate for it and this is in 95(3). So it was just a matter of placing it somewhere otherwise it had received a lot of support. *(Interruptions).*

THE DEPUTY CHAIRMAN: Hon. delegates, I want to put the question on this issue because it was discussed and the problem was - okay, let us hear from Hon. Mugyenyi.

DR. MUGYENYI: Madam Chairperson I thank you very much. Madam Chairperson, first I want to correct an impression here. When Hon. Kezimbira brought this, the idea was to bring it among the principles which we have enshrined in clause one. However, it was pointed out, I think by Hon. Kintu Musoke that in its wording, it is actually not a principle because it is not something that we have spelt out. A principle must be something that you have already spelt out.

However when that was pointed out, Hon. Kezimbira conceded, and he did not want to lose the idea so he was advised to rephrase it and make it actually a new clause. In my view, it is that if hon. delegates could see the point Hon. Kezimbira is making, they could accept to make it the second clause and push the current clause (2) to become clause three. Madam Chairperson, I want to implore Members to really see what we are saying. It is a good point in that Hon. Kezimbira is trying to open, to leave the door open because in l(a) up (d), we have talked about the principles of the Movement as we envisage now.

Hon. Kezimbira is trying to say, look, these principles are good but as we have been told, I think it was mentioned by Hon. Mushemeza and others, politics keeps on evolving, democracy keeps on changing and even the values of this democracy keep on changing. I imagine that sometime back when I think democracy was being described as a democratic government as a government of the people by the people and for the people, things like accountability, transparency, gender had not really come to the limelight. Now we are saying that when you want to be democratic, you must take into consideration gender issues which were not issues in 1960, for instance.

I think you should not really shut Hon. Kezimbira down. He is trying to say fine, these principles are acceptable but I want to leave the door open so that when politics evolves in 50 years' time, 100 years' time, when the Parliament of the time when the people through their Parliamentarians envisage that there is a new principle which is democratic, they should make their views through Parliament and that Parliament should enshrine that new principle among these principles and personally I do not see anywhere we have prescribed for that.

We have always left the door open for Parliament to open it again and say, look this thing was not envisaged at a time when the Constitution was made, but now this is a new thing which actually should be a sign. Madam Chairman, I want to implore Hon. delegates, that let us not really be in the mood of saying no, let us really look at this point which is in my view, a good principle. I think we should leave the door open because when our sons come up tomorrow, they will look at it as participatory democracy, fine, accountability, fine, but they may look at democracy in a new approach and I think this is what we should envisage and give our children and grand children an option of modifying this Movement.

My worry, Madam Chairman, is that if we leave it the way it is, that means that we have written it like the Bible. We have said, the principles of the Movement are participatory democracy, accountability, transparency, accessibility of all positions of leadership to all citizens, individual merit as a basis of elections to political offices. Amen. As it was, is now and ever shall be, Amen.

Madam Chairman, let us not make our Constitution as if it is a Bible. Let us leave room for changing societies to come and change this Movement if we leave it closed, we are limiting its life style. When these principles no longer hold, when they can no longer apply 100 years to come, people will say, this Constitution was for those days, now, it cannot longer apply, please go out. I think, Madam Chairman, that is why some systems like monarchism are dying off; because they did not have systems of adopting to the changing environment.

So if we want our Movement to live for longer times, and to live to the test of time, the good and bad weather, let us leave room for our sons and grand sons to enshrine some new principles which may come as time goes on.

THE DEPUTY CHAIRMAN: Just hang on. I want to put one thing correct. I did not say that we are pushing away Hon. Kezimbira's Motion. What I was saying is, Hon. Magezi is the one who came with the idea, he talked about it, Hon. Kezimbira talked about it. When we re-introduced it, I did not see the purpose of him talking again, so I gave chance to one of the movers, so that was the position.

MR. RUZINDANA (RUHAMA COUNTY): Thank you Madam Chairman. Madam Chairman, this Amendment is a useful Amendment *(Applause)*. If we can learn from what we have already done, when we mentioned the political systems, we even put a provision for any other political system that may arise in the future, because they may arise. It is inevitable that even these principles will change, these which we have put here may become irrelevant in the future and they may need to be got rid of. Others, may arise and become important and they may need to be taken into account.

Therefore, I consider it quite inevitable to have this insertion. You have seen the way the commandments of God got amended by human beings in an irregular manner, and in this one, we want to provide for increase or deduction from these principles when times change. For example, Schedule in the future, could become a very necessary principle for the Movement system to adopt and it is added or any other principle could - I am glad I am giving some hope to someone, but there are very many principles which are not provided for here, and I think it is obvious to all of us that we need to provide an outlet for the future.

Madam Chairman, I do not think we should waste a lot of time on this one, it is quite obvious, we should provide for change. Changes in the future and I support this Amendment.

THE DEPUTY CHAIRMAN: Hon. Delegates, do you not think that we have debated enough on this aspect? Hon. Miyingo Kezimbira is proposing that we insert a 92 (ii) and our current (ii) becomes (iii), that Parliament, may from time to time prescribe any other democratic principle of the Movement deemed necessary.

(Question put and agreed to).

THE DEPUTY CHAIRMAN: Hon. Delegates, I think now we can spell out what we have done today. We have passed 95 (i), we have passed 95 (ii), and we have passed 95 (iii). Now I put the question on Article 95, that it does stand part of this Constitution.

(Question put and agreed to).

THE DEPUTY CHAIRMAN: 95 does stand part of this Constitution, as amended. Now, I think I call

upon Hon. Kutesa. Hon. Kutesa, do you not think that it is high time you came in, because we are through with 95 which was part of 94 divided into two and those were the areas to which we decided to go back to the Draft. I think I now hand over to you to introduce other aspects of your report.

MR. SAM KUTESA (MAWOGOLA COUNTY): Madam Chairman, as you rightly said, Article 94 (ii) and 95 in our report have now been consolidated in Article 95 which we have just passed. So, the next Article in our report is Article 96, which is new Article 97, which in our report reads as new 97.

Madam Chairman, as I indicated to you this morning, I received information from the Chairman of Legal and Drafting Committee, that they wanted to move a Motion to precede Article 96. Their Motion was to do with the principles that multiparty systems should adhere to and that, would follow logically from what we have just done, because we have just stated what the Movement system principles are.

Now if you look at our report of Committee 5, the next Article which is 96, relates to what can be done by one system when it is in power and what the other one which is not in power, should not do. Unless the Legal and Drafting committee has abandoned its project of introducing the Motion, I would have personally agreed with them that it is logical that we first set out the principles that multiparty systems should conform to and then we move as the regulation of either system. But if they are not ready, I am ready and willing to move on to Article 96.

THE DEPUTY CHAIRMAN: Hon. Sam Kutesa, when we go to page 33, perhaps Hon. Karuhanga, will be able to answer this, page 33 Article 97, new 98. Is there any similarity between that one and the new 96 now being introduced? Because 97 and new 98 is talking of "subject to the provision of the Clause 1, of Article what have you, during the time when political parties are in charge of the Government of Uganda, the following shall apply." Are those the principles? So, are we bringing 97 forward? I am asking, so that when members are debating this, they look at what we have, knowing where this information was extracted. Of course I need to be corrected.

MR. SAM KUTESA: In essence, Madam Chairman, that is exactly what is happening simply, because at least, from the information I have, that should follow logically. I mean the sequence should be - you have talked about the different systems, then we should talk about what principles they should conform to, and if you have any restrictions or regulations, that should follow on to that. So, if by so doing, it means re-structuring or re-shaping 97, to make it 96 and therefore, 96 becoming 97, so be it, provided it is logical.

THE DEPUTY CHAIRMAN: Thank you very much. So, Hon. Delegates, now you hear that. As we debate, you can refer to 97 new 98, page 33 and there is also another amendment 96, but it does not refer to what is being proposed here. So, we will be in order to discuss this one then after, we can go to 96, which is talking about what happens when the Movement is in place or political parties are in place. That is when Mwaka and Hon. Owiny Dollo's Motion will be relevant.

Do we have any member of the Drafting Committee? Are you introducing this one Hon. Karuhanga? What I propose is that we introduce it and we go and know, going knowing when it has already been introduced. Are you introducing it Hon. Amama Mbabazi? Are you a member of the Drafting Committee?

MR. AMAMA MBABAZI: (KINKIZI county WEST): Thank you Madam Chairman. I am not a member of the Legal and Drafting Committee, but I was present in attendance when the Legal and Drafting Committee considered this matter and took the decision. I was present again this morning when the Chairman of the Legal and Drafting Committee met with the Chairman of the Committee 5 and discussed this matter and to the best of my knowledge, there was only one amendment, from Hon. David Pulkol, which the Chairman of the Legal and Drafting Committee had presented and discussed with the Chairman of Committee 5. So, I thought I should give you that information since the Chairman of the Legal committee is not here.

MR. KARUHANGA (NYABUSHOZI): Madam Chairman, the Chairman of the Legal and Drafting had briefed me and asked me to present on behalf of the committee, the report of the committee. However, I think to ease time, since Hon. Pulkol is here, he should go ahead and present his Motion. He was the only one we have and we do not have any other amendment. The Chairman of Committee 5, is agreeable, -*(Interruption)*

THE DEPUTY CHAIRMAN: That is different from 97?

MR. KARUHANGA: Yes.

THE DEPUTY CHAIRMAN: Is it on page 33?

MR. KARUHANGA: Yes.

MR. PULKOL (MATHENIKO COUNTY): Madam Chairman, thank you very much. Hon. delegates, in the same way we have gone on to provide for principles, that a Movement should conform to and arising from our amendment of 94, which provides many options, and multi-parties political system as one of the options, it is right and fitting that we take time to prescribe in this Constitution the basic principles which a multi-party political system should conform in Uganda.

Members, I am sure will realise that even during the debate of Article 94, and arising from our own experience in Uganda, the multi-party political system in Uganda, still leaves a lot to be desired. You could almost see it from the Hon. members that walked out that day; from the kind of speeches that they gave, from the kind of issues they dwelt on. Therefore, for a multiparty system to remain and be one of the viable options for representation in this country, it is important that we outline some of the basic principles one of this, as members will see from the circulated Amendment, is the issue of national character.

You will realise that most of the political parties existing in Uganda today, in my view, have been by and large hijacked by the leadership. They, therefore, need to be transformed and have a national character and in that case, to cease to be just instruments to be used by leadership for personal reasons, and rather, to have a national character. They should not be organised on those weaknesses within society, those divisions within society, like sex, ethnicity, religion, district or other sections or divisions, so that these parties start to conform and have a national character.

Another principle that is out lined in this Amendment, is the principle of internal democracy. Within the organizations a political party should conform to the democratic principles as has been enshrined in this Constitution. There is a lot that the current political parties need to do to streamline internal democracy, UPC being one of those, which even failed to have a mechanism to elect people to represent UPC in this House. I remember reading from the Press, UPC asking the Constitutional Commission to, you know, give them guidelines to do something. I think they were waiting for some guidelines from the Constitutional Commission.

I think what is most important is when you look at the 1980 general Assembly of DP for example, I was a student at that time. There was something like, you are not allowed to be one of those who skimmed to go into the House, into that Assembly, and others who got locked out in that meeting, were not to be elected if you have not found yourself there, although Yusuf Lule could have easily been elected as a President General. So, there is a lot of rigging and so forth.

I was one of the Student leaders who suffered under lack of internal democracy within UPC, and I think Owiny Dollo, was another and there are many other young people who suffered in Makerere University, because the party headquarters decided to stifle internal democracy within the party branch in Makerere. We got ourselves arrested and I was dumped in Kira Police station while my friend Hon. Owiny Dollo was thrown in Wandegeya Police, but just that people like Sam Tewungwa who was a Returning officer by that time, had decided to apply what UPC called point No. 10. "Do any thing possible to achieve the 9 above" and that time, any thing possible included rigging and so for us, who fought that rigging.

They had the machinery to stifle, but we had not. We had no where to sue them and say, that you have negated this principle in the Constitution. So, I think it is important - political parties need to be regulated, need to conform, need to have or develop certain internal democracy within themselves. It is not surprising, therefore, to find a person like Obote, still the President of UPC, as it was, so is now, ever shall be. I think till Jesus comes back, he will continue to be a President of UPC; just like Ssemogerere today. So, I think it is important to subject these parties to some basic principles of democracy as enshrined in the Constitution.

Again, I think under Principle (C), we are saying that members of national organs - of a party, shall be elected from Ugandan citizens. In the past, most of these were really nominated or otherwise. I think

the word election, will be very useful within this national organ and should conform again to non-sectarian principle; and under (D), we are looking at every citizen of Uganda having a right to lawfully participate in any activity intended to influence the composition and policy of Government.

This recognises the role of opposition parties when a multi party system of democracy is being exercised and practiced in Uganda, it, the party in power should also recognise the role of citizens who are members of other political parties. We should all have a right to lawfully participate in any activity intended at influencing composition or policies of Government.

So, when you come to (e), the principle here, is that of independence of these political parties versus external influence. I think it is important that the political parties be required by law to account for sources of their funding and also the use of their funding or assets. I think the principle of independence as well as accountability need to be enshrined in this Constitution, because otherwise, organisations like FAD, organisations and other donors may give the money and also call the tune to be played by a given political party. I think it is important that, we assist these political parties to maintain their independence as Ugandan, as home grown or home-born, for Ugandans and that kind of thing.

It is important to have that basic principle and of course, the basic principle of accountability, which has also been lacking in most of the political parties in this country. Independence of conscience as a principle, by the individual, is enshrined in principle (f),: *no member of an organisation or interest group shall be compelled to join a particular political party, by virtue or just by merely being a member of a given organisation or group.* This is where, even now, NCD is holding certain people at ransom. Black mail, of "the other day you voted against us' but if you want to stay here;" I think that independence of choice, independence of conscience, needs to be recognised and even if you are a member of a Rotary group (X), and your Chairman has opted for the other party, you should be free to maintain your position. I think that principle should be enshrined, and of course Ugandan political parties have been known for this black mail. Husbands forcing their wives to be - just by merely being, you know. I think it is important that we enshrine the principle.

Another principle in Clause 2, just like we have done in Article 94, which we have just passed, Parliament shall by law regulate the establishment, financing, and functioning of political parties. So, rather than leaving it to whom it may concern, like it has been for all these years, and there was no body concerned in the law. These political parties have acquired their own character, the opportunists have thrived, the ones I call hijackers, who have hijacked these parties from people of Uganda.

If a multi party political system is to be viable, then we must give these parties back to their members and we must regulate their character, their functioning, and also their financing and the manner in which they will be established. So. with these remarks, Madam Chairman, I beg to move.

THE DEPUTY CHAIRMAN: Hon. delegates, I think really it is too early to say 'aye', because I see the members need some time. Those who are not in the committee, you note that 14 Clauses have been reduced to two, and I think it will be in the interest of the delegates to try and see, (a), (b), (c), (d), (e), (f), what are they replacing in the earlier version, and how they have been amalgamated to come to two clauses out of the 14.

I think that would be a good way of proceeding, so that we say 'aye' with informed minds rather than agreeing on this, when we have not cross checked with the original in the Draft and in the Report. Hon. Sam Kutesa, I think when we come tomorrow, we shall be guided on (a), what is it replacing on the other side, so that we see that we have not left anything and what we have included is in agreement by the majority.

So, I propose that we go with that in mind. We stand adjourned until tomorrow 9.30 a.m. and please let us come on time. We stand adjourned.

(The Assembly rose and adjourned until 9.30 a.m. Tuesday 27th June 1995)

THE REPUBLIC OF UGANDA

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TUESDAY, 27TH JUNE 1995

MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 5019]

Tuesday, 27th June, 1995

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

PRAYERS

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

(The Assembly was called to order)

COMMUNICATION FROM THE CHAIR

THE DEPUTY CHAIRMAN: Hon. Delegates, as you see on your Order Paper, I think it was drawn up wrongly because I recollect that we completed Article 94 and 95. We are saying we skip Article 96 for the time being and go to 97. I saw some of our friends up there taking photographs. I can see the House is very scanty. I cannot see the chairman and his deputy of Committee 5 who are supposed to lead us. Yes, hon. Bidandi Ssali.

MR. BIDANDI SSALI (Nakawa Division): Madame Chairperson, I am not speaking on their behalf but I am just saying that there is a possibility that many of our friends have gone for the funeral of our Colleague, hon. Kintu, which funeral is scheduled at midday. So, it is possible that many of our Colleagues are not here because of that and indeed, some of us are also waiting to sneak away to go and pay our last respects to him. So, that is, I think the reason why the chairman and the others are not here.

THE DEPUTY CHAIRMAN: So, that is the second dimension on the absence of the chair and the deputy who were supposed to lead us. Then, I do not know whether it would do any help if the Marshall rang the bell for the five minutes to see whether those who are upstairs taking photographs when they come we shall realise the required numbers. Hon. Maliro.

MR. MALIRO (Mwenge North): Thank you Madame Chairperson. I was wondering whether it would not be possible to continue without the chairman and his vice, since yesterday a motion was tabled by hon. David Pulkol on article 97 and is now a matter for discussion by this House Madame Chairperson. This Motion contains over seven Clauses which I think will take us a reasonable amount of time and maybe by that time, the chairman and his vice would have arrived. Thank you Madam Chairperson.

THE DEPUTY CHAIRMAN: Yes, but where is hon. Pulkol ?

MR. MALIRO: Madame Chairperson, I saw him around and in fact he was saying that he feared he was late, but he is around. He might only have gone up for the photographs but since he had presented, I do not think his absence could prevent us from discussing apart from the few queries which he would have to answer.

THE DEPUTY CHAIRMAN: With that in mind, let the Marshall ring the bell and see whether we shall get the numbers. So, I suspend the Assembly for fifteen minutes.

(The Assembly was suspended for 15 minutes)

THE DEPUTY CHAIRMAN: HON. Delegates, let us get settled and see where we go. Hon. Delegates, I am being informed by the Chairman of the Legal and Drafting Committee that there are so many amendments to Article 96 which may not be well integrated in the text if they just come spontaneously from each Mover; and given the fact that some of our Members have gone for the burial, you will see that actually the House is not very thick. I propose that we give this time to Members who have their Motions for amendment to form a small meeting together with the Legal and Drafting Committee - the chairman is there - so that we synchronise all the amendments because now they are following one another. Moreover it will even be good if we send in the amendments up to the end of this Chapter so that we can debate these amendments. Perhaps hon. Kanyeihamba you can add on to that.

PROF. KANYEIHAMBA: Thank you Madame Chairperson. It is true that since yesterday we have received amendments to this Article which need further synchronisation. Currently, Madame Chairperson, we have in the pipeline some of the amendments following on what we have already pronounced ourselves upon. I do not know what you had in mind but if it is possible we could finish those this morning and then the Legal and Drafting Committee will resume in this place maybe 2.30 to complete all the amendments on the rest of the

chapter including those which have appeared on Article 96. So, I was proposing Madame Chairperson, that the work for the Legal and Drafting Committee could continue this morning and then at 2.30 anybody who has got those amendments should meet here and synchronise them so that we are ready to present them tomorrow morning, Madame Chairperson. If that is agreeable.

THE DEPUTY CHAIRMAN: Hon. Magezi, you had your hand up.

DR. MAGEZI (Jinja Municipality-East): Thank you Madame Chairperson. My interest really is that I feel we should finish this constitution this week on Friday because really I do not see why we should keep on dragging and - I wish you could reassure me that when we resume tomorrow, you have the will to make us move and finish the discussion on this Constitution before the end of this week, Madame Chairperson.

THE DEPUTY CHAIRMAN: Yes, I understand your problem but also however much you want to complete the constitution, we should not over bend the rules and continue debate when we are even less than a hundred. So, we are killing two birds with one stone. Rather than saying we go, let us have some work being done by a Committee so that when we come back the work will be easy, because the synchronisation will have been done rather than saying we adjourn because we have no quorum and we have not delegated anybody to do the work on our behalf. So, that is the understanding. I am looking at it from a multi dimensional point of view. People have gone for the burial, we are very few but then there is work to be done. So, we delegate that work to the Legal and Drafting Committee; when we come back we can take one minute and say aye and we go. So, that is the understanding. We stand adjourned until tomorrow 9.30 and please the Legal and Drafting do a good job so that we do not waste time tomorrow.

(The Assembly rose and adjourned until Wednesday, 28th June 1995 at 9.30 a.m.)

THE REPUBLIC OF UGANDA

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WEDNESDAY, 28TH JUNE 1995

MOTION:-
Consideration of the Draft Constitution of the Republic of Uganda [Pg 5021]

Wednesday 28th June, 1995

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

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

PRAYERS

(The Assembly was called to order)

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

CHAPTER SIX - REPRESENTATION OF THE PEOPLE

Article 97 - Political Parties.

THE DEPUTY CHAIRMAN: Hon. Delegates, when we adjourned yesterday, article 96 amendment had just been moved but we could not continue because of some technical problems. We had referred it to the Legal and Drafting Committee to include all the amendments and I do not know whether the Chairman has those amendments because they have not reached my desk. What I see are two separate amendments. I do not know whether Members have these but these are on article 96. One is by Hon. Kivenjinja and Hon. Sekandi. I wish the Committee Chairman would be here to lead us or anybody who attended the committee that synchronized these amendments.

MR. KARUHANGA: Madam Chairperson, I do not have the authority from my chairman to represent him this morning, but I attended the syncronisation committee of the legal committee yesterday. The amendments which you have from Hon. Sekandi, Hon. Matembe, Hon. Semajege on 96 and the one from Hon. Kirunda Kivejinja appearing were synchronized and there is supposed to be an amendment which should have been circulated. These ones are not the ones which you have. So I would like to ask the Secretariat to see whether they can get it from the clerk to the legal committee, since I am sure he has the amendments ready for this morning and he is not in the hall yet.

THE DEPUTY CHAIRMAN: Hon. Delegates, I know that Hon. Kanyeihamba is in this building. So rather than hurrying and doing things which are improper, I suggest that I suspend the Assembly for five minutes - ten minutes as we organise ourselves.

MR. KARUHANGA: Madam Chairperson, Hon. Pulkol is here, and his motion was already on the Floor.

THE DEPUTY CHAIRMAN: Yes but you say there is something which is synchronized. Why do we not have that one? Now that the Chairman of the Legal and Drafting Committee is in the Assembly, may I call upon him to guide us.

PROF. KANYEIHAMBA: Madam Chairperson, I was slightly late. I met here one of our Colleagues who walked out and I was trying to persuade him to come back. Madam Chairperson, as you directed yesterday, we did synchronize a number of amendments on the remaining articles of the chapter we are considering and we concluded them.

It is, however, our view Madam Chairperson that the debate on the Pulkol amendment which was already on the Floor should continue to be debated and disposed of before we introduce the amendments on the remaining chapters. As I understand, the Technical Committee is still typing them and duplicating them. So, nevertheless, the business for this morning Madam Chairperson is the motion which we had already started on article 96. I thank you.

THE DEPUTY CHAIRMAN: Okay, but I am not clear with something in the Pulkol amendment. The amendment has article 96 - multiparty political system as a heading. Now when you look at article 96, Hon. Sekandi's motion is to delete article 96. Then you come to Hon. Kirunda Kivejinja's motion, it is on article 96. Can the Chair be guided, what you have in these motions, what is in the Draft and what is in the report, because there is some kind of confusion.

PROF. KANYEIHAMBA: Madam Chairperson, we looked at the amendment by Hon. Sekandi and we convinced him that part of that amendment was already incorporated in the Pulkol amendment, which we are discussing now. He agreed, but he had another amendment which when we put it in the context of the committee five report, it becomes 97 and not 96, Madam Chairperson.

I think the confusion has arisen because of our adoption of a new article 94 which has tended to shift all the subsequent ones to which were 94 to 95, 95 to 96 and so on and so forth. But Madam Chairperson, we are in order to continue with the Pulkol amendment and when we finish that, as I have said, part of Hon. Sekandi's amendment has been incorporated in that one. We synchronized it and then we shall come to a new 97 which deals with an entirely new subject Madam Chairperson.

MR. BATEGANYA: Thank you very much Madam Chairperson. On the 26th, two amendments were circulated to us, one by Hon. Eresu Elyanu John and another one by Hon. David Pulkol. I understand that in our procedure the amendment that departs furthest is the one that is debated first and I thought that in this case, the one for deletion is the one that departs furthest. Why do we not discuss that one first?

THE DEPUTY CHAIRMAN: I think the deletion is on new article 97 *restrictions on political parties*. That is not what we are discussing. We are discussing how political parties would be regulated. In order to be systematic, after saying what the Movement shall be and then how it should behave, then we go to the second item which are political parties and we are trying to see how they should be. After that, we shall look at what happens to either the Movement or the Political parties in case either of them is out of business. So that is that.

I propose that we proceed this way; Hon. Pulkol reads his amendment, after which we go one by one. We know that we are saying that multiparty system shall conform to the following principles and go one by one in discussing these principles. a, b, c and d rather than discussing them at a go. If one member talks of all, we will get confused. That is my proposal. I call upon delegates to debate 1(a). Every political party shall have a national character and membership shall not be based on sex, ethnicity, religion, district or other sectional division.

MR. SAM KUTESA: Madam Chairperson, it is not that I have a contrary view, but I wonder if it is not better construction for us to separate it into two sentences. Every political party shall have a national character. Fullstop. The membership of a party shall not be based on sex, ethnicity, religion, district or sectional division. Because I think we are stating two separate principles.

You can have a party that is for women and it would be sectarian, but it could have a national character. So I think we are stating two different things. I would suggest that we say every political party shall have a national character, fullstop. The membership of any party shall not be based on sex, ethnicity, religion, district or other sectional division, fullstop. I don't know whether the mover would be offended if we did that.

PROF. KANYEIHAMBA: Madam Chairperson, in fact Hon. Kutesa has taken words out of my mouth. I had intended to move such an amendment. I think it is much cleaner to separate these two principles, to say that every political party shall have a national character, fullstop. Then the other one about sectarianism is a different one and we should call it (b).

But, Madam Chairperson, I was also wondering with the permission of the mover whether really the word district should be there; whether it should not be that sex, ethnicity, religion or other sectional division rather than put in district. So, Madam Chairperson, while agreeing with Hon. Kutesa about splitting this article into two, I am also moving that we delete the word district from this that becomes (b).

MR. PULKOL: Thank you Madam Chairperson. In light of what has been said by Hon. Kutesa and Hon. George Kanyeihamba, I am agreeable to, one, the splitting of these two principles, two, the deletion of the word district since ethnicity covers and ethnicity cuts across districts. I think it makes a lot of sense to get the word district out of this article, and with that I am agreeable.

MR. MUSUMBA: Madam Chairperson, it is true that very senior learned lawyers have spoken on this matter. However, I am still perturbed. If we simply said each political party shall have a national character, at that stage, one then stops to question, what national character is? I thought all that follows, exclusion of sex, sectarianism, et cetera, is actually giving a definition to national character and that surprisingly too, it seems as if two separate ideas are being introduced.

Madam Chairperson, I am not in a hurry to be convinced by the argument of both Hon. Kutesa and Prof. Kanyeihamba. I think unless you decide to define national character as being distinct and

different from the other elements which are laid out, the two elements should stay in the same paragraph.

MR. RUZINDANA: Thank you Madam Chairperson. Madam Chairperson, my problem is with the heading of that article, *the multiparty political system.* One starts with, *the multiparty political system shall conform to the following principles*, but thereafter, we talk about political parties not about the multiparty political system. Why, therefore, do we not say that every political party in the multiparty political system shall conform to the following principles rather than the multiparty political system itself. Because it is political parties that must conform to this, not the system itself.

I do not know whether I am clear, but the thing looks not properly formulated and I think the heading should refer to political parties rather than to the multiparty political system. That one would bridge a gap that is missing, because we are straight away saying or we are assuming the political parties to be in existence. We are not saying that there shall be political parties in a multiparty political system, and then they will conform to the following principles. But if we put this political party in the heading of one, then what follows I think is more logical than what is there now.

I, therefore, would suggest that there should be an amendment putting political party in the heading. It could be in the following words: every political party political system shall conform to the following principles or political parties in the multiparty system shall conform to the following principles. But my idea is that political parties should be in the heading rather than leave it the way it is now. Thank you Madam Chairperson.

MR. SEBALU: Thank you very much Madam Chairperson. I am also having difficulty with the idea introduced by Hon. Kutesa and Prof. Kanyeihamba about separating this clause (a), because when you read the clause as moved by the mover, *every political party shall have a national character and the membership shall not be based on sex, ethnicity, religion or other sectional division,* assuming the district has been done away with.

My understanding is that the principle of national character is being qualified in the subsequent sentence, by clearly telling the people what we mean by national character. Because if we leave national character alone hanging, how are we going to define it? That means that it will be subjected to various interpretations depending on who is looking at the national character, and the example given by Hon. Kutesa is a vivid one. Someone can form a party for women but composed of women from all the areas of Uganda and to someone, that can be national character. So by separating the two, they will bring that difficulty of qualifying the principle of national character. I feel that one is very necessary for clarity and for avoidance of doubt.

Nevertheless, I agree with the deletion of the district because that one is catered for in ethnicity and other sectional divisions. But I am not very comfortable when they introduce two ideas and yet one is left hanging. I would like to get an explanation from either Hon. Kutesa or Hon. Prof. Kanyeihamba. Thank you very much Madam Chairperson.

MR. KWERONDA RUHEMBA: I have no quarrel with Hon. Kutesa s amendment and Kanyeihamba's amendment in trying to separate the two principles and removing the district Madam Chairperson. However, I want to follow up on what Hon. Ruzindana has just said. When we were dealing with article 95, we started by defining the Movement political system and we said the Movement political system is broad-based, inclusive, non-partisan and shall conform to the following principles. However, when we come to this multiparty political system, we do not seem to define what it is.

Madam Chairperson, I would have liked the mover of this motion, to start by defining what a multiparty political system is. I had this to say in that respect; that *the multiparty political system is that system where parties compete for power and parties shall conform to the following principles*, something like that; so that we first of all define what it is and, thereafter, talk about the principles that the parties shall conform to. So if the mover is agreeable that this is consistent with 95 (1) which we have already passed, then certainly he would agree with me that we should have started with defining what multiparty political system is, then go ahead to talk about the principles that they should conform to. I thank you.

DR. KABERUKA: Thank you Madam Chairperson. I also had a problem with the preamble of this

article we are discussing. Infact, I have a different formulation from Hon. Ruzindana's suggestion, which I think could iron out the problem that we are facing in this article and I wish to read it Madam Chairperson. I am of the view that the preamble should read that *under the multiparty political system, political parties shall conform to the following principles* and then a, b, c. I think if we do that the problem which Hon. Ruzindana and others are finding would have been ironed out. I thank you.

MR. PULKOL: Madam Chairperson, I am agreeable to the latest reformulation by Hon. Kaberuka rather than putting the definition which Hon. Kweronda gave which could actually go into the definition. I, however, think it is better to take the latest saying, under the multiparty political system, parties shall conform to the following principles. This already in itself implies that there are parties, and of course the role of parties in a political system is clear but can even for avoidance of doubt be brought out in the definitions of concepts.

But, coming to the issue of separation of two principles, I think national character, part of it is the anti-sectarian aspect of it but it is not entirely all. So I think let us leave national character as one of the basic principles. I remember when we began the Constitution making process, we enshrined chapter three on national objectives, directives, principles and so forth. With that I think it is important that the political parties reflect the aspirations of the Ugandan people, the objectives and so forth and should conform and have a character that is Ugandan - national character. Sectarianism as a principle of its own needs also to be amplified and brought out as a separate principle. Thank you.

MR. OGWELLOOTE: Thank you Madam Chairperson. I just like to seek clarification from the mover on the separation of the two principles because I thought the two principles could be merged together. But the clarification I seek Madam Chairperson is that what are the index or the yardsticks for this national character if we subtracted these two concepts? Is it in terms of composition or the development of philosophy? That is the clarification I seek Madam Chairperson.

MR. PULKOL: Yes, national character is an outcome, it is a totality. It is really an outcome of many aspects that constitute a character, the composition being one of them, even within the philosophy, the orientation and so forth and the aspirations that the party embodies. As I was saying, rather than merge the two, we could separate them and I think this national character evolves and really a party that typifies, that can reflect the body politic to the aspirations of the Ugandan people. For example, the sovereignty of our people. If there is a party that does not reflect that, then it loses the national character that we have put in this Constitution. So there are a number of things referred to in chapter three.

I think what has been going on under the NRM administration, is that the Ugandan people have had time to evolve a consensus, a broader consensus on issues where we seem to agree and then there are issues where we can afford to disagree with each other, the issues of peripheral nature. But there are those core issues where we agree as citizens of Uganda. For example, if somebody attacks Uganda as a country and then you find one political party joining into that and supporting, that kind of character, it loses.

Whether you are DP, UPC or NLP, or whatever you may be, we must be agreed on certain critical principles which, I think we have embodied in this Constitution. So do these parties therefore reflect this national character and this is really the principle I have in mind. I think it is important that we separate the two principles.

MR. BIDANDI SSALI: Madam Chairperson, I just wanted to add that I think we should not discuss a question of national character from an academic point of view, or philosophical point of view. We should discuss national character in respect of our historical political development, and I think this matter came up in relation to the political organisations we have had in Uganda politics and their effect in particular. When one is talking of national character, one should ask himself a question that at the time when we had national political organisations like the Uganda Peoples Congress, Democratic Party, there was also a party called Kabaka Yekka (KY).

In this context, would KY qualify as a political organisation in the concept of what we are not discussing? If not, I think this is what those who introduced this idea of national character had in mind - that should such an organisation which is not

of a national set up, and character come up again, either in Busoga, in the North, in Buganda, or any where, then it should not qualify to be registered as a political organisation. I think the national character in this particular case should be seen in relation to our politics and not in relation to the dictionary interpretation of national character. Thank you.

DR. KEZIMBIRA MIYINGO: Thank you very much Madam Chairperson. Madam Chairperson, I have a problem with the formulation that Hon. Kaberuka put up, because I think he does not really convey what the amendment is supposed to say. If he uses the word *under*, you are kind of saying that under the governance but I think this is not under governance. This is the character that the party should have even if it is not in governance.

I thought Hon. Ruzindana's amendment was much better, saying that every political party in the multiparty political system, or if we say a political party in the multiparty political system shall conform rather than say under because if you say under, it is as if you are saying that when these are in governance, that is when they should conform. But parties should conform to these whether they are in governance or not in governance. Thank you Madam Chairperson.

MR. BASALIZA: Thank you very much Madam Chairperson. In line with Hon. Bidandi Ssali's argument, I am also questioning the wisdom of removing the word district from this phrase, because if we say sex, ethnicity and religion, this could exist in one district. You could have people of various sex, ethnicity and religion within one district and the party could flourish in one district without going across or without existing in other districts. So Madam Chairperson, I am requesting for clarification, from those people who would like to remove the word district from this clause, because if we want to have a party which has got a national character, it should go or cut across all the districts of Uganda or most of the districts of Uganda. Thank you very much Madam Chairperson.

DR. CRISPUS KIYONGA: Thank you very much Madam Chairperson. In my view Hon. Delegates, this question about national character is valid and complicated to answer. I have listened to Hon. Pulkol and Hon. Bidandi Ssali attempting to give us the understanding of this situation. But first, I would like to remind them that the courts to whom this matter will be referred may not have the understanding of Hon. Bidandi or Hon. Pulkol unless we assist in attempting to define what we mean by national character.

Our understanding today may be clear, everybody may follow what we mean by national character, but 10, 20, or 30 years after now, we could have a problem. And secondly, for the purpose of transparency and clarity, because in future, the registrar of parties could just write back to me and say, you have not been registered because your party has no national character, fullstop. Now what would that mean?

I had hoped that maybe some of the answers were to be given in clause two, which we have not reached, because clause two is talking of Parliament regulating the establishment, financing and functioning of political parties. But none of the movers is making reference to this clause and, therefore, I am afraid, if we leave it the way it is, we are causing a problem. We are not solving any problem! When we talk of a national character, we have in mind the social structure of the society, the economic structure, the cultural structure, we have elites, we have peasants.

So what exactly are we saying in this formulation of a national character? We would really have to define and include that definition in the formulation or in the interpretation section of the Constitution. My next point refers to the sex aspect of it. I would have thought that our Colleagues the Ladies in this House would object to the inclusion of sex here. My view Madam Chairperson is that we know in our society the female members in our society have been marginalised for a long time.

NRM is trying to correct this situation and we hope that this correction becomes sustainable. But you never know, suppose in future someone else comes up and marginalises you. You need a door open which you can use, to accept that the party will be considered sectarian if it is only one sex oriented, is dangerous for you. I think the door should be left open. If you are oppressed in future, you can form a Movement or a party to fight for your own right. So in summary Madam Chairperson, I think this question of national character needs definition for clarity and transparency and I would invite our Colleagues, the female Members of this House to comment on the issue of sex as we define this matter. Thank you very much.

MR. ELYAU: Thank you Madam Chairperson. Madam Chairperson, I wanted to emphasize also on the issue of national character. When we say so, what do we mean? The nation is built of families throughout Uganda and any political party to be formed must make sure that it is responsible to those families, so that when you sell the idea of such a party, it must go round Uganda. I think that is what we mean to be national character. It must be embracing responsibility of a particular party over Ugandans.

We should take ourselves seriously if we want to make parties that will look after our people. But if we put a party for example, which Hon. Bidandi Ssali was saying, Kabaka Yekka, it would stop in Buganda, fullstop. It cannot move. Even if you use a machine, it cannot move. So we want a party which can be sold to people freely and people will understand it and cherish it. This is how I see the national character. So all parties which shall be formed in Uganda must be able to be responsible as a duty to do with people of Uganda in as far as protection of lives, property, good governance is concerned.

Why do we need these parties? They can be institutions as some people say, but we cannot afford to have bad institutions. We must have institution which can look after our people. Lastly Madam, I am very disturbed to see that we are discussing about political parties when the experts of political parties are not in this House. Yesterday, when I was coming, somebody asked me, "are you joining the NRM caucus?" Madam Chairperson, why should Ugandans who have walked out openly and freely in this House try to underrate some of us who stay here that we are having a caucus of NRM here, yet this is a national matter. It is a CA!

So Madam Chairperson, such people who utter nonsense as we come here should be taught a lesson. We are not children to be told that we are here to discuss a Movement caucus. This is very serious Madam. If somebody went out on his or her own, he should not really come back and throw mud on us here. We are a reasonable Assembly known Internationally. Thank you very much.

DR. CHEBROT: Thank you very much Madam Chairperson. Madam Chairperson, I had wanted to touch on what Hon. Elyau has just mentioned in connection with the need to define national character properly. My view, Madam Chairperson, is that national character should not be defined in the sense of the already organised groups as of now. During the early affirmative years of Uganda, a number of Ugandans organised themselves into political groups to achieve a certain purpose and they are organised along those groups not on the basis of the national character but on the basis of their numerical numbers as an ethnic group in some instances.

For example, the CP. I think it is only a few people who won just one seat. It does not reflect the national character of Uganda. The national character must reflect the people who live in Uganda. Who are they? So when you are talking about national character, it should reflect the composition of its people as a group, not necessarily as organised groups as Hon. Bidandi Ssali said. The national character should reflect particularly the composition of its people as a group. Thank you very much.

MR. SENDAWULA: Madam Chairperson, I am still worried on the whole formulation starting from the amendment provided by Hon. Pulkol and then looking at the various documents which we are using as far as this exercise is concerned. On page 36 of the Draft Constitution under 97 - political parties as according to Hon. Dr. Kaberuka, he was providing a formulation that if accepted by this Assembly would embody multiparty and then State parties and if that is accepted, then I think there is something that is totally missing which we have to take care of before we even go along to consider the principles.

You have got, for example, to tell me the time I should check these principles. In other words, that it is at the time of registration, and that we have to state when we talk about these systems and principles, we must state that these are the principles you must fulfill when you are presenting your organisation as a political party for registration. I was of the view that the first point we would have at the top would be any organisation which operates or wishes to operate as a political party must be registered and must conform to the following principles and then we logically move down.

But the way we are now looking at principles and ignoring registration, then I do not know at what stage we are going to bring in registration. There is already an amendment provided by Hon. Kirunda

Kivejinja which is meant to come in as (g) after (f) where it is stated every political party shall be registered with its Constitution, filed with appropriate authority as a justiciable document.

I thought that that should be the opening point, that every political party shall be registered and its Constitution filed with an appropriate authority and it must conform to the following principles so that logically, you follow that this is what comes first and when you are going to register, this is what you have to provide. Now we can discuss the contents; I am still worried about the logical sequence of how this article is being presented. I am only requesting the Chairman of the Legal and Drafting Committee can help me over this, because it is not an issue for which I will expect an answer from the mover of these amendments.

MR. ERIYA KATEGAYA: Thank you Madam Chairperson. First of all, I find myself in a kind of a problem. I think the idea of having a multiparty political system is that you should allow everybody who wants to form a party to protect his or her interest, to say so. Because to say you are free to form any party, and at the same time you restrict me, or confine me to certain groups is a bit unfair. I, Personally, find a bit of difficulty, whether it gives out parties, have them, what form you want. Whether you want to take a sex line, if they want to be ethnic, let them be so. But all the same, I think the phrase national character is a very vague one in I (a).

How do you determine that, as a new concept or even an interpretation? If I were the mover, I would restrict myself to say, membership of a party should not be based on ethnicity, religion and leave it at that. Because the moment you talk of national character, you are going to have a problem of interpretation of what it means. How do you determine that a party has a national character? It would be different if you said ethnicity and religion, and I am sure what the mover wants here is that you should have a party which is not sectarian. I would, therefore, agree with those who say that this national character should be dropped because it is going to cause us problems.

Secondly, I also agree to support Hon. Kiyonga. I think sex should not be really something to be called sectarian, because I think apart from his argument about the women being discriminated against, you may also find men as the oppressed sometime in future and we may need to have a party to protect our interests. I do not see why we should include sex in this formulation. So, Madam Chairperson, I would rather say that we could perhaps restrict ourselves to ethnicity and religion and stop there. By going to national character, we are going to have a problem of interpretation in future, since we are going to have a legal document. We must really define what we mean by national character otherwise it will cause a lot of problems in its interpretation.

MR. KAIJUKA: Thank you Madam Chairperson *-(Interruption).*

MR. KINTU MUSOKE: Point of order. It is a technical point of order. There is something faulty about the public address system that side that makes it difficult for us to hear this side. Everybody who is speaking from that side is not audibly heard from this side. We have not been able to comprehend what has been said right from Hon. Bidandi Ssali, to Hon. Kategaya. Maybe there is something technical from that side which could be rectified.

THE DEPUTY CHAIRMAN: Okay, may I also ask the Members to raise their voices a little bit higher. Thank you very much.

MR. KAIJUKA: Thank you very much Madam Chairperson. I believe nobody will have a problem of not hearing me. I will assume everybody is able to hear.

Now Madam Chairperson, I have listened to comments made in connection with this article 96 (1)(a) and (b) as we were discussing. But I think we are missing the point. I thought the overriding concern at the back of our mind as delegates is to have an environment where, if you have a multiparty political system, you have serious parties in place. In other words, you are not looking forward to having a proliferation of parties as we have seen in Zaire and other countries. You end up having over 100 parties because everybody who wants to form a party whether you are one person or 20, 100 you have to register.

I thought that at the back of our minds, we are saying, under a multiparty political system, whoever wants to go for a party, for goodness sake be serious. And how would you become serious? This question of saying every political party shall have

a national character, to me is extremely important and I wanted to disagree with my Brother Hon. Kategaya when he says that it may be vague. I think even if you are not a lawyer, it means that everything you do, in other words, if you say a political party should have national character, it means in terms of membership, in terms of composition, in terms of outlook, in terms of policy formulation, everything you do is seen in that sense and that is the -concept.

In other words, as Hon. Bidandi Ssali was saying, if I go and start a purely Banyankole party, whatever the formulation, it can never be national in character. Of course there is the other side of the national character. I was just talking to my neighbour, and we that it may mean anything Ugandan. In other words, opposite of foreign. There is that interpretation and, therefore, I was going to suggest I agree with one delegate who suggested that let us put it in our definition somewhere. Let us define it, but let us also retain it here. I was going to argue that we go with it because it is really one of the most important aspects of establishing a multiparty political system. That is one. Two -

MR. SAM KUTESA: Point of information. Thank you Madam Chairperson, I thank Hon. Kaijuka for giving way. I would like to inform him that actually what he has said is contained in article 97(5) of Odoki's Draft talking about national membership. National here, the membership is picked from all over the whole country. You are required to have about 100 people registered as voters, ordinary residents, of two thirds of the districts of Uganda, have party branches in at least two thirds of the districts of Uganda. If you go to (8), even the membership of the national executive committee of a political party shall as far as practicable be chosen from a cross section of the people of Uganda.

Now unfortunately, this amendment which we have here has not gone to that detail which was envisaged by the Odoki Commission, and if you look at (2) on page two, they have left that duty of creating that detail to Parliament. They say Parliament shall by law regulate the establishment, financing and functioning of political parties. Now we have two choices, either spell out what Odoki had spelt out, in which case, there will be no further need to define what a national character is, because the provisions do. Or we may leave it on the understanding that national character, when Parliament begins to make these laws relating to establishment, financing and functioning of parties, will take into account what Odoki did. Maybe the former option would be better rather than leave it to Parliament. We could put the details regarding the establishment of parties, and then national character would be better understood. I thought I should bring out that information.

THE DEPUTY CHAIRMAN: Hon. Delegates, I think we have had so many different views on this issue. I also want to take note of Hon. Sendawula's suggestion that before a party is recognised as a party, registration is the yardstick for recognition, and he was proposing that (g) by Hon. Kivejinja can be pushed to and integrated with (a) to see how it could rhyme. Can we have somebody commenting on that, because after that, nobody commented on it.

MR. KAIJUKA: Thank you Madam Chairperson. If I may start with Hon. Sam Kutesa's information, I really think that the formulation as being suggested here on page two, where we are saying that Parliament shall by law regulate the establishment, financing and functioning of political parties is the correct move. Because then we will have more time - not just time but you can be more definitive in an Act of Parliament and be detailed as opposed to perhaps loading the Constitution with a finer detail. But all the same, I think it becomes important for us to spell out in broad terms that every political party shall have a national character, and therefore define it in the way we understand it. There is no contradiction.

That is my view Madam Chairperson. if I could comment on Hon. Sendawula's point, I think there is no contradiction. it is correct that every political party should be registered, but whether it becomes a or b or c, I was going to suggest that we discuss them and pass these principles and we leave it to the expert to arrange them, as to which one comes first and which one comes last. I think what is important is for us to pronounce ourselves on the principle, agree with it and then leave it to the technical people to rearrange. That is my comment.

Lastly Madam Chairman, on the suggestion made by Hon. Kaberuka, when he moved the suggestion that we start with under the multiparty system, I thought it was a brilliant formulation but after listening to comments, I want to persuade Delegates that we go for the earlier suggestion.

AN HON DELEGATE: Hon Delegates, since we already have the words 'National character', I want to suggest that we go with the suggestion by Hon. Kaijuka that we define it at some point within the definition of concept in the constitution for avoidance of doubt. But otherwise for National character if, for example, parties by reason of their aims or the conduct of their followers, seek to undermine or do away with the free democratic order, basic order in Uganda, or threaten the very existence of the Republic of Uganda, such parties should really be unconstitutional.

The courts should rule on the question of unconstitutionality because of such a party not having a national character by reason of their aims or even the conduct of their followers, and believers, if they seek really to undermine the basic democratic order as has been outlined in this Constitution or even threaten the very existence of the Republic of Uganda. So I think national character composition is only one of it, but there are other components to that national character. So we can make a definition somewhere within the definition of concept. Thank you.

THE DEPUTY CHAIRMAN: Hon. Delegates, I think we really have had enough on that one. Let us agree, as I had read earlier that 96 multi-party political system; *a political party in the multi-party system, shall conform to the following principles. One (a); Every political party shall have a national character. (b); The Membership of any party shall not be based on sex, ethnicity, religion, or other sectional division.* So we have taken one and (1)(a). Can we go to (1) (b) please. Sorry (1) (c). (b) becomes (c).

MR. BATEGANYA: Madam Chairperson, I have a problem with the current (b) on the sheet, but now (c). We have said that the Internal Organization of a political party shall conform to the democratic principles enshrined in this Constitution and we are saying that because of a problem we have identified with political parties, I would like to draw your attention to article 96 , no! Article 9 Clause (7) in that, clause we said that Civil Organizations shall retain their autonomy in pursuit of their declared objectives, and we know very well that, political party objectives, or principle objective is to contest for executive political power in the country. We also know of a political party which has I think one of the articles, I think article 10 says that, it can use any means to achieve 9 of the above.

Now if you say that a Civil organization shall retain their autonomy, and then in this clause (c) you say, the Internal Organization of a political party shall conform to democratic principles. I would think that is too general and it can lead to abuse. I would like to suggest that we tie it to a particular clause or article in the Constitution and then others can follow. So I wish to propose that, we tie this particular Clause to article 9 Clause (6) or wherever it has been transferred, which says that, all political and civil associations aspiring to manage and direct public affairs shall conform to democratic principles in their internal organizations and practice. To leave no room for manoeuvre and abuse.

I would like to propose that article (c) now reads as follows; *"That, the internal organization of a political party shall conform to article 9 Clause (6), and any other principles enshrined in this constitution.'* Actually it was transferred to some other place in the Constitution, but that is the particular Clause I would like to tie to these parties too, and then any other democratic principles enshrined in this Constitution, for clarity.

MR. BIDANDI SSALI: Madam Chairperson, I have sympathy with the Hon. who is trying to make this amendment, but I think it is a bit awkward to talk of another provision somewhere. I would rather he talked of deleting enshrined in this Constitution so that it is a bit to the effect that the internal organization of a political party shall conform to democratic principles.

The reason I am saying so, is that in some parties some organs are put in place through indirect elections according to their Constitution, others may be through direct elections. For example, a delegates conference can elect all the officials of the party, while in other parties the delegates conference can elect a few people to put in place other organs that will depend upon the specific political party Constitution. I do think that if you say as enshrined in this Constitution, you are limiting the options.

MR. KINTU MUSOKE: Point of information. Madam chairperson, I would like to inform the Hon. Member holding the Floor that the question of political parties electing one of these leaders or the President and allowing him to elect others, was a beginning on rigging elections; and removing democracy in the practice of political parties. It was when these leaders became fearful of the power of

the people who elect these that they started devising these short cuts of saying, you elect the leader and then I will elect my own team. Therefore, if we are to return democracy in this country, we must avoid this type of short cuts to democracy, whereby one man takes over the leadership of one organization and says that he elects other members of the executive.

DR. BYARUHANGA: Madam chairperson, my information is very similar to that one given by Hon. Kintu Musoke. I wanted to add that it is exactly for that weakness already seen in the internal organizations of some parties we have had in this country, that we are coming out with this bold idea that every party must conform to the democratic principles enshrined in this Constitution. We shall not allow a party to be semi-democratic or half democratic.

MR. BIDANDI SSALI: Madam chairperson, I have been convinced and therefore, I withdraw from pursuing my arguments. Thank you

MR. PULKOL: Madam Chairperson, I think Hon. Bateganya's proposal is quite understandable, but then he needs to know that the national objectives as we discuss in this assembly are not justiciable and, therefore, cannot be taken to court. So, I think making them part and parcel of article 96 and bringing it the way that we have attempted, is to make it justiciable. In that case, since the Constitution remains supreme, rather than referring to any other democratic principles outside the Constitution, I think it is important to pin it down to the Constitution. I am happy that Hon. Bidandi Ssali withdrew that thought. Thank you.

THE DEPUTY CHAIRMAN: I think with that there does not seem to be any problem, so (c) is taken . Can we go to (d) previous (c).

MR. CHEBET MAIKUT: Madam Chairperson, I would like to suggest that Clause (D) be deleted from this list of principles, the new Clause (d) now, I think it is (c), in the Pulkol amendment. Madam Chairperson, I am saying this because I do not think it is in our best interest to put in our Constitution too much restrictions on the operations of some of these political parties.

Madam Chairperson, it will be recalled that the method of working of a political party can be a weakness or a strength to be used by other competing political parties or another different political organization. For example, some years back when Hon. Tiberio Okeny was a member, a very strong member of the DP, and perhaps because he was dissatisfied with their method of electing members of the national executive, he had to find his own way and formed his own political party organization.

I think we should not put in a lot of restrictions. We should create avenues for one discontented member of a political party to move out of that system. In a way, it can be a strength. It can't be a weakness. So I submit that, that clause be removed from this Constitution. Thank you very much.

THE DEPUTY CHAIRMAN: Okay it is seconded.

MR. BAGEYA: Madam chairperson, I am strongly against the views expressed by the previous speaker Hon. Chebet Maikut. the reason why we are trying to put some of these things in place is purely because of the experiences we have had. We are trying to sober up all the political parties that will be in place in future, such that they have a standard of operation. Much as we agree democracy must be given to the people, but at least we must have limits within which to articulate our democracy.

I, therefore, strongly, feel that this particular clause should be left intact. May be I would only alter a little bit, because when we moved it, we thought clause (a) was single, now we have split clause (a) and (b), but what we meant is to enshrine both. Now the new Clause (a) and clause (b), we referred to it in conformity with the provisions of clause (1) (a), I would like to add and (b) of this article and with due consideration to gender, which is equally important. I, therefore, support the retention of this Clause.

MRS. MASIKO: Madam Chairperson, I am of the view that we should not retain this Clause (d) because already we have said in clause (a) that every political party shall have a national character. I think this includes what we are trying to talk about or to stipulate in Clause (c). I am of the view that we would rather define the national character as we have already agreed on, so that we say that it should have Ugandan citizens. It should also have the gender consideration rather than repeating ourselves over and over again. Thank you.

MR. ONGARIA: Madam chairperson, I am opposed to the deletion of article (c) as in the amendment moved by Hon. Pulkol. Madam Chairperson, experience will teach us that in the past the organs of the parties we had in this country, were not formed according to the democratic principles. Some executive of the organs of the parties that we know, were simply hand picked by individuals and at the same time even the executive of the party was not subject to election, according to democratic principles as set here. So I am opposing strongly that this article (c) as put by Hon. Pulkol should be retained so as to enable members of the party to elect the executive of their national organs in future. Thank you.

DR. MAGEZI: Madam Chairperson, I am a co-Mover of this proposed amendment, and I have listened to the contribution of Hon. Maikut, but I must say here that I think we should avoid making Constitutions for the parties in this august House. I think we should give sufficient freedom of choice to political parties to frame their own Constitutions, because they are going out to compete for political offices, and if one political party deems it in their interest, that they will capture the political office they are fighting for, by ignoring the provisions of our Clause (1) (a and b), so be it.

People have run away from the Uganda Peoples Congress because they have found it undemocratic. It has been their choice and nobody can mourn about that. I think what is important is that the parties themselves also will see it fit to ensure that within their organizations there are genda sensitive. Because if they are not gender sensitive, they will lose the votes. So on those two premises, I am convinced that we need not constitutionalize the position that even the organs of the political parties must conform to what we have given as a broad guideline.

I think the people of Uganda are now so politically aware and alert that they will see through these parties and they will opt for the more democratic parties that are to meet their aspirations in politics, rather than us making a Constitution for the parties within the national Constitution of Uganda, and say here take it or leave it but you must have this. I support the deletion of this proposed article I (d).

DR. MULASSANYI: Madam Chairperson, I support the deletion of this sub-article. It is obvious that the parties in Uganda will not recruit membership and the leadership from Ghana. They must recruit from our population here. I do not, also think that it is prudent to put a lot of restrictions on the party. When we give permission for the party to form and organise themselves, we must do it in good faith. It is not good to put in place laws which are not going to be enforceable. Supposing a party did not conform to this formulation, what would you do? Ban it? So I think we should not start by conflicting with the parties before they form. I think that we should delete this formulation which is already starting problems with the parties.

MR. KARUHANGA: Madam Chairperson, I think that the arguments by Hon. Chebet Maikut and Hon. Magezi are valid, and Hon. Masiko and the previous speaker were valid and had good pints. Only that developed a sudden worry -in fact when I put up my hand, I was to support them, but then I have just noted something that probably was behind the mover's intention that is stretching the point of election, which was I think raised by one of the previous speakers.

Members of the national organs of a party shall be elected; This element of election of party leaders, we have in history and I think we want really to have multi-parties which we like. So if we are going to form multi-parties - if we are going to form political parties, and we want them to be democratic and to follow democratic principles that are in conformity with international level of democracy, the element of election of members to the parties is very important.

Here we had a situation where we had a President of a party who was not elected by the party, who became President of Uganda; we had a Vice President of Uganda, who was not elected by the party but was Vice President of a party and by virtue of that he became Vice President of our country. We have one of our Colleagues here who has resigned, and is standing to become President on behalf of a party when there has not been any delegates conference to ask him to be their leader, or to be their Presidential candidate. I think Ugandans are really scared of this situation.

If we really say that we want to have political parties and we want the organs of those parties to be themselves democratic, so that when they present themselves for leadership, we know that they are

enjoying at least the basic support of their members democratically, why don't we ask for what is wrong. So although I had wanted to delete it, because I thought it had been covered in the present (b) as it stands, in saying that internal organisation of a political party shall conform to the democratic principles enshrined in this Constitution. But in this Constitution there is no where we say that those organs will be elected. It might, therefore, be necessary for us to maintain the Pulkol version than the Chebet Maikut version, unless of course, he can help me to see that this element is already in the Constitution then I would go along and want it to be deleted as he has proposed.

MR. CHEBET MAIKUT: Madam Chairperson, I agree with the fears raised by Hon. Karuhanga and I wish to say that Clause (2) of this article here provides for Parliament. It is on the next page, and it provides that Parliament shall by law regulate the establishment, financing, and functioning of political parties. I thought that, since we are not here to write a Constitution of political parties or a particular political party, we should leave room to Parliament to come out with proper legislation that will give kind of guideline or a code of conduct to enable political parties to function.

I think his fears are very much answered by that Clause if we passed it. Secondly, clause (c) which we have just passed, talks of internal democracy of a political party; and in my view, the question of election of members to various levels of a political party, is best answered by that particular Clause which we have passed as (c).

MISS BYANYIMA: Madam Chairperson, this provision as some people have said is important in as far as it addresses the question of elections within political parties. Looking back at what we have heard, the experience is that, parties only remember to be democratic when it is election time, and when they get into office or the opposition, whichever the case may be, they forget about elections. I do recall that in the 80s, during the regime of what we now call Obote II, no elections were held to fill the party organs. That goes for UPC and for DP as well.

This is the history they have had where they have elections in order to go into general elections to take power. Once you are in power, democracy does not serve them. And we are trying to address that here. I am also very attracted to the due consideration to gender. Because women do not want to make tea and dance for politicians anymore, they want to sit on these organs as well. So in that respect, I also support it.

But when it comes to linking it to (a), about having a national character, that is fine too to say that the organs should reflect the national character, but I think that is coming out as the most important point yet for me what is very important is that, the elections are regular. I wonder whether one of our learned people here could find me a way to fit it into this amendment, these parties have the elections for their national organs regularly. I know it is part of (c), the democratic principles in the Constitution, but everything else in these is also a repetition of democratic principles. I would like it to be inserted here as well if it is possible.

Madam Chairperson, I support that provision and oppose its deletion. Thank you.

MR. KITAKA GAWERA: Madam Chairperson, according to the history of these political parties in this country, especially the existing ones which are irreversibly incorrigible, not prepared to compromise in order to make them reform, they must be shown the way to behave. To have this provision to be catered for by Parliament as suggested by some speakers is most inappropriate. Indeed, as point out by Hon. Byanyima, if a political party is in power it may not care to provide for this particular provision. In the circumstances, therefore, the people of Bbale and I their delegate do not agree to the deletion of this particular Clause. Thank you Madam Chairperson.

MR. KIRUNDA KIVEJINJA: Madam Chairperson, first of all I think we should ask Members of the assembly to clearly clarify the concept of the political party. What is a political party? It is just a group, an organized group of people which is established especially, to get power, so that it rules over Ugandans. Therefore, if it is a particular group, which we want to capture power, so as to exercise its power over Ugandans, it should not be considered to be a private matter, because it can easily be undemocratic and they can capture power while everybody is not knowing.

There has been apathy in our political system that when there is a conflict within these political groups, we think that it is local, while actually it is that

disease which is again multiplied by getting over power. So, when we talk of a political party, we should not talk of allowing it to organize the way it wants, because its ultimate aim is to rule over us, and it is the concern that that group must have ready set principles of how it should be able to govern if it has power. So I think with that one, the issue is more clear, and we need to give these principles now that we are establishing democratic principles.

The idea is democracy, and if it is democracy, then whoever wants to rule over us, please let him also be democratic in behaviour and in organizations. Somebody has said that parties originate by individuals, yes, all ideas always originate with one individual, but if it is for the greater number of people, you will collect those people and establish a method by which the public can own it and it becomes theirs. It should not be personal, because you are the one who brought it up.

Most of us are christians but I think Christ never even had the enjoyment of having a christian party, but many are enjoying it. So the idea by Hon. Magezi of saying parties should be left free, free to do what? they should be left free if at all they are going to organize only for their own good. But so long as they are only organizing to come and exercise power over me, I need to know their behaviour. So they have no way of moving away from that.

Again, referring the matter to Parliament is dodging the question. This is the only august assembly of Ugandans in the history of the country which can set rules for the future political behaviour. Parliament will be a question of those who want to contest power. Now, supposing it is a multi-party Parliament, and the other one won by one vote majority, do you think they will be able to pass a rule which can easily marginalize it in the next election? That one is impossible. So we either do it here, or we forget all about it. I beg to oppose. Thank you very much.

MR. PULKOL: Madam Chairperson, I think Members should recall that even under the Movement political system, we did provide that all positions of leadership shall be accessible to every citizen of Uganda in accordance with the provisions in this Constitution. We also went ahead to say something about election, and the election to political offices shall be based on individual merit and so forth. That was under that political system. But I think it is important for Members to focus on the word "*election*". I would also buy the idea that we make members of the national organs of the political party be regularly elected from Ugandan citizens in conformity with this and that. I think the issue of elections to national organs is too important to be left to Parliament alone, and I think this House should address this issue squarely.

I briefly remember Hon. Owiny Dollo who voted against the entrenchment of the Movement system, even saying that the - Ugandan citizens who have surrendered themselves willingly to the organizations called political parties need to be protected. There should be a way in which some of us should be able to take these hijackers because that is what I call them. They have come in, they have hijacked the whole political process. They have become undemocratic, for example, Hon. C. Ogwal, who was yesterday speaking as Chairman, or whatever she is, of the Presidential Policy Commission.

Now if that is an organ of UPC, sincerely those Ugandans in UPC should be able to question the election. How did she arrive to that office to say all these kinds of statements on behalf of everybody else who subscribes to that party, for her to even come and question the authenticity of Members of this assembly women delegates, youth and so forth. I mean, it is really going too far.

So to have these hijackers, come into the political scene by the back door of appointments, and then mess up the politics of our country, is really too important to be left to Parliament alone, I think to the freedom of political parties. *(Applause)* I think we should go ahead and provide for this recommendation in this Constitution, in order to defend Members in those parties, and also to create room for some of us to take these people head on through the Constitutional Court. Thank you very much.

MR. NDEGE: Madam Chairperson, I also quite agree with Hon. Kirunda Kivejinja, and the mover in that, these national organs should be national in nature. What has been happening in Uganda is if you have a Musoga as a President, he is so strong that the Basoga think they are the main shareholders of that country and the others are not, and if you have a person from Lango who is the President, the other people think that they are the shareholders and the rest of the country is not. If you have a President from the West, the others think they have eaten and the rest have not eaten.

So, what we are trying to say is that, a party even at national level must be democratically elected, and should have a national character. I do not know whether we should give due consideration to gender because this is quite obvious, I would suggest that it should not be there. I propose that we stop at (a) and (b) because the question of gender is already catered for in (a). In otherwords there is no discrimination against sex. With years to come, it may be very irrelevant. I think we should leave out *with due consideration to gender.* But in order to make these organisations and these parties national and belonging to the people of this country we must make them democratic as far as even the national level is concerned, through elections. Thank you.

MR. SSEBALU: Madam Chairperson, I would like to seek clarification from the mover with regard to (b) and (c), because when we talk of internal organization of a political party shall conform to democratic principles, enshrined in this Constitution, and in (c) we go on to say that members of the national organs of a party shall be elected from Ugandan citizens in conformity with the provisions of Clause (1).

Isn't this election part of democratic principles enshrined in this Constitution? Can't it be catered for by (b), because if you talk of democratic principles enshrined that may cater for the aspect in (c) whereby election to national organs can also be catered for under the internal democracies within the party. I would like him to clarify that point, and I feel that it may be unnecessary repetition.

MR. SEBI DATA: Madam Chairperson, I think my contribution here might also clarify the issue raised by my neighbour Hon. Sebalu. I think that he has raised a pertinent question, that actually if you look very carefully you will find that if you synchronize the present (d) and (b), and (a), you will find that they do agree with each other. That way, we may not need to take care of (d) on its own, because if you talk of members of national organs of a party being elected, that is taken care of under internal organization of a political party. It is also taken care of in (a), every political party shall have a national character.

Madam Chairperson, it might also help if I could give some of the reasons, that have led to lack of internal democracy in the political parties. One of the problems has been the monopoly of leadership positions by founder members, who remain in the sit. They remain there forever, they are not changed,they are not moveable. (b); sometimes the parties do not carry out elections. No elections are carried out as required by the respective Constitutions of those parties. (c); you get central control of decision making which in turn creates bottle necks, and I think you have see this. Somebody is in Lusaka, he is pulling strength in Lusaka and people are dancing in Kampala. (d); all the - old prejudices, and these prejudices tend to lead to *paternalism.* You know the God father or the nation founder father concept. So the political parties themselves recommend and I would like to quote from a book entitled "The Cost of Peace: *"Views of political parties on the transition to multi-party democracy."*

Madam Chairperson, on page 130 the Democratic Party of Kenya suggested that in order to achieve internal democracy, political parties must do the following. (a); ensure that free and fair party elections are held regularly, and I think that one does agree with what Hon. Byanyima has just told us. (b); Learn the art of delegation and decentralization of power and responsibilities. (c); build institutional frameworks through proper party constitution by laws, rules and regulation of government or governance. Collective responsibility, accountability, transparency and management that allows participation were also mentioned as factors which may help to reduce internal conflicts and hence enhance internal democracy.'

Really if you talk of internal democracy, you have covered almost everything, you have said that a political party must be internally democratic. You find that this particular quotation by DP Kenya takes care of most of the worries that we have expressed this morning so far. Madam Chairperson, allow me also to discuss a brilliantly presented paper by one Robert Kitariko. I suppose it is the present Hon. Kitariko Robert, I am not sure but he had a very good paper here which he presented to this Conference.

Mr. Kitariko was talking about the actual practice of multi-party politics, the first phase 1962 to 1969, and he said "During the first phase, three factors frustrated the efforts to establish multi-party democracy. Most prominent was the calculated strategy on the part of the party in power to undermine the other political parties. Not merely to diminish

their popular support, but eliminate them from the political arena altogether using quote, 'the carrot and the stick' method.

The UPC lured and coerced leaders of rival parties into its ranks. Members of Parliament who had been elected on the Democratic Party, DP ticket, crossed from the opposition benches to the government side and into the UPC without reference to, the electorate. By the time the DP was outlawed in 1969, only 6 out of its 24 elected Members were still on the opposition benches. The rest including the official leader of the opposition had crossed. Outside Parliament, DP leaders who did not succumb to the pressure, including the party President General, and his future successor, were detained without trial or charge. That is the first phase 1962 to 1969.

Throughout the second phase 1980-1985, the UPC leadership rejected the DP gesture with ridicule if not contempt. For four and half years, the DP party President who was also the leader of the opposition in the Parliament sought but was consistently denied audience with the head of State and UPC party President, to discuss current national issues. In so distancing the opposition, the UPC leader was true to his vow, which he reportedly made early in pre-election campaigns, that upon resuming power, he would start from where he had left off."

Madam Chairperson, I think these two quotations will help us in synchronizing the positions we have taken so far a,b, c and d. Thank you very much.

MR. MUSHEMEZA: Madam Chairperson, I oppose the deletion. I think Hon. Pulkol had a point, and this is where you find the argument of Hon. Magezi very inconsistent with the very reason why we decided to constitutionalize systems of political representation and even going further to talk about the principles. The point here is not to control the internal organization or internal democracy, of any political party or even organs of a system like the Movement.

The point is, as we talk about internal democracy of an organization, there are certain basic valuables which are very important to the internal democracy of any organ of a political party. We are actually sounding a warning that any political party that will intend to govern this country, must conform to these basic valuables as far as internal democracy is concerned, and this is why you find (d), (e), and (f) very complimentary, and very necessary to retain when we are talking about these principles.

When we talk of internal democracy and internal organization, what are we referring to? We are focusing on the elections of the organs of this political party. We are referring to gender sensitivity, we are talking about participation - the right of participation of citizens in these organs and in the political party in general. We are even talking about how the finances will be regulated in these political parties. We are saying, these basic valuables which are very important in the internal democratisation and organization of a political party, should be included in the Constitution, and this arises out of our history.

I think these are very important complimentary principles which should be retained in this Constitution. Thank you very much, Madam Chairperson, and I hope I have clarified to Hon. Sebalu why d,e, and f should be retained not to be amalgamated in (c). Thank you.

MR. MULONDO BESWERI(Mityana South): Madam Chairperson, when I raised my hand, I wanted to give a little more information to my friend Hon. Pulkol when he was trying to illustrate some of the bad things UPC was doing to our country, and I want to warn the Hon. Delegates about a few things. Now that I have had this opportunity, Hon. Chairperson, probably you will allow me to take a little more time and say a few other things which have been burning in my heart for quite sometime.

I want to appeal to Hon. Delegates that we should not be taken for a ride by the political party agitators. UPC refused to send delegates to this august assembly, and now if they are in their Uganda House and they start to ask for postponement, of the deliberations of this Constitution making, I think it is a clear indication that UPC does not want Ugandans to have a new Constitution (*Applause*). They refused to come with us and now they are dictating to us from outside. I think that is most unfortunate, and I would like to appeal to the Hon. Delegates to try to avoid to be taken for a ride.

Madam Chairperson, I would like to say, this and this is a quotation from the Bible: "That I want peace but when I talk, people want to fight."

Madam Chairperson, *Mwalimu* Julius Nyerere was here the other day, and my friend Ofwono Opondo had the opportunity to have an interview with him. I would like you to allow me to quote only one question which Mr. Opondo asked Mwalimu Nyerere and then to read to you part of the answers.

Mr. Opondo asked," I am sure that you are very familiar with the Ugandan situation. We have our friends here who have lived in power for the last ten years, and they still insist that they should be allowed to continue. Do you think they can take a leaf from what you are saying? And this is the reply. "I am saying the people of Uganda will have to decide that they look at the past and you look at what has been happening in the last ten ears and you can change. Who knows? In history in 1968, there were upheavals of students in Paris and in a discussion on the BBC, two English men probably were discussing and one asked why are the French doing this? The other replied that they are bored with stability.

The Ugandan people could be bored with stability, and you can make up a decision and say that this is not interesting enough, it does not happen. They have to make a judgement whether they are now consolidated and ready for a change or they still need this kind of situation for sometime." Or as this fellow said, we could just be bored with stability. Because stability is not very interesting, not exciting enough. You can create the excitement and parties can be exciting, especially, if they are tribal and sectarian, they can be very, very exciting. You know tremendous excitement.

Now, he goes on in the last sentence of this answering. I will put Uganda instead of Tanzania. In Uganda, every morning is like another morning, and taking that into consideration Hon. Delegates, I would like to take you back a little bit and look at how we have been moving. Madam Chairperson, I have a Kiganda saying which I thought I could sell across and each of you may have his own interpretation of this. One is in Luganda, and it says *"Eliso Lyomukulu, Awaddugala Wewalaba."* That translates in English briefly that the black spot in an old persons eye is what sees, and I think you know that the black spot on the eye is the one that sees. Young people may not know that, that is the case.

Three months ago, I was telling you some other Baganda saying; I do not know what interpretations you have. But I saw something before you did. I think my eye has that black spot. *(Laughter)* The other saying is that *"Nv'Enkoto nga Kyayokya Kiwedeyo."* That one means that one leaves the fire place where he has been roasting say, maize or *Gonja* or whatever, when what he has been roasting is finished. So you can have your own interpretation of that. *(Laughter)*

We have already passed a few clauses trying to stipulate the principles the Movement system shall conform to. In my opinion, there is no reason why we do not pass other clauses stipulating the systems, and the principles which the political partists if they come into operation may conform to. In that sense, I would like to continue to say that, I support this Motion. Madam Chairperson -

THE DEPUTY CHAIRMAN: Hon. Mulondo, are you supporting the Motion? Because the Motion on the Floor is to delete.

MR. MULONDO: To delete, that is right. Madam Chairperson, Uganda is making a new Constitution after 33 years of our independence, Because in 1966, Mr. Obote the UPC President and then Prime Minister abrogated our Constitution, which brought Uganda to Independence. Since that time Uganda has been swimming in troubled waters. We have had no peace until the NRM came to our rescue. Madam Chairperson, personally I feel that all of us in this august House would like to continue with that peace which we all are enjoying, despite the fact that the peace bores.

Madam Chairperson, in 1980 many Ugandans worked with Hon. Ssemogerere in the D.P. campaigns to try and prevent Obote from capturing power again, and many of these were not D.P. members. We all ganged together to try and defeat UPC, and prevent Obote to again capture power. I personally worked with Hon. Ssemogerere in Mityana to campaign for D.P. One day when I was going through Kololo, I saw what was there, how Obote was being guarded and the security around him and I told Hon. Ssemogerere that "is it not a joke? Do you think we shall be able to oust this man, even if we defeat him?" I was assured that everything was in control.

Those of you who were here in 1980, was everything in control? Did we walk to the State house as we were being promised now and again? Unfortunately, the very person who said that we were

cheated, joined the Opposition Benches thus legitimating the government which he claimed had rigged the elections and he stayed there until Obote was ousted. Now, when we see Hon. Ssemogerere walking out with Cecilia Ogwal, what is your impression? What do you get out of this? The eye, the black spot on an old person's eye is what sees.

Madam Chairperson, at that time Hon. Adoko Nekyon was then, I think, Chairman of the D.P. He actually initiated me into the D.P. at that time by issuing me the D.P. card. After the 1980 Elections, Hon. Nekyon was running for his life. I met him in Nairobi in exile and UPC followed him there. One day he was at the General Post Office in Nairobi and the boys got him. He raised an alarm. In one of my books I said, he raised this in a Kiganda manner which attracted everybody in Nairobi streets, and this is how he was rescued. Now, he walks out with Cecilia Ogwal!

In 1980 my friend and neighbour back in our Constituencies, Hon. Abu Mayanja was duly elected to represent our Mityana area - I do not know how they used to call it then - in the National Assembly. I remember very well what happened to him. He did not even see the doors of the National Assembly. He had to run into exile. He was harassed by the UPC boys and he ran before I did into Kenya. His saviour and his new face was brought about by NRM. He now walks away with Cecilia Ogwal.

My other friend, Sam Njuba, those of you who were here the other week on Tuesday heard him blast me here about the federal issue. Hon. Njuba also suffered so much at the hands of UPC. He ran out of Uganda immediately after the 1980 Elections, after he had been arrested and very well beaten up by the UPC. *(Interjection)* I say badly beaten up to suggest it in the Kiganda manner so that the Baganda who are here can understand the phrase - *"Nga mukubire ddala bulungi"* - he was badly beaten up. But that did not stop there, the UPC boys also followed him in Kenya. One day, he had to escape through a window of a second floor flat he was occupying, and he had to run a little further away from Kenya. He went to Papua New Guinea. *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Mulondo can you summarise, and please come back to the point of the debate.

MR. MULONDO: Yes, Madam Chairperson, but I would like you to give me a little more time so that *-(Interruption)*. I said Hon. Sam Njuba lost everything he had at the hands of UPC. Hon. Njuba is one of those people who introduced me to the National Resistance Movement and he has been a friend, a personal friend all along until he crossed into UPC. *(Interjection)* I do not know, I think he did, because he walked out. I wanted to say that once a person joins party politics his or her character changes. This is the Hon. Njuba, who attacked my person that I abandoned the federal cause, and he used that as an issue for the argument among others to qualify the deletion of Article 94.

You heard him say so. I am not putting any words into his mouth. Hon. Njuba, since the federal saga has refused to greet me. He does not talk to me and that is the party politics. Hon. Njuba has been in very high places ever since NRM has been around, but now he is saying that the Movement is arrogant, sectarian and he is calling it all sorts of names. You heard him say so the other day. Now, what brings all this about? Is it because he has joined the parties that he is now seeing properly? When he was there he did not see NRM arrogance and so on.

I am sure the people of Kyaddondo must have told Hon. Njuba ,that political parties should not be operational for at least five years, after the promulgation of the new Constitution because, I think, this is general. I had the opportunity also to go to the Secretariat in the Constitutional Commission and looked at some of the submissions from Kyaddondo and this is exactly there. Now, he walks out with Cecilia Ogwal. Madam Chairperson, I would like to inform the Hon. Delegates that I was elected by my Mityana South people on merit and I did not come here to blindly support anything. We are all here to try and strike a compromise in whatever we are discussing.

Members in the Committee Four may bear me witness, on how I struggled to convince them for a federal status for Uganda. When that refused, we had to strike the balance which I think was a good compromise. In my opinion, the doors of every region were open that people can organise themselves. Why do we want to be fed on plates? I am sure if what was agreed upon was taken seriously Buganda would already be in a federal form but they want to be fed. You open the door for people to go out, but they want you to pull them out.

Now, Hon. Njuba who claims to be a strong supporter of federal for Buganda did not say anything when the debate was on here. He did not say anything. When the matter was discussed he just kept quiet. This is what we call sitting on defence and wait to blame others. This, is in my opinion, very cheap political popularity. Hon. Njuba who was in a very high and influential position during the making of the Constitution did not use that position to indicate his stand on federal. I did. I have my documents here if Members would like to look at them. I submitted that we want a federal system of government and when it failed, you take the most nearest position. Those of you who want to look at these small booklets you will see my submission is on page 38, my name is number 1/1510 of the individual submissions.

Madam Chairperson, I have a document here which I think would be of interest. This document was from Hon. Njuba to the then Hon. Third Deputy Prime Minister who was Minister of Justice and Constitutional Affairs himself. Among the organisations Hon. Njuba was blocking to be represented on this council were the traditionalists and he blocked them when he said, there are also the traditionalists who claim that their leaders were in charge of this country and were merely suppressed by ousters. These two would raise and present their claims for representation. Where do we put the demarcation line? He was blocking them, and these are the people who would have probably come here and convinced us about the kingdoms, about the federal, about whatever. He blocked them with his powers.

Now, Hon. Chairperson, Hon. Njuba informed this august Assembly that only 300 people attended my meeting in Mityana. He did not attend this meeting but he said he read in papers. I would like to inform him that many, many people attended my meeting. I have a video tape which if Hon. Njuba wishes, I can lend to him and he can see for himself. Since that meeting, I have been holding consultative meetings all over the county and Hon. Njuba is informed that Mityana people are with me. Hon. Njuba is again informed that I do not regret what I said. The results are at our door steps. Who does not see that the UPC wanted to use the Baganda and pretended to be supporting federal while deep into their hearts federal is not their concern? What I said is appreciated by many and the young generation will judge me right.

I want to inform Hon. Njuba that he should not be worried about where I shall be buried when I die as he so wishes. I have a place where I shall be buried in my own area, and he should not be worried about his proposals for the Kololo issue, he can reserve that for himself. For those who do not know, and in particular Hon. Njuba, I would like to inform you that while Hon. Njuba was still enjoying himself in Papua New Guinea, I was one of a very small group of people who embarked on the struggle to restore the *Kabakaship,* to restore Buganda and other kingdoms. It was and it is still my cardinal obligation to protect and defend the institution which I worked so hard to see be re-established.

Hon. Amanya Mushega knows that he took the *Kabaka* around our fighting places, when we were still fighting. It was only I and three other people, one of them unfortunately is dead, who persuaded our *Kabaka* to cooperate with us. I think that was a big contribution. So the Constitution for which I worked so hard had to be set. I want to call upon some of us to stop giving lip-service when addressing important issues. I am very happy that Buganda has a King, and in my opinion, I would be failing in my duty if I saw a trick to destroy what Buganda had achieved and kept quiet.

The federal saga was a joke. Hon. Delegates, how on earth can one person defeat a Motion, where there are 284 members opposing you? You tell me that trick. This was a deliberate trick by UPC to deprive Buganda of what it had succeeded to achieve through amicable negotiations with our other fellow Ugandans. If the Movers were serious, why did they not stand when the Motion was lost? Why were they unable to qualify for a division of the House? Why did they not walk out like they did when they failed to block the Movement? Do they want to say that they were offering the federal to Mulondo? Was it a national issue? Was it a Mulondo issue? Are we serious?

I wanted to finish and then probably go on to one small thing but before I do that, I would like to make you look a little back. Madam Chairperson, for those Hon. Delegates who would like to know the history of the leadership of UPC, I would like to beg you to hear this. The late Hon. Balaki Kirya, may his soul rest in peace, was a best friend of the leader of UPC, Mr. Obote. Mr. Kirya took Obote to Mengo with, of course, Abu Mayanja and they convinced Mengo and the *Kabaka* that he is the best

candidate for leading Uganda. The consequences are known to you. Kirya took Obote to Miria Kalule for marriage. In actual fact Kirya did everything for Obote, including making him wear a *Kanzu.* He was the best man of a very big wedding which had not been witnessed here before.

He was his personal friend but see this. In 1966 when there was a crisis, Kirya was one of the Ministers who were arrested and this man was kept in jail until Obote was overthrown. His personal friend! He was not even given a trial, he was thrown there, he stayed there until Obote was overthrown, and in 1982 Kirya was with some of us in exile in Kenya. Obote followed him there. The poor man was kidnapped, put in a boot of a vehicle and was driven back here. He was put back in Luzira, where he stayed until NRM rescued him. Now, what sort of leadership is this? Not a single member of UPC was able to raise a finger, to tell Obote that why do you not pardon this man. The old man died the other day, probably his life span was decreased by the torture he went through. May his soul rest in peace.

Now, coming back -*(Interruption)*- I would like to support my Hon. Friend, Hon. Pulkol, in whatever he is trying to put across because I think -*(Laughter)*. Thank you very much.

THE DEPUTY CHAIRMAN: Hon. Delegates, order. After that lengthy talk by Hon. Mulondo, I do not want to open a pandora box, because if I ask another person to talk he will take the same time saying that, since you allowed Mulondo everybody should do the same. We did not know what he was going to talk, so we left him to do so, but a lot of time has been taken. I think we now know where we should be, other than saying no or yes. I, however, want to make clear one thing, this is my own observation, that there is a trend that Members agree that the Members of National Organs should be regularly elected. To this, most people agree.

I only saw a contention as to whether to stop at citizens or to include all in conformity with the provisions of Clause 1(a) and (b) of this article, with consideration to gender and so forth. People were arguing that that one is begging the question, because it already appears in (a) and (b), of the same article, rather than being elsewhere, suggesting that a reference may make sense or may not. Let me have Hon. Ruzindana and Hon. Pulkol and then we put the question.

MR. RUZINDANA (Ruhama County): Thank you, Madam Chairperson. Madam Chairperson, I agree with the way you have summed up the debate, but I have a problem with (d). (d) restricts the application of democratic principles in internal organisation of a political party only to national organs and to that extent I have a problem with it. (c) requires political parties to be internally democratic, then (d) goes ahead to restrict that internal democracy only to national organs and possibly extend it a little to gender.

That proviso restricts (a) because (a) is talking about a wider thing, and when you come to (d) you only give the national character emphasis to gender and leave out the other elements of the national character. To that extent I think what the Movers wanted to express in (d) is lost or reduced in significance and, that is what we need to correct. I do think that (d) is an elaboration of the democratic application; the application of democratic principles in internal organisations and the main element brought out in (d) is regular elections of party officials and I think at all levels, not just at national organs.

Because of this, I think that we could think over this again, and see whether it is right that we should restrict the application of democratic principles only to national organs and not to all levels of political party structures. I also think we should extend the democratic principles to all levels of party structures and I do suspect that the Movers would agree with me to that extent.

Secondly, Madam Chairperson, if we do want to elaborate the democratic principles in internal organisation of parties, election of officials is just one. The transparency method of work would be another, but it is not catered for. Accountability is catered for in (e), the current (e) which will be (f) I think. So I do think (d) is a bit limited, it is quite limited. It is good as an elaboration of (c) but as it is now, I do request the Movers that we remove these inconsistences of restriction. Restrictions only to the national organs and only to gender because we are really becoming restrictive. Talking of national organs and then gender -what about the ethnic this and religious this and so on in (a)? Madam Chairperson I think we should look into this again.

Finally, Madam Chairperson, since I have talked after Hon. Mulondo, I wish to thank him for the comments he has made and I think Members in the House should not be worried about our external Members. I had myself a little analysis of the figures, and they are not really very worrying. They have been talking about women and other Delegates here, but even if you restrict the these figures to the Members who are directly elected, the 214, in fact the picture is even worse for them. Of all the elected Members, for example, in Buganda including Kampala, only 16 are with them and that is a very insignificant number. Looking at all the other districts, there is only one district with a significant number of people who are out and, therefore, we should not be worried about the legitimacy of the work we are doing here.

I think that we do have adequate legitimacy by the representative character of all of us who have remained inside the House. Now, they do have a problem of how to correct their error of judgement, because I imagine they would rather have asked for the opinion of these other international agencies they are appealing to, before hand rather than after the events. It is a bit too late to execute them from the mistakes that have already occurred and which mistakes, I think people who happen to lead national organs should not have allowed themselves to commit. Therefore, Madam Chairperson, Members in this House should, of course, be worried but not extremely worried that our brothers and sisters have chosen not to make a contribution to the final dressing up of all the principles which we have already passed in this Constitution. Thank you Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Delegates, let us see where we are. I think we have really exhausted this issue. Before I come to Hon. Pulkol we can have two alternatives. Either we could request Hon. Maikut to agree to amend rather than delete because of that element of elections. If that be so, we do not need to vote. We would just ask the committee to see that all the issues that have been talked about are taken care of to see, according to Hon. Ruzindana, whether the national organs should be expanded and see whether gender should be included and that is that. Hon. Maikut do you insist that we put the question whether we delete or not?

MR. CHEBET MAIKUT: Madam Chairperson, I agree with you entirely that there is need to allow the Technical Committee to come out with the proper formulation. I have no quarrel with that. So we can go ahead and come out with that formulation.

THE DEPUTY CHAIRMAN: Thank you very much. Now, Members should not complain that we have taken so much time. It has, at least, helped us to see what should be. Hon. Maikut has withdrawn his Motion to delete. So what we are looking at is how should we amend (c) to make it palatable with what people want it to be.

DR. KABAYO (Kassanda South): Thank you, Madam Chairperson. I just wanted to point out that in Chapter Three under National Objectives we passed Clause 5 of Article 8 which reads: *"All political and civic associations aspiring to manage and direct public affairs shall conform to democratic principles in their internal organisations and practice"*. I wondered, if that is not enough, because my lawyer friend tells me that that is not justiciable. If we have to include it under this clause we are discussing, could we not marry (c) and (d), the former (b) and (c) to reflect that meaning, so that there is only one paragraph?

THE DEPUTY CHAIRMAN: And how would it read?

MR. KABAYO: Madam Chairperson, I would suggest that it reads in the same way to say that "The internal organisation of a political party shall conform to democratic principles enshrined in this Constitution", because there is a similarity between members of national organs and also internal organisations.

THE DEPUTY CHAIRMAN: Let us hear from Hon. Pulkol.

MR. PULKOL (Matheniko County): Thank you very much Madam Chairperson. I think let Members not confuse the issue of internal democracy, internal organisation of a political party conforming to the Democratic principles enshrined in this Constitution. That is excellent, we have already approved it. It goes for all life of that political party, the way it is organised, the way it is conducting its business and so on and so forth but we know that they will have their own Constitution which will

borrow a lot we hope, from the democratic principles of this Constitution.

We are, however, saying in (d) that because those who come to leadership of those organisations are very important because they have a potential of taking over the entire leadership of a country, so we should go into how they come into those offices. Even when that party does not take leadership, the comments they say, their responsibility, the way they conduct business, is given authenticity, they are given credence. I am saying that since the bottlenecks are at the top, we better get to the top of the bottle to eliminate this bottleneck. Here, I give an example of Hon. Cecilia Ogwal, and reiterate that members of the national organisations of a party shall be regularly elected.

That element of election is really the essence here. Why national organs? Because these are organs that take over the leadership of a country and they are very important. So even if you want to say members of the organ of the party, I think all other life of those parties is taken care of by internal organisations through these democratic principles. For the national organs that have a potential of sitting in State House and directing affairs of this country and so forth, we must really have a reason to influence the character, how they come into leadership to say what they say, and to do what they propose.

It is really too important to be left to those parties alone, because the party can have a Constitution which says the President of a party can appoint members of this party. Internally that party will still be democratic given its Constitution, because the Constitution still allows it. So the UPC Constitution may allow Cecilia Ogwal to be a member of the Presidential Policy Commission, so to them they are internally democratic as far as their Constitution is concerned, but we are saying no, when it comes to leadership of your national organ I think we should subject them to wider democratic principles not just democratic principles as defined by your party Constitution.

We are saying, for avoidance of doubt, we must make it absolutely clear and protect the rest of us who may find ourselves under these political parties. Having said that, because we are also looking for a clause under which we can take some of these undemocratic tendencies and particularly leadership, when they come to positions of leadership they think they are too important, not knowing how unimportant they are in the whole process. They even forget the process by which they came there and they say all kinds of things. So we must be able to call them to order and say wait a minute, how did you come here, and go to court. Thank you very much.

THE DEPUTY CHAIRMAN: Hon. Pulkol, in your submission, what harm will it do if we stopped at citizens, because it seems Members are worried about elections, and if you stop at that that will be done.

MR. PULKOL: Yes, I would like to say this about the rest of the clause. Yes, from Ugandan citizens, by putting it in conformity with the provisions of clause l(a) and (b) of this Article and adding a rider to it, *due consideration to gender.* I would like to distinguish the consideration to gender from clause (b) on membership. In (b) we talked about membership, that we are a non-sexy society, that there will never be a party in Uganda called women political party or men political party, where membership is exclusively for men or for women. This is what (b) is saying but we are saying, in electing leadership of these organs we must give due consideration to gender. The word "gender" is neutral, it means man, it means female. So I really see no harm with the word *"gender"*. Should there be a time when women take the upper hand and marginalise men, I think that gender will still accommodate us as neutral as gender can be.

THE DEPUTY CHAIRMAN: Hon. Delegates, it seems we are agreed on (c)

MR. KATEGAYA (Rwampara County): Thank you, Madam Chairperson. There is one issue which was raised by Hon. Ruzindana, which seems to be brushed aside. I agree with him that we should not confine the principle of regular elections to national organs alone. I think democracy is not born at the top. We should try to cultivate democratic principles, right from the beginning, at the grass-root level, and I am of the view that we should say every organ must have regular elections in order to cultivate the habit.

This way, by the time we come to national level we have known that all organisations must be enshrined in the Constitution, in the party and party

organs. I think it is important that we should not confine ourselves to the national organs. I know they are important in terms of following up leaders, but also if we get leaders who have not been practicing democracy, there is a danger to us. I think we should say all organs of the party, however low or high they are they should be democratic and regularly elected in my view.

I thought Hon. Pulkol could agree to the suggestion by Hon. Ruzindana to amend this, not to confine it to national organs but all organs of the party.

MR. PULKOL: Agreed.

THE DEPUTY CHAIRMAN: Okay. So we agree that (c) will read that *all organs of a party shall be regularly elected from Ugandan citizens in conformity with the provisions of clause I (a) and (b) of this article and due consideration to gender."* Thank you very much, at least, (c) is out of the way. I propose that we adjourn, come back and complete (d). Actually we should make sure that we come back early by 3.00 O'clock prompt so that we really start and complete this work. We are dragging our feet. We stand adjourned until 3.00 p.m.

DEPUTY CHAIRMAN: When we adjourned, we had just passed l(a) (b) and (c), can we now debate (d); original (d) which is now (e).

MR. KWERONDA RUHEMBA (Kajara county): Thank you very much, Madam Chairperson. I have looked at (d) and I have tried to think of what it is intended to achieve, and I have found no substance. I am, therefore, appealing to the Mover of this Motion to actually convince me, and if he cannot, to drop the Amendment because it does not mean much; because it says: *every citizen of Uganda has a right to lawfully participate in any activity intended to influence the composition of policies of government* Now, what does that really mean? And where are these policies to influence?

Policies tend to be influenced at Cabinet level of government. Are you saying that I get in a cabinet, if I am a citizen, and I demand to be there to influence policies? Even if it was at party headquarters and I am a party member, I do not think I can get into an executive committee and demand to sit and influence the composition of policies of government. Madam, this is going to cause some problems in our Constitution, making it very difficult to interpret, and I would like to suggest that it be removed. I thank you.

MR. NGOBI (Presidential Nominee): Thank you, Madam Chairman. I would like to second, but I see that he has not moved a formal Motion. If Hon. Tiberondwa, sorry, I apologise to the Hon. Kweronda, he is not Tiberondwa. Now, what I am saying is that if he had moved a formal Motion of deletion, I would like to second it. If he has not, I would like to move that it be deleted. The reason is, just as Hon. Kweronda has explained, that how does a citizen outside the system lawfully participate in the activity intended to influence the composition and policies of government?

That is understandable, if it is a member of the Movement or one who believes in the philosophy of the Movement or a particular party, but that does not mean every citizen. I would very much like to know what the Movers of this Motion had in mind to be able to come out, with what the meaning is. I think, it would be better that we leave it out, unless perhaps the words *'every Citizen'* stand for a member of a party. A member of a party can, of course, influence the policies of that party, and maybe, if the party wins he will also have opportunity to influence government. Otherwise, as it stands now, it does not appear to make very much sense.

I do not mind being defeated, but I would like to have the reasons why it should not be deleted. I, therefore, move that this one be deleted.

MISS. BYANYIMA: Thank you, Madam Chairperson. I want to give a clarification. It would seem that there was an omission of two words, between any and activity, that it reads that: *every citizen of Uganda has a right to lawfully participate in any political party activity intended to influence the composition and policies of the government* because if those two words are included then it finds its place within these provisions.

Madam, I would say that, in fact, it becomes useful because it is a statement that we are describing. The multiparty political system and within that system people will be influencing governments through political party activities among other things. In that respect, it is relevant here. Madam, I would support that it remains there. Thank you, but I would like to move that we add 'political party' there.

DR. MUYINGO-KEZIMBIRA (Bukoto Mid-West): Thank you very much, Madam Chairperson. Madam, I support that this clause be retained. In fact, I think, this clause is quite clear. Maybe, it has been misunderstood, because the clause says lawfully participates. Now, to lawfully participate would mean that you would have to follow the procedures of, for example, going to a delegates conference. If you walked into cabinet when you are not a cabinet minister, you would be unlawful.

I, therefore, think it is fully qualified and does not cause any ambiguity. Probably what Hon. Byanyima has added could also be included, but the participation of people could be by themselves, could be through their representatives whom they have elected; but they should participate lawfully. I think, this is quite pertinent and could remain part of these principles. Thank you, Madam Chairperson.

MR. SSENDAULA (Bukoto South): Madam Chairperson, I rise to support the retention of this clause if the proposed additional of political party is accepted by the Mover. I think it would help the House to move, if the Mover of the Amendment can accept that addition. I find that addition very useful and therefore making the whole clause to carry a meaning. Certainly it carries a meaning and there is weight in lawful participation. But when it is not there, it is certainly not very clear.

One would wonder what it is all intended for, because we have already passed in some other articles or some other Chapter of this Constitution, the right for people to participate in the activities of governance in this country. We would want this one to be qualified, and the kind of lawful participation you are talking about is that which involves political party activities to influence composition and policies of governance. It is important we really get clarification from the Mover of the original Amendment whether he accepts this proposal as provided by Hon. Byanyima which I strongly support and I hope others do indeed support.

MR. AMAMA MBABAZI (Kinkize West County): Thank you Madam Chairperson. I support the retention of this paragraph as it is. The intention of this paragraph, I believe, is to avoid a situation where, if you did not have such a provision in the law some citizens who do not belong to political parties would be denied an opportunity to participate in activities intended to influence the composition of policies of government.

If you accepted that Amendment by Hon. Byanyima then you would only limit that to political party activities, but this was not the intention of this paragraph. The idea here is that even if people do not belong to political parties, under multipartyism in a situation where it is parties in control of the politics, even those who do not belong to or subscribe to political parties existing then, should have the right to participate lawfully in activities intended to influence compositions or policies of government.

I think, we should not restrict or constrict. We should not narrow it but we should keep it as wide as possible so that all citizens of this country have that right to participate. Thank you.

MR. S. KUTESA: Point of clarification. Madam Chairperson, I would like to seek clarification from Hon. Mbabazi, when he says that if you do not have a party you should have a right to lawfully participate in activities to influence the composition and policies of government. I would like to know what he envisages; would he, for example, say if you do not belong to DP and a DP executive meeting is taking place to decide on who should be in government, then he should have an automatic right to enter the DP headquarters and sit in the National Executive Committee, and say by Constitutional right I must tell you who should be part of government? Or put another way, if you are going to participate lawfully, it means that you are qualified to participate, I would imagine.

If you are lawfully participating, it would mean that you are rightly there. Now, what right are we guaranteeing, because if a person should be attending a meeting and he attends it, I do not see what we are trying to cure by this provision. I wanted him to shade light on whether, particularly, the reasoning he has used of joining a meeting of a party that you do not belong to. Is that what is intended, Hon. Mbabazi?

MR. AMAMA MBABAZI: Madam Chairperson, I am sorry my Colleague and a good friend, Hon. Sam Kutesa has misunderstood my presentation, and gone ahead to present the misunderstood position as what I said. Madam, I do not subscribe

to the idea that if you retain this paragraph it entitles you to participate, for instance, in a party executive committee meeting when you are neither a member of the party nor of the committee. Certainly not! That is why it says 'lawfully participates' as Hon. Dr. Kezimbira Miyingo, I thought, very clearly explained.

If the party is holding a Delegates Conference or an Executive Committee meeting, you can only enter if you qualify to enter. You cannot come from outside when you are not a member of the party nor a member of the executive committee and demand that you must participate in that meeting by virtue of this provision. Your participation must be lawful. In this case, it must be lawful according to the regulations of the party.

Now, what I was saying was that if you amend as with Hon. Byanyima's proposal to qualify this activity to be a political party activity, then you are narrowing down to those who belong to political parties only, to exclude those that do not belong to parties. What this is intended to protect is the right of anyone who does not belong to any political party to organise, for instance, a seminar or to hold a public meeting, to address conferences in order to influence the composition of policy of government *-(Interruption).*

MR. SSENDAULA: Point of information. Thank you very much Madam Chairperson. I wish to inform Hon. Amama Mbabazi who is holding the floor that we are now dealing with the multiparty political system, and we are looking at a situation when we are in the political party set up. This is why we are looking at it as far as political parties are concerned. These are not general principles, these are principles that relate to a situation when we are in a multiparty system of governance. So, I do not expect other people to gate crash, otherwise, you are going to cause chaos!

MR. KINTU MUSOKE: Point of information. Madam Chairperson, in philosophy, this is what we call a first Degree principle. It says in general what could be done, and sounds very plausible, but definitely it does not belong here. We can go on discussing it and discussing it, but it does not belong here. If somebody who wants to discuss it can find where it would best belong, but it does not belong in this one where we are discussing political parties. So, unless it is improved upon, I see that it does not belong here. We should move it and take it somewhere it belongs.

THE DEPUTY CHAIRMAN: How about if the word '*political party*' is added? Hon. Kintu Musoke, are you saying it does not belong here, whether amended or not?

MR. KINTU MUSOKE: Yes, it does not belong here.

PROF. KABWEGYERE (Igara County West): Madam Chairperson, if you look at the article we are dealing with *-(Interruption).*

THE DEPUTY CHAIRMAN: Okay, are you seeking clarification from him?

PROF. KABWEGYERE: No, no, I am contributing;

THE DEPUTY CHAIRMAN: It is an independent debate, but Hon. Karuhanga has information. Okay, let us do it this way; Hon. Mbabazi was still on the Floor, people had information and clarification, and I thought you were among them. If not, let us have Hon. Karuhanga and then Hon. Amama Mbabazi will come in.

MR. KARUHANGA: Madam Chairperson, I am one of the Movers of this Motion, but when Hon. Kintu Musoke pointed out that this is not the home for this, I agree, although I have been a Mover to this and I am a party to this Motion. I have, in fact, found out where the home for this has been provided, and I would like to draw the attention of my Colleague and the gentleman holding the Floor, that in fact, we have provided for it already in the Constitution in article 59.1(e).

If you look at 59.1 (e) it says that all persons shall have the right to... and in this one it says every citizen of Uganda has a right to.... then it says, freedom of thought, conscious and belief which shall include - no, no, sorry; freedom of association which shall include freedom to form and join associations or unions including trade unions, political and other civil organisations. Therefore, really, we have provided for this, unless for interests we just want to say that. Otherwise, this very article 59.1(e) is the one that has specifically guaranteed the human right to form political associations and guarantees individuals, every citizen of Uganda to join and participate in an activity to influence policies of the government.

This in itself has been covered, but if we want to be extra hard and go an extra mile to rub it in and to put the point, and put more salt then we can do that; but if we are trying to be brief in writing this Constitution, we can ignore this and delete it.

MR. AMAMA MBABAZI: I thank my Colleagues for the points of information they gave. In answer to Hon. Ssendaula, of course, I know that we are talking about multipartyism and that is the very reason why this paragraph is relevant under multipartyism. You see, the impression that can be given if we leave that paragraph out, that the only way you lawfully and legitimately participate in influencing policies of government is if you belong to political parties under multipartyism.

Now, this one takes care, as I have said, of those who do not subscribe to parties even under a system called multipartyism, that is the intention. That one also effectively answers Hon. Karuhanga, that the provision in 59.1(e) is a general provision. This is a specific one, especially, in this situation.

So, Madam, I think this is the rightful home for this particular clause. It serves the purpose that it empowers people to act politically, even if they do not subscribe to parties under multipartyism. I think for that reason and the other reasons we should retain it. Thank you.

PROF. KABWEGYERE (Igara County West): Thank you, Madam Chairperson. I think the opening phrase of this article says; 'under the multiparty political system, parties shall conform to the following principles'; certainly (e) as it stands now has not described the characteristic of political parties or a form they should conform to. Secondly, I would like to emphasise the point made by Hon. Karuhanga and I had to talked to Hon. Magezi one of the Movers, and he had seen the logic of not having this clause in here.

If you look at the clauses we have, (a) is every political party (b) the membership of the political party (c) the internal organisation of parties (d) members of the organs of the party. Now, the only one which looks out of the ordinary but which can be accepted to be here is the current (f) no members of an organisation shall be forced to belong to political parties. There you are trying to tame the parties or indeed any organisation, to make sure that it does not force people to belong to parties.

These ideas as advanced by Hon. Mbabazi, that you are trying to guarantee anybody who may not belong to parties to be free to participate in some activity that will influence the political process is already guaranteed, as Hon. Karuhanga has said, by the fundamental rights of association, of conscience and all that. Therefore, Madam, the Motion by Hon. Ngobi should be supported and we delete this quickly.

THE DEPUTY CHAIRMAN: Hon. Delegates, with that clarification it seems that this article is inconsistent, because it is talking about individuals rather than the parties we are prescribing a remedy to. Are you still insisting Hon. Mbabazi? What I am trying to do is to save time, if all of you are saying that we delete then it does not pay. Let me hear from the Mover.

AN HON. DELEGATE: Madam Chairperson, I think there are two problems the Members should first envisage which this article seeks to solve. One of the basic problems in political parties is paternalism that tends to develop and derail a number of processes within a party itself, that even being a member of NEC, for example, of a given political party, you find that you have been sidelined, although you are lawfully free to participate in those deliberations and discussions and shape the composition or policies there about.

But if this provision is the way Hon. Byanyima made it, then it would help us also to fight these tendencies of political parties so that so long as you are lawfully to participate in any political party activity you can do so. The issue of Kinship, and manoeuvering is a reality in political parties. Point number two, is when we are under a Movement system even political parties are to be independent and so forth to participate, but when we move into a multiparty political system it should not be only to the extreme of those who are in political parties. How, do we cater for the independence during a multiparty political system?

There seems to be two serious problems for which we must find a way to deal with them, in as far as shaping policies, constitutionalisation of government is concerned. Take a case where you say the President appoints people or proposes people to be approved by Parliament. Now, you as a Member of Parliament who belongs to the opposition and people are trying to shut you down, for example, is

there no way really one lawfully participates? I do not have any hard rule on this, but I want to be helped by Members. I do not mind this being deleted, but depending on what Members say in terms of resolving these fundamental problems?

MR. KIRUNDA KIVEJINJA (Bugweri County): Thank you Madam Chairman. I think I can help the Mover and help also the constitutional making process. If we pass other things, then at the end of this article we can say notwithstanding the above, every citizen of Uganda has a right to lawfully participate in any activity intended to influence the composition and policy of government, so that after describing what the parties should conform with we can say that at the end of that this does not preclude the right of lawful citizens to influence either in any form of pressure group of individuals.

DR. BYARUHANGA (Kitagwenda County): Thank you Madam Chairperson. We are the ones who created this problem by changing the preamble to the whole article. Before we had changed the preamble, definitely, (d) was conforming to the general idea of the principles under a multiparty political system, because as a multiparty political system, in fact, the majority of the population do not, actually, belong to these political parties, they only become active at elections.

Now, (d) was saying that even without ever trying to belong to these political parties, these citizens would continue to be free to influence government policy independently, either as individuals or in some groups as they desire. But now that we have changed the preamble we can, as Hon. Kivejinja has said, create a (2) or bring it as he has done because here we are talking of parties now, but afterwards we can say that under a multiparty political system every citizen of Uganda shall continue to have a right to lawfully participate in any activity intended to influence the composition and policies of government. I think, this is very necessary.

THE DEPUTY CHAIRMAN: Yes, but even that one of using the word 'under' instead was an Amendment of the original. So, there is still a technical problem.

MR. WAGIDOSO (Bulambuli County): Thank you Madam Chairperson. Madam Chairperson, this provision reads that *'every citizen of Uganda has a right to lawfully participate in any activity intended to influence the composition and policies of government'*. Madam, I do not understand the intent and purpose of this provision. In my view it is redundant and unnecessary. Actually, it is a repetition of the provisions in article 59 which we have already passed in the Constitution.

Madam, in article 59 (e) as already said, that article provides for the right of association, the right to belong to a political party. In my view, by belonging to a political party whose objectives are to influence and determine the composition and policies of government by belonging to that party, an individual is actively participating in shaping policies of government. So, when we say here again that every citizen of Uganda has a right to lawfully participate, it is a repetition.

Secondly, Madam, there are many ways in which a person can influence the policies of a government, and one of those ways is through an election, because in an election you choose a candidate based on the policies that a given candidate believes in. So, in that way an individual actively participates in chatting and influencing the policies of government through an election and belonging to a party as well.

In my view, this is a mere repetition of article 59 which also provides for the rights of assembly, and you assemble for a purpose. It could be dissemination of information through seminars and in that way you are already influencing and actively participating in influencing the policies of government. In my view, this provision should be deleted, Madam.

MR. LOOTE (Moroto Municipality): Thank you Madam Chairman. Madam and Hon. Delegates, I have a big problem on this inclusion. It says every citizen, you can imagine the 17 million, you are saying every citizen, participating lawfully to influence the composition. Now, you can imagine the political organisation as its composition. How do you bring in the masses, or how do you cause the masses to come and participate into a composition.

Let us take, maybe UPC as the top organ: how do you now bring in the masses every citizen from the grassroots, to participate in the structures of that political party, yet this provision is actually a duty

of the citizens! I do not see why we are again bringing a duty of the citizen here, because every citizen has something to do, and you want every citizen to participate in the composition for the policies of government. For any government that is in power, every citizen has a part to play in influencing the composition.

I read a book sometime back that there are three types of citizens, the passive citizens, the active citizens, and I have forgotten the third one. Now where would this one put that passive citizen who may not like to lawfully participate, according to his conscience? Supposing you are saying every citizen, and there are those citizens whose right of conscience will be against what you are pursuing. Are you going to take them to court or to put them somewhere? So, I feel that this provision is completely hanging among the rest of the provisions. It is dangling, and has no way it can fit here.

It does not conform to the principles and it is not the basic principle. It is just part of policy, objective of a political party. I support strongly that (e) be deleted from this provision. Thank you Madam.

MR. RUZINDANA: Point of information. Thank you Madam Chairperson. The discussion on the sub article is centering on every citizen, but Madam, I think this is not right, because it cannot be every citizen. It is every party member. We are talking progressively from members of organs of parties, and now we have gone down to the rights and duties of party members. With this, I do think that this should rightly be amended to every party member, and then thereafter, it can become logical that this one should remain here. Otherwise, what pertains to every citizen is not actually contained in article 59(e) it is contained in old article 65. The old 65 gives every citizen a right to take part in the government of his country and its composition and so on.

Now, this is not the one that was intended to be here. We have already provided for it in the human rights Chapter. Now, 59(e) which allows citizens to become members of political parties and other organisations is what we are now providing for. Having become a member, what happens to you? You have every right to take part in the activities of your party, not necessarily as a member of the organs which you have already talked about, and if my understanding is accepted, I think this will logically be there. It should be here, without being out of place. Thank you Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Ruzindana, can you then compare your formulation with the new (c), that internal organisation of political parties shall conform to the democratic principles instituted in this Constitution?

MR. RUZINDANA: Yes.

THE DEPUTY CHAIRMAN: Now, how do you compare that one with what you are proposing?

MR. RUZINDANA: That one relates to the methods of work, the democratic aspects would relate to methods of work within a political party; and then (c) goes to the way the organs could also be organised and work, and then the current (e) goes to the right of members. Once you have become a member and you are not in the other organs, what are your rights? Do you just sit around? Can you be barred from taking part in the activities of the political party? And to this one we say no, you have every right to take part in the activities of your political party intended to influence the compositions and policies of government.

MISS. NANKABIRWA (Women - Kiboga): Thank you very much Madam Chairman. Madam Chairman, without wasting time, whether we amend this clause as per Hon. Ruzindana it is still out of place. I consider this Clause to be a general one and, therefore, it applies whether it is the Movement system is in governance or the multiparty. So, let us delete it from here and find a general position for it, because it applies to whatever system of governance is there. I thank you.

MR. ELYAU (Kalaki County): Thank you Madam Chairman. Madam Chairman, I want to inform the Members that political parties, or the membership you are talking about is not by force so that you would make a law. This is a voluntary organisation, people who join political parties go voluntarily, and if you make a stiff thing as if you are going to force the people, we are not going to put them in a bus.

These are Ugandans themselves, they may even opt not to be part of parties. After all, Madam, if all citizens become members of a political party, who will vote? You can see the political personnel are

very few, who are scientifically trained to run the affairs. This is why we go down and then campaign to other citizens to join us, but if you put a law here pushing people together, I think we are interfering too much with the political manifestos. I think this article is not necessary here. It should be deleted.

THE DEPUTY CHAIRMAN: Hon. Delegates, I feel it is clear that there is a problem with this article. Either we buy Hon. Kivejinja's Motion which means that it comes later, but let us agree that this one (e) former (d) goes. I think that is acceptable. So, Hon. Ngobi's Motion has been accepted that (d) goes. Hon. Delegates, I have not been putting the question and you have been amending. So, now we have accepted to that, it is deleted and there is nobody who is saying no. Okay I put the question

(Question put and agreed to.)

THE DEPUTY CHAIRMAN: So, (d) is deleted and now we go to (e) new (f) which is saying that political parties shall be required by law to account for the sources and use of their funds and assets. Okay, that one is accepted. Do you have a problem to that one, Hon. Mwaka? Okay, Hon. Mwaka has a problem with (f).

MR. DAVID MWAKA (Nwoya County): Thank you Madam Chairman. Madam, on accountability, political parties to account for the sources and use of their funds and assets; as of now under the NRM party administration we know all the funds for running their Secretariat come from the public coffers. We do not know what assets they have got, but since they have been in power for about nine years now, they must have acquired some assets unless they are not serious.

The point I would like to raise is, Madam, why is it that the Movement proponents here would like other political parties to follow those principles yet there is no mention of it anywhere under NRM party administration? But I would like to know if this is not relevant under NRM administration and only relevant under other political party administration. I thought in fairness the principles will all tally whether under NRM party administration or any other political party administration. I would like someone to clarify this to me, Madam Chairman.

MRS. KAZIBWE: Madam Chairperson, I think Hon. Mwaka does not have any problem in as far as accountability for the Movement is concerned, since according to him the Movement is a party, which is also catered for under this.

MR. BIDANDI SSALI: Madam Chairperson, for the record, I would like to say that the Hon. David Mwaka is incorrect when he states that there is a party called NRM. We all know that the NRM is a Movement, but this particular chapter 1 refers to the policies under which the new or old parties will operate after this constitution comes into being.

We are not trying to put what goes on in the UPC or in the NRM today in this Constitution. We are providing guidelines for the parties tomorrow. If NRM tomorrow becomes a party as the Hon. Member from Kigulu South has said, then it will be on the basis of this provision. The point is NRM, Hon. Mwaka, is not a party. Otherwise, Hon. Ssemogerere would not have been a passenger for nine years. Thank you.

MR. KIVEJINJA: Point of clarification. I just want to clarify to Hon. Mwaka so that he understands clearly how the accountability of the Movement has been going on. He has said that in the present arrangement the NRM Secretariat and functions are financed from the public coffers, and this is correct. There is a system in place to account for all public expenditures, and the Public Accounts Committee of the National Assembly calls upon all the accounting officers to explain how each and every coin has been spent. So, already under the Movement system there is a clear methodology as to how to do it, and I think he needs to be clarified that there is already a way of doing it.

THE DEPUTY CHAIRMAN: Okay, is there anybody with a view similar to Hon. Mwaka? If not, I do think really we need to go ahead. So, he is satisfied. Hon. Elyau is not satisfied.

MR. ELYAU: Thank you Madam. Maybe, for the satisfaction of the rest, who is now going to ensure that these parties' accounts and funds are properly kept, because for us in case of Movement and government there is the Public Accounts Committee? Who will now be in charge for parties? Who will be the auditor? That is the problem, for which I seek clarification.

THE DEPUTY CHAIRMAN: Anybody answering that?

DR. KIYONGA: Madam Chairperson, to help Hon. Elyau, in clause 2, if we pass it as it is we are going to provide for Parliament to regulate the establishment, financing and functions of the parties. So, under that provision his question will be answered.

MR. ELYAU: Okay, Madam Chairperson, unless I am convinced beyond doubt, I am also an accountant, how can government or Parliament pass a Statute challenging the political parties' accounts if it does not finance those political parties directly. How can you check somebody if you do not even pay anything in his pocket or her pocket. I want this to be clarified so that people are happy. I am asking this, because auditing is not a simple matter. You audit something that you have provided for. But if you did not provide for it, how do you audit?

MR. MWESIGWA RUKUTANA: Thank you Madam Chairperson. Parliament is not challenging the accounts. Political parties are public organisations, so all the Constitution is seeking to say is that members of political parties should account to the public as to how they utilise the funds, because their funds are public funds, but it is not challenging the accounts.

THE DEPUTY CHAIRMAN: Okay, I only want somebody who has a problem like Hon. Mwaka, if not then we all agree. Okay, so (e) has been accepted, we go to (f) and then after that I will to Hon. Kivejinja's Motion. That is new (g) that no member of an organisation or interest group shall be compelled to join a particular party by virtue of his or her membership of that organisational group. Any contrary view Hon. Kabwegyere?

PROF. KABWEGYERE: Thank you Madam Chairperson. I think the clause is well intentioned because we know that in the past people would be forced to the ruling if they are to be appointed headmasters, or members of boards and so on and so forth. So, the idea is well intentioned and I do not think we need to debate on it, it is well presented and I, therefore, move that we adopt it.

THE DEPUTY CHAIRMAN: Any contrary view? I just want somebody who is opposing it. Hon. Sebi.

MR. SEBI DATA: Madam Chairperson, I have a contrary view and I am saying that we have enshrined in the Constitution the freedom to associate. Now the freedom to associate also means the freedom not to associate. Therefore, I think that we could leave out this clause, because we could actually delete it.

THE DEPUTY CHAIRMAN: Is that seconded? No, you are not seconded so you cannot proceed. Hon. Maliro.

MR. MALIRO: Thank you Madam Chairperson. I was only trying to inform my brother Hon. Sebi that in the past - at the beginning- I think he was slightly a young man in 1962. In 1962, I saw some people who were being forced to be baptised to any of the two religions, Catholic or Protestant and if you are baptised as a Catholic you must vote DP, if you are baptised as a Protestant you must vote UPC. There have been some changes recently. So, this clause is trying to cure that very disease of a certain organisation being compelled to belong to a party, not on individual wish but simply because you belong to that organisation. I think this clause is very important and we must maintain it, Madam Chairperson.

MR. ELIPHAZ MAZIMA: Point of clarification. Thank you Madam Chairperson. I am seeking clarification on the phrase interest groups.' It is clearly known that in the parties, women, workers, and youths are referred to as interest groups, but during the making of this Constitution the phrase changed and it acquired another meaning, and even when we are looking at representation in Parliament we looked at that confusion and we said we should call it special representation. So, perhaps, the Mover of this Motion should tell us what he meant.

MR. PULKOL: Well, that is what I had in mind, but I think, there are many other interest groups that necessarily will not be women or disabled or something like that. There may be other people coming into organisations to pursue a particular interest. Mothers' Union, Fathers' Union and the rest of it. I have no rigid stand here, but what is the wording here? How does it flow?

MR. MAZIMA: The issue is clarified and I do not have any problem now.

THE DEPUTY CHAIRMAN: Okay, thank you very much.

MRS. SSEBAGEREKA: Thank you Madam Chairperson. I still feel that (f) is really a detail and it is not necessary to be in the Constitution. I did not second Hon. Sebi because even when Hon. Maliro put up his hand I thought he was seconding him. I second him on the deletion, because there is already freedom of association, and if there is civic education and people know, that by your religion you are not compelled to support one political party, I do not see any need for this one. I feel, Madam, that the next Amendment by Hon. Kaberuka takes care of (f). The one which has not yet been tabled. I, therefore, feel that this should be deleted. Thank you.

MRS. KALEMA: Thank you Madam Chairman. Madam, I support the deletion of this clause. I would like to warn Hon. Delegates, or rather to inform them that we are being accused of overloading the Constitution with a lot of unnecessary details. Some of the details should be dealt with by the Parliament.

Madam Chairman, after we have already made it clear that all Ugandans are free to associate in any way they like, who will come to me and force me to vote against my conscience, just because I am a member of the women's caucus, or a member of the Church of Uganda? Who is going to force me when I will be having a copy of the Constitution in my possession and when I can read it, and know my freedom?

This is already a very long article and we have spent the whole day trying to work out this. We have spent the whole day debating the various clauses of this article. This is another one which is really superfluous. It is not necessary here. Madam Chairman, let us delete this clause and make this article more comprehensive and more appreciated.

DR. CHEBROT: Thank you very much Madam Chairperson. I think many Members have spoken and there is a consensus emerging, that this article should be deleted, because it does not add or subtract anything.

HON. DELEGATES: No!

DR. CHEBROT: Madam Chairperson, can you protect me from the Members? As it has been said by many Members this article is an unnecessary detail. There are already provisions in the Constitution, like article 59 (e) which says that freedom of association which shall include freedom to form and join associations or unions, which means that it includes the freedom to disassociate yourself from those unions. Why, then, provide another provisal here which means exactly the same thing! Thank you Madam Chairperson.

MRS. LAGADA: (Women - Apac): Thank you Madam Chairperson. Madam Chairperson, I feel very strongly that this article should be retained. Madam Chairperson, this clause protects many people. It is surprising that, the Hon. Members are saying that it is redundant.

I want us to think of the parties that we know. Our experience of parties in Uganda, has a record of a lot of coercion and a lot of force. I will give you an example, Madam Chairperson, and Hon. Members. In Lango where I have grown up and therefore had the experience of parties, I have known wives who have been beaten by husbands, because husbands are UPC's and Wives are DP's. I have known, Madam Chairperson, my own experience where a people, feel that I am nolonger a Lango, because I am not UPC, and I am supporting the Movement.

Supposing we go back into the multi-party system tomorrow and this article is not here, how will I be protected from people who feel that, I am a traitor? Yes! because I do not belong to their party by virtue of my birth. For that reason, Madam Chairperson, people like myself and a lot of other Ugandans who may not know, as much as Hon. Rhoda Kalema who is able to protect her rights because she knows the right of association, I want this clause to remain. With this, if anybody coerces me, for my beliefs, I will take them to court. I thank you.

MR. LUBULWA: Thank you Madam Chairperson. Madam Chairperson, I rise to support for the retention of this clause in this Constitution.

I think the purpose of this Clause was definitely a reflection of what happened in the past. Let me give you an example, infact one that happened in a place where I used to work. I worked in Uganda Development Bank for sometime, and during Obote II, Hon. Cecilia Ogwal, was the Chairman of the Board and she used her position to influence a creation of a branch of UPC in UDB.

The late Wako who was also a Member of the Board, was basically there to almost force people to become members of UPC. In UDB at that time, we had first class and second class employees because of the Membership position of UPC at that time. And Madam Chairperson because of that, and to protect people, and have a permanent cure, and to avoid a repeat of what used to happen, I support the retention of the clause as it is. I thank you, Madam Chairperson.

MR. LUBOWA: Thank you very much Madam Chairperson. I am for the deletion of this particular clause, and the point I have is one, but very important. The consideration for a member of an organisation or interest group, in this regard, is not in anyway similar to a situation of restricting a member elected on a particular party vote from crossing to another party. There is no similarity at all. If you are a headmaster, you would find yourself no longer headmaster, if you did not cross, and there would be no appeal. I do not know which particular body, we would really appeal to. So, for that matter, I feel this idea is non justiciable. There is no way you can really limit somebody from being influenced from crossing. Let it be deleted.

MR. LIIGA: Thank you Madam Chairperson. Madam Chairperson and fellow members, before I tell you which way I stand on this particular clause, I will quote just two living examples. In 1982, I was posted in Mbarara Magistral area. I arrived on Saturday, and Sunday was worship day. Now, everybody was wondering to which church I would go. As per my religion, I went to the Catholic Church in the town, and as I was going back to my hotel where I was staying, somebody was saying; *Hatishi, twamisinga nyamurug'omwe*, which I latter came to find meant, that they had missed one more UPC supporter, who had newly come to the district and that was me.

I was branded DP, simply because I went to attend prayers where my religion demands me to go and attend. During the execution of my duties, there were two distinguished camps and delegates from Mbarara know this very, very well. There were two camps. One camp would say, we cannot go to Liiga's court, he is DP; another camp would say, we must go to Liiga's court, he is DP. One clear incident for those who still remember, Chris Rwakasisi came for me, from our Kisementi down there, as you go to the old market, simply because I had remanded a UPC supporter.

Those who remember the District Education Officer - a lady in Bushenyi who was beating up many teachers because they were not supporting UPC. This woman came and warned me very strongly, either to pull out of Mbarara, because I did not support the established party then, or? you had to complete the sentence yourselves at that time. When I came to Jinja, Magistral Area, it was the same thing. In fact, I understand that in Jinja, one man lost his leg and eventually his life because he had said, if UPC wins, you remove my leg. Something of the kind.

Now, fellow delegates, this has been multiplied in other institutions and places. Even in schools, getting a place for a child during the era of Obote II, was a problem. When you would go to the headmaster, he would first ask that, what is your name. You say well, I am John. He says Oh! John. John in Church of Uganda or John French? French meant Catholic. So, you would be forced to reveal what John you are and you would either get a place or you've missed it, simply because of these rivals.

Madam Chairperson, I could multiply these examples because I was also working in Mbale, just after they had removed Nyamurunga, and again, that experience became true. In otherwords, if we do not have protection like this in the Constitution, we are going to go back to square one. Are you Peter? Yes. Which Peter? Peter the thief or Peter the Catholic? Or Moses. Now, if you are Moses, you are either Musa, or Moses the protestant.

Fellow Delegates, I only appeal to you that, apart from these interest groups, you may find that, if you belong to a certain tribe, as my learned neighbour here has said, you may suffer the consequences. These people from Samia Bugwe know it very well. There is an honourable member who walked out of the House, he knows this very well, and I have had experience, in Kigulu Islands, the camps are just this. You are either UPC or DP simply because, at one time you were seen in the company of the former, member for Parliament, during UPC. Those people know the story.

The man called Roaster was declared a winner two weeks after the election results were held in Kigulu Island. Now, with that situation, without this protection, Madam Chairperson, we are going to find the country paralysed. I pray to Hon. Members to retain this clause, and make sure we enforce it, when time comes. I thank you.

MR. KINTU MUSOKE: Thank you Madam Chairperson. I would like to emphasize to Hon. Members here that this clause is not against political parties. This clause tries to make sure that, there is no group membership of political parties. In England, where there is pluralization, for political parties they say, union member so and so, belongs to Labour party, and trade union member so and so, belongs to Conservative Party. In the country where I went to school, students organisation now say, if you belong to students organisation so and so, then you are for congress party and so on.

This one is trying to protect our people from group Membership to Political party organisations, so that when the executives of an organisation decides to support a certain party, it does not force its Members to follow it. In otherwords, inclusion here, protects the individual rights of association, so that no people of any given executive will decide on behalf of their Members to belong to an organisation. I would like the Members to know this. This is protecting the individuals right of association so that he is not forced to belong to a political party, where he may not otherwise, belong and be forced to do so. I support its inclusion.

MRS. BAGARUKAYO: Thank you Madam Chairperson. Madam Chairperson, when we discuss issues concerning political parties, we should remember what really happened to the society in Uganda. Some people were labelled traitors, even here in this Constituent Assembly. May be if I could use, some Hon. Delegates like Lagada. She is looked at as a traitor because she supports NRM Government as opposed to UPC which may be strong where she comes from.

Now, Madam Chairperson, what I am saying is that, let us retain this article, so that the individual is protected from being called a traitor. People should not be called traitors, just because they have not gone in for a particular type of political system or political party which most people in that area may be cherishing. Madam Chairperson, what we are looking at here, is true democracy and when we say, people should not be compelled to join a political system, we are ushering in democracy. The individual is free to choose any political system they have to join.

Madam Chairperson, let us retain this article, for purposes of not being called traitors and also for true democracy in future. Thank you

MISS. BYANYIMA: Point of clarification. Thank you Madam Chairperson. I am seeking clarification from the Movers. Madam Chairperson, while this particular sub clause intends to protect people who belong to organisations and groups, being forced to become automatic Members of a party, I am concerned about individuals. Madam Chairperson, many people in the past, because they were holding certain jobs in government or in parastatals, were blackmailed to hold the party cards of the UPC in particular.

I recall that, in the 80s, pilots of Uganda Airlines, some of them, had to get the UPC Party Card in Order to continue flying planes. Those of us who did not hold those cards and worked for Uganda Airlines, used to hide from the Airport, when UPC functionaries would be visiting or travelling. This was a pressure - blackmail, that was perpetuated throughout the society. Even simple people like Policemen, like drivers of vehicles; people like that, had to hold a UPC Party Card, in order to do their jobs, in order to leave their lives.

I wonder whether this particular subclause takes care of individuals. And if it does not, can they be included so that we are talking about individuals as well as Members of Organisations? I seek this clarification from the movers. Thank you.

MR. TUMWINE: Thank you very much Madam Chairperson. The Mover, Hon. Pulkol has just left, he has gone out. But we had discussed it, and we have passed an alternative, which we had discussed with the Chairman, Legal and Drafting Committee to read; *no person shall be compelled...* I hope that will cater for Winnie's problem.

PROF. KANYEIHAMBA: Yes, Madam Chairperson. What the Hon. Member who has just left the Floor has said about, does refer to a re-drafting of this clause, which makes it read much better. He did not finish it. But it reads as follows: *No person shall be compelled to join a particular party by virtue of belonging to an organisation or interest group.*

THE DEPUTY CHAIRMAN: Okay, can you read it again.

PROF. KANYEIHAMBA: No person shall be compelled to join a particular party by virtue of belonging to an organisation or interest group.

THE DEPUTY CHAIRMAN: It seems Members are taking that one, as acceptable.

MR. KWERONDA: Madam ChairPerson, I am in agreement with that formulation, because it is me who wrote and sent it there. I wrote it and sent it to Hon. Pulkol and I am glad that, it has come up. But I thought that, was a good formulation.

That said, madam Chairperson, I would like to say that, I support this amendment and I support the clause to remain as amended. This will save a lot of people some embarrassment. In the area where I come from, if you were a Catholic and professed to be a UPC, you would be an outcast. And that is in an area formerly in Bushenyi District, which is now Ntungamo District. And if you were the reverse, that is if you were a protestant and you confess to be a DP, again you were to face a lot of problems.

Some people in families had to divide, father could not see a son, son could not see eye to eye to a father, because, a son has either decided to join a political party which was not favourable to his father. When it came to awarding jobs, again this was a problem, some people had to change their names, others had to hide their Christian names, because if they knew your religion, then you would not draw votes from either side. We have an example here of people like Rugunda, people like Otafiire, who had to go behind those names, because of fearing for their future political career.

Madam Chairperson, there is no other victim other than myself. Because whenever they find me talking to Catholics, they say, this man has become a Catholic. And whenever they find me talking to a Protestant, others allege, I am a Protestant. And recently, somebody alleged that, I was a Muslim. And I said, I am all those, because I believe in unity of our people and certainly, if a clause like this one was passed, it would save a lot of phrases.

In fact, Madam Chairperson, talk about crossing. At grass root, if you were a Catholic and joined UPC, they would say, you have crossed. Not crossed from one party to another, but that you have crossed from a Protestant Church to a Catholic Church or vise-versa. So, Madam Chairperson, I support this amendment, and the new formulation, particularly, because I think it is well framed. I thank you.

THE DEPUTY CHAIRMAN: Hon. Delegates, I think honourables have discussed this, now I want to put the question on this, since the Motion was to delete, those in favour of deletion?

(Question put and negatived)

THE DEPUTY CHAIRMAN: And we have already amended it as per Hon. Kweronda and Hon. Kanyeihamba. So, that one, goes in as amended. Now, Hon. Kivejjinja, can you move your amendment?

MR. KIVEJINJA: Thank you Madam Chairperson. I beg to move that, Article 1, includes the point (g), which is now going to be (f). *But every political party, shall be registered and its constitution filed, with appropriate authority as a justiciable document.*

THE DEPUTY CHAIRMAN: Any, contrary view?

MR. ELYAU. Thank you Madam. Although I am in agreement with my brother, but then he is talking of authority, which authority? Because I thought when you are registering any company or anything, there is always registration or registrar in Uganda. Now, what authority does he mean? Is it authority in power of government or authority which is centrally there, even without anything. Can I get clarification on this?

MR. KIVEJINJA: Thank you very much. I was just becoming formal that, I move and then perhaps I am asked to justify it. So that, I can clarify on all those points.

Madam Chairperson, when we look on the provisions of the Odoki Report, Article 97, number 5 had provided that an organisation shall not operate as a political party, unless it is registered as such under the law for the time being in force, for the purpose which is consistent with this Constitution. In Pulkol's amendment, however, the idea is that, actually those who seek to control a government of the day, need to be registered, so that they are known by Ugandans, what their rules are? And in case they also tramp down against their own goals, it can easily be detected, and be cause for them to prevent them from moving forward.

It had been omitted. That is why I brought this one, to be able to make Pulkol's amendment, complete. And because this is only a principle, it does not take away power to Parliament to make laws, but this will be the basis on which the law governing the political parties will be formulated. Secondly, as Hon. Ssendaula talked this morning, I thought this should have been the beginning, because when a child is born, the first job is normally to name the child and the rest to do with the clan follows.

It is at the time of registration, when the party will be able to produce all the other requirements which we have said should be, under a multi party system. And when all are satisfied, then he is allowed to play around and be able to contest for political power. Because as we are always referring to history, political parties per se, have never been bad. But in the process of gathering power, there is nobody who has ever gathered power, without being broad based, without being democratic in his initial administration. But after that, what will happen when the power is already set, when the ground is set, and the power has been acquired, a method has been found, whereby internal laws and regulations that have enabled this organisation to be in place, are hijacked.

The old timers, are called Pace setters, and then you get Pace winners. And it is normally these Pace winners who change the original laws, and that the original Members have no way to go and challenge it. As we talk now, we do not know the laws under which all political parties function. They have changed the whole of the entire fabric of their internal roles in which they declare to the population, that we are going to be guarded by this. They have replaced them with those which are convenient to them to the extent as one Hon. Member has said, that one party, has been over centralised with a result, that even if its leader is in exile, he is actually controlling whatever is going on here.

This one, will be able to safeguard anybody who joins a party and if at all there is anything wrong, then it will give him a basis to be able to challenge, all internal squabbles in any political organisations and taking them to court. Court can declare the party unconstitutional. If this had been in place, I can assure you, Uganda will not have passed through all these places. but all these internal laws, were tramped upon by the owners, by those who sign them - those who participated in all the manoeuvres, found themselves completely helpless, at later stages, and they will end up messing up the whole country. Thank you very much.

PROF. KANYEIHAMBA: Madam Chairperson, I rise on a point of procedure. As you know, the Legal and Drafting Committee sat all afternoon yesterday, synchronising amendments and one of those we synchronised was on article 97, to be moved by Hon. Masalu Musene and Hon. Hope Mwesigye and it precisely, deals with this particular matter. Clause one of that article, says that, *subject to provisions of article 98, clause I and other provisions of the Constitution the right to form political parties is guaranteed.* Two, *an organisation shall not operate as a political party, unless it is registered as such under a law prescribed by Parliament for that purpose.*

As you know, after we had finished this article, Madam Chairperson, I was going to report on the amendments we synchronised and that was going to be one of the first ones. I, however, see that, there are a number of amendments including the one which Hon. Kivejinja is now speaking to, which are similar to this, but which did not come to our committee. And my own view would be that, since this is already incorporated in the proposed new article 97, to be moved by the Hon. Members I have mentioned, may be, we should debate what is synchronised. I hope that, Hon. Kivejinja would see that, his own substance of the amendment is incorporated there, and indeed this particular substance should come under the new article 97, rather than be part of the article we are discussing at the moment.

THE DEPUTY CHAIRMAN: Can I have a copy of that amendment? I do not have it. I have Hon. Kivejinja's Motion, but that one by Hope Mwesigye, I do not have. I do not know, how many people have that amendment. Hon. Delegates, if we are to be consistent, that means we suspend Hon. Kivejinja's Motion, then we go to 2. So that we pronounce ourselves on 96, before we go to 97. Is that agreeable Hon. Kivejinja?

MR. KIVEJINJA: It is agreeable, so long as it will be discussed.

THE DEPUTY CHAIRMAN: Okay. then can we go to 2. We have passed (1) A,B,C,D,E, and F and G. Hon. Kivejinja's was (H). so now we go to Clause 2.

MAJ. TUMUKUNDE: Thank you, Madam Chairperson. Madam Chairperson, I intend to move an amendment to put a clause between I and 2 of the present article 96, and I go ahead to propose that, 2 becomes 3.

Madam Chairperson the amendment I am sure, has been circulated. If not, it is on the way being circulated. I was perusing the German Constitution, Madam Chairperson, and I got convinced that since, Germany had a history like ourselves, we must borrow this time, profitably from the Germany Constitution an article - a clause, rather, without changing quite a lot of it. It is Mainly saying as is in this amendment that, *a political party, which by reason of the objectives, or conduct of their supporters, seek to destroy or do away with the democratic Constitutional order or threaten the existence of the sovereign state of Uganda shall be unconstitutional.* Madam Chairperson, if you allow, I shall move officially.

THE DEPUTY CHAIRMAN: This was seconded by Hon. Tumwine. So, you do not have to speak immediately Hon. Tumwine. Can we have anybody debating on that one?

MISS. BYANYIMA: Madam Chairperson, if the Motion has been moved, I would like first of all, to point out some corrections before we debate it. Can I go ahead? *(response)* Madam Chairperson, of course the German's do not speak English, but here we have to put it in English and I think we have to say that, a political party which by reason of its objectives, or conduct of its supporters seeks with an 'S' to destroy or do away with the free democratic basic order may need to be re-phrased perhaps the democratic order or frighten the existence of the sovereign state of Uganda, shall be proscribed. Not unconstitutional but shall be proscribed. Those are the words that I would suggest, could improve the wording, in terms of the language, and then I would seek to support it, if it has been moved. I would support it because of the history that we have lived through, but with those amendments. I thank you.

THE DEPUTY CHAIRMAN: So, can you read it straight without interruption.

MISS. BYANYIMA: *A political party which by reason of its objectives or conduct of its supporters seeks to destroy or do away with the democratic order or threatens the existence of the sovereign state of Uganda, shall be proscribed.*

MAJ. TUMUKUNDE: Madam Chairman, I want to thank Hon. Byanyima for assisting me on one or two amendments. I think free in Germany had something to do with East and Western Germany, therefore, that one was free and one was not. We can remove free there. I do agree. Rather, we should make this plural and say, political parties which by reason of their objectives or conduct, of their supporters, seek to do away or destroy, and then instead of basic order, we can say, Constitutional order. I think with that, Madam Chairperson, it would match the demands of this House and we would go ahead to defend it. I beg Madam Chairperson that, I be allowed sometime to defend this Motion.

THE DEPUTY CHAIRMAN: Hon. Tumukunde, do think there will be any one time, when DP, UPC, CP are taken any block that, they are sinning? I feel each one will stand on its own at any one time. I think language wise, Hon. Byanyima's.

MAJ. TUMUKUNDE: Madam Chairperson, I meant to say it could have been more than one party but anyway, let us agree.

THE DEPUTY CHAIRMAN: But each one would be accountable to itself.

MAJ. TUMUKUNDE: Okay, Madam Chairperson, I accept that, we say a political party which by reason of its objectives or conduct of its supporters, seeks to destroy or do away with the democratic Constitutional order or threaten the existence of a sovereign state of Uganda, shall be unconstitutional. If we leave it as that, I hope it is pleasant to everybody.

PROF. KANYEIHAMBA: Thank you Madam Chairperson. While the principle of this article may be acceptable, I have difficulty with the way it is worded, Madam Chairperson. While it is clear about the fact that, a political party by reason of its objectives can be proscribed as unconstitutional, there is no problem about that. But when it comes to the conduct of its supporters, we have a problem there, Madam Chairperson.

A conduct could be just one incident by two of its members, yet it has millions of members. Those

Members may have themselves breached the rules of the party, and therefore, the party itself, does not approve of its conduct. Must by their conduct, the party be unconstitutional? So, there is need, Madam Chairperson, to separate one objective. That is a political party, by reason of its objectives, there we can read in its Constitution that, it is clearly intending to do away with free and democratic basic right or threatens the sovereign state of Uganda. But when it comes to conduct of its supporters, then there is a hell of a problem, Madam chairperson.

Therefore, this needs to be re-thought. I would rather that, as of now, we discuss the objective of the party, as opposed to the basis for declaring it unconstitutional. But if we were also to mix that, with the conduct of supporters, I think the movers need to re-think again and come up with a different formulation. I thank you Madam Chairperson.

MAJ. TUMUKUNDE: Madam Chairperson, I would want us to refer to our history. A party by itself, as most multipartists have here preached, can never be so bad. The worst roughage we have had from the multi-party system is from their supporters and their leaders. I believe that a party should have full governance over its supporters and it must control them. If it does not, then it should be unconstitutional.

I do not see why we should separate the two, well knowing how much the UPC Youth Wing made our people have so many problems here, and several other examples which we do not need to quote here. I think, by this, we are charging the party to take full responsibility, what actually in law, they call vicarious responsibility. That is to say, the members must conform to the rules of the party, and if they do not, then we have every reason to call this party, unconstitutional. I do not know, how we are going to separate the party from its members, and be able to have a safe judgement, Madam Chairperson.

MR. KAIJUKA: Thank you Madam Chairperson. I want to agree with Hon. Kanyeihamba that, perhaps we are influenced by thinking of the Movement. The minute you are in a multi-party political environment, do assume that, parties will take different styles. In, otherwords, you will have a dynamic party, that has a programme. You will have singers, others will be dull, others will be dynamic, and that is the difference between the parties.

There will be a tendency for one group to try and muzzle, or if you are in Government for example, you will want the clause or rather muzzle the opponents by their conduct, and this could be a very dangerous inclusion in the Constitution. You may want to restrict the operation of the opponents, by just invoking this constitutional provision by the nature of your supporters. And yet that may be the means you have to *-(interruption)-*

MR. KINTU MUSOKE: Point of clarification. I would like the Hon. Member holding the Floor to clarify to me whether the activities of Interahamwe in Rwanda are dynamism as an effect? I just want to know whether we consider that dynamism?

MR. KAIJUKA: Obviously, I would never condone that kind of behaviour when it means anybody loosing life. That obviously goes beyond, conduct of human civilised society. I am talking about a multi-party situation, where you have three, four, five parties. And if voters have got to have a difference, you will have people who will definitely organise the youth, you will have the women league, you will have uniforms, and so on. Therefore, the minute you talk of conduct of supporters. And institutionalising that, as a means of either declaring their behaviour unconstitutional, it is really dangerous.

I believe, we are talking about reason or objectives. In, otherwords, what is the objective of a party? That is really the strongest point we should be putting down here, and I would support Hon. Tumukunde that, we put it in this Constitution.

But for goodness sake! let us not talk about a conduct of supporters. Because under multi-party system, people and parties are bound to behave differently, that is why you would intend to have different parties.

We are not constitutionalising for uniform systems. Once you have multi-party, do accept that. The atmosphere will change, we will not talk the same language, that I concede not with-standing the behaviour of the extreme like the Interahamwe's of this world. Thank you Madam Chairperson.

MR. HASHAKA: Thank you Madam Chairperson. I support Hon. Tumukunde's argument, because this is really out of experience, although I sympathise with the argument by Hon. Kaijuka that because of having many different parties,

people will build up their pressures against others. Assume a group of the UPCs wake up to go and destroy houses of the DPs, and of the CPs; will you just keep quiet because those ones are outraged and because of either being in power, or even if not being in power to show their strength, and keep quiet about the party which they prescribed to.

Madam Chairperson, when I was reading the secret document which was written by the President of UPC, and he was saying that, the then District Commissioners who would sturbonly refuse to go with UPC, Rurangaranga would deal with them. Now, if such a person, you know would start killing the opponents, and knowing that he has surely been authorised by the party, would you just keep quiet because, he belongs to a party? Is this to suggest that the party he prescribes to should just be there, without being disciplined because, that is what having many parties means?

I think out of experience really we have said that, they will be holding seminars. Now, what will these seminars be doing? I mean, they have to educate their supporters, how to behave like the Movementists have behaved.

You have never heard of any chaos in villages because this group is multiparty, and the other is Movement. No! Why have they behaved? Because they have conformed to the good behaviour of a Movement type of system. Therefore, multi-partists also when they are organised, their seminars should educate their mad supporters and bring them to shape. It is high time that, these people stop their bad behaviours and be trimmed. I support Hon. Tumukunde's amendment.

MR. MEDI KAGGWA: Thank you very much, Madam Chairperson. I want to support this Motion. And first of all, I want to draw the attention of this Assembly to the key words in this Motion. The key words to me, are objectives and conduct of supporters, then destroy and frightens. As far as I am concerned, both the leaders of a particular party, and its followers, should be if in event of bringing problems, jointly and severely charged. I will give an example in the recent CA elections. You go for a CA rally, and your opponents bring people to intimidate you. But because there was no law to control them, they throw things at you, and even make it impossible for some people to talk, are you going to say, we should let these people continue, and the person in charge has no responsibility? I think I cannot accept this. Referring to the law, as my neighbour Hon. Kaijuka is saying, the law is even very smart. It will take evidence into consideration. I cannot imagine a court just saying, because ABC did this, a political party should be banned. It will take into consideration evidence. So, as far as I am concerned, I want to support this Motion, and I think it is good for our society, and it will go a long way in trying to tame the political parties, should they come into being. Thank you very much.

THE DEPUTY CHAIRMAN: Hon. Delegates, I want to do it this way. Let us hear from people who want to bring amendments, rather than this business I support, I do not support, I support. We shall support when you say Aye, when we say No. But if there is an amendment, let us hear that amendment, so that at least, we complete this article. I can see, you have started sneaking out; giving the bags to small girls and then you go as if you are just going out for short call!

MR. BIDANDI SSALI: Madam Chairperson, I beg to oppose the amendment. It is pregnant with a lot of seeds for instability for this country. Madam Chairperson, all our political organisations are mass organisations. And therefore, you will find it very difficult, especially so, in incidents that have been quoted. You are at a political rally, and then there are riots and disturbances, in one or two, three, places. Then on the basis of that, you take steps in order to ban a party, you are causing problems in the nation.

Madam Chairperson, we have indicated somewhere, that all parties should be registered, they are registered on the basis of their objectives, their programmes. We are also saying in two that, parliament shall regulate the establishment, financing and functioning. I do not know, how a party that has objectives that are not in the interest of the nation, that are a threat to the unity of the country, can gain access to registration. By putting in the Constitution, that these parties will be registered and even talk of code of conduct, which means regulate their functions; I think it is very, very unnecessary and very dangerous.

The case being quoted of Germany. Definitely, this provision was specifically for the NAZI party. And there was no question of saying that, on the basis of what that party has done, at that time, the Germans or even the West would come to say, oh! No! But

when you talk of the parties we have had here, take the Uganda Peoples Congress or the Democratic Party, which are being quoted at one time or the other. I do not see at what moment in time you would have said UPC is banned, and you get away with it or DP is banned and you get away with it. Especially so from, the grassroot point of view.

Let us not create time bombs in the Constitution. Let us talk about regulating the functioning. Let us talk about the registration in which case, if the terms have been set up by Parliament in such away that, the objectives and the other aspects of the programme are not natural interest; then that will be a cause for not registering them. That way, the party is not operating. Madam Chairperson, I am very frightened by this particular provision, because it can be misused especially by people on the other side of the hard-line attitude about a particular political party in future or multi-partyism in general.

I suggest that, whatever is being implied in this amendment, should be conceived in terms of regulating the operations, setting up a code conduct. I beg to oppose, Madam Chairperson.

MR. ELYAU: Thank you Madam Chairperson. This amendment looks simple but it is very harsh. By the way, who will be the party members? May be we who are gathered here, we shall form parties. This one is straight forward. We are taking parties and supporters as if they are departments of government; these are individuals, who have their freedom. Let me give you an example. You may have other supporters whom you think they are strong, and are good, at supporting you, but when they can do their small things outside the parties, it cannot necessarily cause the party to be banned as such.

I think if my brother Tumukunde wanted to make some moderate line of regulation, it should be taken back for refining. But as it is now, Madam Chairperson, this is a very attacking motion to parties particularly. They will say, we have remained here to kill parties. After all, these parties, are the past matters. People have got educated now, and those ones who have been considered bad, may not be with us in Uganda to bring us such problems again. Yes, some may be already locked up. Why should we talk about that past chaos.

I know I have been in those parties sometime, there is no party that I have never visited. I have visited and I have seen, the people who make mistakes are very few on top. But supporters do not have that problem. It is true, in Lango as my sister was saying, that one became the culture of the tribe, which no party can control. If people of the culture in the tribe, think that we should retain the power and it will remain to us, that is how they behave. But these days they have known that, even if they retain power, should anything go wrong, they suffer. So, I think Ugandans are getting knowledge.

Do not take Ugandans for granted. That is why for us in Teso, we were also becoming more educated, because we were ruled by life wheelbarrows in those parties. DP come to take us, UPC come to take us; but we are getting cleverer. So, I do not think, we are going to take it for granted, that people are foolish. I think this kind of amendment, may make parties feel that, we have remained here to torture them. This amendment I do not support; it has to be reformed. I am opposed to it.

MR. ABBEY MUKWAYA: Thank you Madam Chairperson. Madam Chairperson, I would like to support this Motion, and I have very strong views for my support. The very issue of regulating parties and putting them in different constitutions brings them to sanity and order. I am very worried, Madam Chairperson, to see that, some Delegates are threatened by the noise made by parties to the extent that, now they do not want even to make strong positions for them to operate peacefully. The conduct of these parties especially where their supporters are concerned is a very big cause for concern.

Hooliganism and loudness of the supporters of parties is the very reason why many people in the countryside do not want the parties to come back. A live example is last weekend's meeting in Natete, where according to the information from the papers, the organisers of that rally went and collected three or four buses from Kampala, of hooligans and put them at the stage - close to the stage where speakers were supposed to address the rally. I understand one of our Delegates here who was invited to address that rally, found his life very difficult, because those people actually, were about to deny him of his right to address the people, and to the extent that, if he was not strong willed and very senior citizen, I think that rally would have turned into a real circus.

Whereas we must give the parties opportunities to operate freely, we must put some limitations to express their conduct. Our people are scared. In the

past, these very supporters would go to villages and intimidate people, and make life, very, very difficult. I strongly support this Motion. So that - Okay let me take his information, because he is very persistent.

MR. BIDANDI SSALI: Point of information. Madam Chairperson, I thank you. And I thank Hon. Mukwaya, for giving me an opportunity to give this information. I want to make it categorically clear to every Hon. Member in this House that, I was never, never manhandled at Natete. Two, I was never even threatened to be manhandled in Natete. I would like to state that, there were no soldiers, no askaris who pushed me away. I was properly accompanied by Hon. Wasswa Lule and Hon. Damiano Lubega and the Chairman RC one of that area to my car.

I was, however, being followed by supporters who kept on telling me, we support you. In Luganda it was, *tukuwagira. Bano abasajja batulimba.* Those are the fellows who accompanied me up to the vehicle, and when we reached the vehicle we had a lively discussion with Hon. Wasswa Lule where Lule later on suggested that the discussion was amounting to a second rally which was diverting attention from the speaker. So I had to leave. I repeat Madam Chairperson, there was no manhandling at all.

Lastly, in the multiparty system, if you expect that you will go to a political rally and address a rally from beginning to end in the same way you address it under the Movement, then you better rethink about the multiparty politics. Madam Chairperson, even in parliament where there is seat of democracy, in Britain itself, when a Member of the government including the Prime Minister is talking, the Opposition interrupts in such a way that it seems as if they do not want to listen to him. It is the persistence of the Prime Minister or the Speaker on the other side that really determines whether he believes in what he is saying, or not.

There was heckling in Natete, but I maintained my position and talked for 35 minutes until the end of my speech. Therefore, Madam Chairperson, really one should not really support this particular motion on the ground of such things as are reported to have happened whereas there is nothing that really happened. It is part of healthy politics. Thank you very much.

MR. MUKWAYA: The information given by Hon. Bidandi Ssali is welcome. I am happy that at the end of this submission he agreed that he was heckled and if it was not the current atmosphere, if it was like in the past and security agents were around to heckle a Cabinet Minister addressing a rally in such a manner, it would have been a catastrophe.

I am of the view that let us put some reasonable limitations to such situations so that in future, because there is nowhere you are going to guarantee that characters will be behaving in Uganda as they behave in Britain. Since our democracy is still developing, I think we need some of these limitations to ensure that there is peace and stability while political parties are in operation. I strongly support this motion.

MR. OBIGA KANIA: Thank you Madam Chairperson. Madam Chairperson, I support this motion. I am told this is a provision taken from the German Constitution and I am told that it was specifically aimed at the Nazi party. Today I asked myself, whether in Uganda there are no parties which are almost a Nazi party. From the behaviours we have seen in the past and the behaviours of some of the Members in this very House, in the recent weeks, I am more than convinced that there are Nazi parties under different names in Uganda.

Madam Chairperson, some Members in this House are with a document entitled secret proposals for strategy before, during and after elections in 1980. That document if authentic and written by a party President qualifies such a party as a Nazi party and as I have said recently in this very House, the highest institutions of the State like the Presidency have been shamelessly insulted in the names of specific parties. That qualifies such parties as a Nazi party. This motion as it reads is not aimed at any particular party except that one which will qualify itself as a Nazi party. It says do not qualify yourself as a Nazi party. Do not try to do away with democratic basic order. Do not try to threaten the existence of the sovereign State of Uganda.

What is wrong with enshrining those principles in our Constitution? We are merely saying that in case you want to behave that way, you should be constitutionally prohibited, and if a party by its very nature qualifies itself in that order, who is to blame? Is it this House? Certainly not. And that is the action

which we want to prohibit, that an institution of a Nazi type should never arise here in Uganda. It should not be allowed to destroy the free democratic basic order, threaten and destroy the very existence of the sovereign State of Uganda. If we run away from this because some people will be scared, then certainly I am saying we are not making a Constitution for the future.

If we were making a Constitution for the future, then we must take care of the possibility that such Nazi type organisations whether now or in future need to be stopped constitutionally. In my view, both in the present context and for purposes of the future, this motion is absolutely right and it is one of the very principles which we must enshrine in this Constitution. I strongly support it.

LT. COL. SSERWANGA-LWANGA: I thank you Madam Chairperson. I understand the spirit of this motion and I appreciate it but I am afraid I do not support it. I do not think it is even necessary to go on labouring with such a motion, because when we start with a political party which by reason of their objective threatens the existence of the sovereign state of Uganda, it shall be unconstitutional. Then why do you go ahead and register them? Do not register them. If I were the registrar, I would look at your objectives and if I find your objectives are in conflict with the sovereignty of the State, you go home. Do not come here for registration because we have said, if we shall pass that article, that no party shall operate unless it is registered.

Secondly, Madam Chairperson, if people were talking of the conduct of the party supporters and the party itself the best way to do it would be, Parliament could make a code of conduct for parties or within the party itself. The party could make its code of conduct for its party supporters. But the best way to do it is to give power to Parliament to approve a code of conduct for party supporters and the functioning and operations of the political parties. I think that code of conduct could also be one of the grounds maybe where a party could be banned or could be stopped to fill in candidates because of the conduct, that they have violated the code of conduct of parties.

I have heard Members expressing that party activists committed criminal activities. If party activists commit criminal activities, why do you not arrest them? We are legislating for a situation which is known. If the situation is not normal all these things we are saying will not be relevant. But we are saying you have got a State and a State must arrest somebody who has killed somebody. If a State cannot arrest Sserwanga who goes and shoots somebody and he keeps on, then the State is collapsing, it is weak.

We think that the State should have the capacity to deal with criminals. Madam Chairperson, I would like to end by saying that we have already passed an article, saying that all political and civic associations aspiring to manage and direct public affairs shall conform to the democratic principles in their internal organisation and practice. If we have already passed this, why should we again bring this confusion in the Constitution? We have already stated the principle that any aspiring organisation which wants to conduct public affairs must conform to the democratic principles enshrined in the constitution. I think this motion should be sheltered until when Parliament makes a code of conduct for the political parties. I thank you.

MR. BAGEYA: Thank you very much Madam Chairperson. Madam Chairperson, what I had wanted to point out to the previous speaker Hon. Sserwanga Lwanga was, he is reading this amendment in bits and pieces. I concur with him that we can register the objectives of a party but we cannot register the conduct of supporters of that party. It cannot be registered. Therefore, the only way we can do it is by supporting this motion because we are tying to prescribe table manners and the table being the sovereign State of Uganda where all of us are involved.

It is true today we have a sober leader. If he was not sober, I do not think Uganda would be the same today under this administration. We are putting this Constitution in place to avoid a situation where we may not guarantee other leaders of political parties to be as sober as the current one and I do not want us to look at the current situation. Therefore Madam Chairperson, recently we had here organised crowds which used to come and camp here. They did not come by themselves. They were organised by the leaders, some of whom sit in this very House. You may be a leader but you may not have manners, but we are saying we must have leadership with good conduct.

Everybody here requires good conduct. When we talk about destruction, you cannot bury your heads under the sun and feel that there has not been

destruction in this country. The essence of making this Constitution is to close all the loopholes that we have undergone. Many people believe that they have freedom to do whatever they want and by exercising that freedom, they are stepping on other people's feet. The other day, we were treated here to a scenario by Hon. Masalu Musene where we had politicians cutting off people's necks using a saw. This is hooliganism which is normally initiated by the leaders and there is no guarantee that whatever leader we shall have will be decent and there will not be hooligans.

To avoid this hooliganism, I strongly support this motion. I thank you.

THE DEPUTY CHAIRMAN: Let us hear from the mover. He may have an amendment to his motion.

MAJ. TUMUKUNDE: Madam Chairperson, I do not intend to amend anything here. I just want to call upon the Hon. House to just watch one important aspect, there are key words which Hon. Medi Kaggwa tried to bring out. Why do you want extreme parties, fundamentalists, people who threaten the sovereign State of Uganda? I mean that is the very extreme end we are trying to treat here.

Madam Chairperson, I am sure you know when Idi Amin killed here, we thought it was so bad. But you did not stop Obote killing even more and it has not stopped the Rwanda people killing millions of people. So here, we are trying to stop extremists very, very unacceptable excesses Madam Chairperson.

PROF. KANYEIHAMBA: Madam Chairperson, when you called upon the mover, I thought at least some of the advice which has been given that we should separate objectives of the party from conduct was going to be clarified. As it has not been clarified and he insists on moving his motion as it is, I am afraid I must oppose it and oppose it very vigorously.

Mr. Chairman, I think as individuals, we tend to look at the other side and we do not look at ourselves. The NRM itself has been accused or its supporters have been accused of violating certain human rights. We know of reports where some misguided soldiers contrary to the NRM policy and principles went in certain areas of the country and committed very grave offences. Some have violated certain human rights. Indeed the leadership of the NRM has conceded publicly that we have executed these supporters of ours who have taken the law into their own hands.

They took the law into their own hands without the authority of their leaders and as a result, if you were to pass this amendment, then who can argue if somebody says that the NRM should be declared unconstitutional? But everybody has forgotten about that one. They are only looking at UPC, DP and Amin. But we also have had our mistakes but how do you deal with those mistakes? These people who have committed these offences have committed offences not only against the Constitution of Uganda, but against the penal code of Uganda and we should proceed against them as individuals or as groups. Somebody was showing me a letter purportedly written by Milton Obote when he was instructing his supporters in the 1980's to break the Constitution and commit treason against the people of Uganda. Then if we get hold of those people who are misbehaving on the orders of their leaders, we should proceed against them on the provisions that we have specifically put in this Constitution and the penal code. But do not do what they did in the colonial period. In the colonial period, if a murder was committed in the village, they arrested everyone and either deported them or dealt with them harshly simply because they could not find evidence.

We are setting into place a machinery, a Constitution and a law which means that we are going to live in civilised society where we can also only act on evidence, act on the guilt of the people who are concerned. We have had bad or religious leaders who have misled us in one way or another contrary to the teachings of religions. Should we now ban all religions in Uganda? For me, I would be very, very happy if we could accept the first arm of this amendment and say that any party whose objectives are contrary to the Constitution or want to destroy the Republic of Uganda shall be unconstitutional. But to include conduct in the manner that I have said, you have for example heard Hon. Bidandi Ssali, whom I agree with that there was a report that supporters of certain parties mishandled him. We could have acted on that evidence alone and proscribed those parties but we know that the victim now is giving evidence which does exonerate those parties and supporters.

So, to say conduct without describing whether it is consistently barred for ten years or 20 years, without saying how many of the supporters involved would be, in my opinion, dangerous for us to constitutionalise that kind of provision. For that reason Madam Chairperson, I strongly oppose this amendment as presented.

MR. MUSEKURA NDARUHUTSE: Thank you very much Madam Chairperson. Madam Chairperson, we are making the supreme law of this nation and must therefore guard against any future misconduct by any organisation or party. So I intend actually to support the amendment on the Floor. Madam Chairperson both the objectives of the party as well as the conduct of party supporters must be regulated in the interest of our nation.

Our nation, I believe, is interested in having peace, stability, development and unity consolidated. If in Germany this provision has been put and it has assisted the nation to achieve some peace and stability, then why not here? I do not see anything wrong with borrowing such a useful provision. I strongly feel that hooliganism in parties must be avoided by all means and if possible at all costs. Madam Chairperson, people of different political beliefs should be able to coexist, and live together amicably in this nation of ours, otherwise, we will not achieve any peace. It is very important, therefore, and necessary in a future Uganda that any party which does not respect democratic order or which threatens the sovereignty of Uganda should be declared unconstitutional.

A party's leadership should be capable of controlling the behaviour and conduct of its supporters and members. It should be capable of disciplining its members. It should be capable of expelling undisciplined members. If it cannot do the above or it condones malpractice of its members, then it qualifies to be proscribed.

Madam Chairperson, I strongly feel that this provision is in the interest of development, peace and stability of our nation and should be enshrined in this Constitution. Thank you very much.

DR. MATOVU: Thank you very much Madam Chairperson. Madam Chairperson, I seem to be divided on this issue. On the one hand, there is a strong reason for supporting the motion on the grounds that for instance, in Europe, soccer matches have been controlled to such an extent that clubs are threatened to be banned or suspended on the behaviour of their supporters as such. That is one side on this issue.

Now on the other side of the issue, this kind of provision can be very dangerous, it can be very easily misused on the grounds that if one party wants another party to be banned, they just mobilise a couple of thugs to go and behave as if they belong to the other party for the sole purpose of getting the other party banned! That is a strong reason for me to sort of oppose the motion as it is. Thank you very much Madam Chairperson.

MR. KAVUMA: Thank you very much Madam Chairperson. Madam Chairperson, I have listened to the arguments given before my contribution, but I am convinced that to support this motion would be missing the point. Madam Chairperson, I think first of all, we cannot be detailed in this Constitution to see what will apply in terms or in what would be a code of conduct for parties. I think we will be going too far.

I think it is sufficient to empower Parliament as I can see in clause two to this article to look in details of what should be, what should form the code of conduct of parties and I think at that time, all these problems we are talking about would be properly and clearly addressed.

Madam Chairperson, I can also see another political danger, in that we may be playing in the hands of some cheap politicians in this country who may want to make some people here and elsewhere believe that actually this Constituent Assembly is out to harass or punish or even ban this or the other political parties. I think as mature CA Delegates, very responsible Delegates, we should avoid falling into that trap.

Madam Chairperson, in law, we say you do not commit an offence until that offence has been created by the Statute. But as we debate this, at least psychologically you can see that some of us have a fixed idea about who should be caught as having committed offences against this country politically. I know that could be the political thinking but I think it is very, very wrong to adopt it and cause a provision to be put in the Constitution. In the past, we have not had any law regulating the conduct of parties and I think as Ugandans today, we should be

saying let us make a fresh start today, create these offences in a Statute of Parliament and then whoever contravenes these after they have been created should face the law.

Madam Chairperson, the whole spirit under which we have been writing this Constitution has been to ensure the values or to emphasize the virtues of our society as it develops both politically and otherwise. We are emphasizing democracy, transparency and the rest of it. It would call for somebody totally oblivious of what we have provided elsewhere in this Constitution to go and authorise an organisation, a political party with propensities of committing atrocities against the people of Uganda and allow it to be registered when that law comes into force.

Madam Chairperson, I think this provision should be left out of the Constitution, and I oppose it and I appeal to Hon. Delegates to oppose it because it is likely to send out a wrong message to some of our people and their friends elsewhere. It is not likely to serve any useful purpose and it is also liable to be abused. I thank you Madam Chairperson.

MR. SAM KUTESA: Thank you Madam Chairperson. First of all Madam Chairperson, I want to correct the very wrong impression that has been created by some Members who have contributed on this motion. The first impression has been that this motion seeks to be retro-active and that is wrong. When it talks about people who seek to destroy or do away with a free democratic basic order, it is not talking about people who sought in the past to destroy that order. *(Applause).* It is intended as a measure for the future.

So when Hon. Kanyeihamba says that the Movement has committed mistakes, this motion does not touch this Movement, but if this Movement in future intends to seek to destroy this order, then this motion should apply to them. *(Applause).* If UPC in the past sought to destroy a free democratic basic order, this motion does not apply to UPC. If the new UPC intends to seek to destroy that order, then it shall apply to UPC. Hon. Kavuma argues and I think quite wrongly that it shall send impressions that you are witch-hunting.

If any impression is sent out that in future we shall witch-hunt those who want to destroy democracy and subvert the State, that message ought to go out loud and clear. The notion that therefore because when you say this, UPC will say you are witch-hunting us, no, we are talking about the future and I don't think there is a wrong message being sent out.

Now Madam Chairperson, this document which Hon. Kanyeihamba alleges to have been written by Obote, is not a new document. I personally saw it in 1983. He may have seen it today but when you follow through what happened, indeed everything that he prompted to do did not take place. How can you in future allow a man who says I am at pains to oppose that if necessary leaders of other parties should be eliminated? UPM especially can be a risk militarily. Now what kind of signals is this gentleman sending out? I would rather send out to the International Community a signal, that this kind of leader will be treated as being unconstitutional rather than have him send that kind of message to the international community and to our population.

Mr. Chairman, there is a difference between people here who seem to be hard-liners and appearing to be witch hunting political parties. I am not one of those. I want to make a fair Constitution, I want to make sure that nobody in this country is treated undemocratically. However, I shall not feel scared to outlaw those who in future want to repeat the mistakes of the past and I think this is what this motion seeks to do. In fact if you wish, you can make this clause include the Movement; that is to say either a political party or Movement although I do not know whether it appropriately falls under this chapter which in future seeks so that everybody knows that you are not targeting political parties. What you are targeting are people or organisations in this country which will seek to destroy the democratic order or subvert the State.

Madam Chairperson, I have listened to Hon. Bidandi Ssali, I have listened to Hon. Kavuma, I have listened to Hon. Kanyeihamba, they have got very good arguments but their basis is wrong. They think that we are trying to make a retroactive law. We are not! We are trying to safeguard the future. Having said that Madam Chairperson, I do appreciate one thing that it may be difficult and maybe impossible for a party to control the conduct of all its supporters. I would propose if the mover of this motion is agreeable that instead of the word their supporters, we should put its officials, because a party should be able to discipline its officials.

You may not be able to go to Kisoro and find a little man whom you do not know, but if he does certain things that should not necessarily make the party outlawed. But if the officials of a party by their objectives or by their conduct seek to destroy the political democratic order, or to subvert the State, I think a party, first of all, it would have capacity to discipline them and if it does not and encourages them, that party ought to be declared unconstitutional. Madam Chairperson, I think we are being scared for nothing. The target is not the past or existing parties. The target is the future.

I would, therefore, ask Hon. Tumukunde and Hon. Tumwine to allow that we restrict this conduct and objectives to those of its officials and this will in future in my opinion, curtail activities that seek to subvert the State and democratic order of Uganda. We may feel at this moment scared and hope or want to please some people but as Hon. Tumukunde says, until we go through these experiences again, that is when we shall regret that we had not made this provision. In my opinion, Madam Chairperson, this provision is good for the future. If some of us here intend to hide under any other specific law so that in future we may not be witch-hunted when we commit these atrocities, then I think we should put a law for those of us who want to witch-hunt you if you do so. I beg to support.

THE DEPUTY CHAIRMAN: Hon. Delegates, before we proceed, I can see us really trying to move parallel, which really should not be. When you look at the set of papers you have in front of you, there is an amendment by Hon. Sekandi which says that the first Parliament elected under this Constitution shall enact laws regulating (a) the conduct and operation of the three political systems referred to in article 94.

I am reading this having taken note of Hon. Kanyeihamba's submission that even the Movement has problems, even in the military like we had in Amin. There are problems, even in political parties. So I suggest we sleep over this, rather than voting then others stand up for something which you can reconcile. If really we take Hon. Matembe and Hon. Higiro's motion, I think it may take care of this, rather than voting then we come to this one and then we cannot eat our own words.

I propose that we adjourn, come back and we have sufficient numbers to vote on this article after taking into consideration the amendment. I request Hon. Tumukunde to look at this and think about it. So we stand adjourned and we consider this tomorrow at 9.30. a.m.

(The Assembly rose and adjourned until Thursday 29th June, 1995 at 9.30 a.m. in the morning).

THE REPUBLIC OF UGANDA

PROCEEDINGS

OF

THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

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THURDAY, 29TH JUNE 1995

MOTION:-

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Consideration of the Draft Constitution of the Republic of Uganda [Pg 5065]

Thursday, 29th June 1995.

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

PRAYERS

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

(The Assembly was called to Order)

COMMUNICATION FROM THE CHAIR

THE DEPUTY CHAIRMAN: Hon. delegates, the Communication from the Chair is on a sad note that one of us Hon. Guma Frank of Bukanga County passed away and we are trying to make arrangements to see what we are going to do next. But for the time being, let us stand up for a moment to remember the soul of Hon. Frank who has departed from us. May his soul rest in eternal peace.

A second kind of communication - I would not have wished to say what I am going to say but you bear with me. We are relapsing back, we are not coming on time, it is going to 11.00 a.m. and we have to complete this work. So, Hon. delegates, I appeal to you, at least by 9.30 a.m., we should be here otherwise, we are putting ourselves in a difficult situation where we shall not go on. Parliament has to do its work, Cabinet has to do its work, and we do not come. I appeal to Hon. delegates, at least let us finish this Chapter and other papers that are remaining by Tuesday, that is the deadline we have been given and if we do not do so, we will be accountable. Thank you.

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

CHAPTER SIX - REPRESENTATION OF THE PEOPLE.

ARTICLE 97. POLITICAL PARTIES.

MAJ. TUMUKUNDE (Rubabo County): Madam Chairman, you remember as we broke off yesterday, we agreed that we put our heads together and sort of come out with an amendment that is generally acceptable to the honourable members of this House, I have since then contacted quite a number of them, and we have agreed that we rephrase the Motion or the amendment as presented yesterday to read as follows; "*a political or civil organisation which by reason of its objectives or conduct of its officials, seeks to destroy or to do away with the democratic constitutional order or threaten the existence of the sovereign State of Uganda, shall be unconstitutional. The Constitutional Court shall rule on the question of its constitutionality. The Constitutional court shall rule on the question of its constitutionality* - or we can improve that, may be I should repeat the whole amendment.

"*A political o civic organisation which by reason of its objectives or conduct of its officials seeks to destroy or do away with the democratic constitutional order, or threatens the existence of the sovereign State of Uganda, shall be un constitutional.*" The Constitutional Court shall rule on the question of this constitutionality. I hope Madam Chairman, at least have gone broader than political party, that is a new invention in this new amendment. We have said "*any political organisation*", that means if it is the Movement like the people were expressing, it should also be affected. I do not see why a Movement should threaten the existence of Uganda and we do not say anything about it or we do not really legislate against it. The other thing is that we have included civic organisation, meaning, even if it is not declared as a political party but the objectives of this civic organisation threatens the existence of the State, we hear we are expecting things like fundamentalism, cults, all these things, it should be handled by this very law and then Madam Chairman, we agreed to limit the group of people where the leadership of the Party shows precarious responsibility and we limited it to officials.

People were complaining yesterday, Madam Chairman, that it is very difficult to manage all the supporters all over the country, although my view was that an effort should be made to do that but again to accommodate everybody, we have narrowed it to officials. Officials here means leaders; it means recognised officials of any political or civic organisation and Madam Chairman, there was another problem which was coming up where people were imagining that "unconstitutional" here would mean banning the Party or banning the civic organisation. Madam Chairman, we have introduced a Constitutional Court and it was presumed

but here we decided to be very specific. We are now saying, the Constitutional Court shall sit and rule about the unconstitutionality of this very political or civic organisation.

Madam Chairman, still appealing for support from my fellow delegates, I would want to say that this amendment is meant for those who have remarkable excesses threatening democratic constitutional order. Bearing in mind our history and the effort we have taken to put this Constitution in place Madam Chairman, I think anybody who threatens a democratic constitutional order is not very ordinary and should be defeated with a very, very harsh hand. Another thing, Madam Chairman, is threatening the existing sovereign State of Uganda. In this case, Madam Chairman, I would want that this House agrees with me and my other colleagues who support me in this amendment that, if you threaten the sovereign State of Uganda, then seriously on any reasonable note, you should be examined with a lot of very serious interest and that is why we are putting this specifically Madam Chairman, to cover these people.

I think at this juncture, Madam Chairman, I will also agree that the home of this amendment may no longer be under "political systems". That being the case, I would request that this House passes the principle and then the Technical Committee, Legal and Drafting, where I happen to be a member, we shall move and look up a home. My biggest interest is that this thing becomes part of the Constitution of this country and we are not in anyway purging anybody, we have no interest - we do not even look at any particular Party, group or interest, we are simply trying to protect the people of Uganda from excesses we have seen in our neighbouring Rwanda and signs of which are likely to be in Burundi soon and any other situation. I do not see - when the Nazis did what they did in Germany, everybody imagined that was a big lesson to history, but we still have Sarajevo, we still have Bosnia, we still have those very, very, vivid and current circumstances which call on any sensitive mind, Madam Chairman, to put a law in our Constitution hoping that it will protect our people from excessive leaders Madam Chairman.

MR. SEBALU KENNEDY (Youth - Central Region): Thank you, Madam Chairman. I do agree with the principle that Hon. Tumukunde is trying to introduce especially to instill discipline in our political organisation for the future without respecting it. However, I would like him to clarify to me when he introduces the idea of the Constitutional court ruling on the constitutionality of that organisation, is it really necessary, having already said that organisation will be unconstitutional? Does it not presuppose that there is a body that is supposed to rule on that constitutionality? Should we go ahead and include that bit of it that aspect of the Constitutional Court ruling over its constitutionality? I felt that the amendment as it is without adding on the Constitutional Court to rule over the constitutionality could be precise and to the point. So, I am wondering whether it is really very necessary to add on that.

MR. RWOMUSHANA CHARLES (Rujumbura): Thank you, Madam Chairman. Mr. Chairman, I have a problem with the amendment as moved by Hon. Tumukunde, not because I disagree with the principle of the amendment, but I feel there is some duplication of the work. We passed in Chapter which is now Chapter 2, it was around article 3 that: "any person who by himself or in consonant with others, tries to over throw or aids or abets in a manner, a person who wants to overthrow the said Constitution or any Article, a person who abrogates this Constitution will be committing treason and will therefore be punished in accordance with the law. Therefore, when you say that any organisation which tries to disrupt any constitutional order is any way trying to abet and or aid and or abrogate the said Constitution and therefore that article will be enough to deal with that organisation. When it comes to the sovereignty of this country, we also passed article 47, that it will be the duty of every citizen of the Republic of Uganda to defend the sovereignty of this country. Therefore, the defence of the sovereignty of this country is already provided for.

MR. KARUHANGA (Nyabushozi): Thank you, Madam Chairman. Madam Chairman, I am impressed and I am mindful of the reasons behind Hon. Tumukunde's intentions. Having said that, the wording of this Motion of his has a lot of problems which I can see and unless we polish these things up, it is very difficult for me to support it as it is and I would like Hon. Tumukunde and Hon. Members in this House to take note of some of the issues I want to raise seriously so that if we pass them, then probably I will be cleared in my mind. It starts: "*a political or civil organisation which by*

reason of its objectives..." Now, the words "*by reason of its objectives*", are these objectives published or are they being implemented secretly? If it is for published objectives, obviously the Party will not be registered in the first instance because if its objective is to destroy the Constitution, it will never be registered. And I think that the majority of his fears are based on the secret objectives of some of his organisation.

So, I would like to know whether, by saying "by reason of its objectives", he is taking into account the secret objectives or published objectives? Then he goes on to say, "*by reason or conduct*", is this conduct overt or covert? If it is overt conduct of its officials, if any overt conduct of an official is seeking to destroy the Constitution, that we have already provided for and he gets punished as a citizen of Uganda for committing treason. Now, if it is the individual officials, how high or how low? Do you ban the Party because an RC Chairman is being charged for treason and you ban the Movement, because the organisation also involves - this Motion also goes to the Movement? Is it because of the conduct of the RC I official that the whole Movement is going to be judged? And if it is the conduct of its officials, how high, how low are individuals having several and collective responsibility and then seek to destroy? Now, in this seeking, is it intended to have the words "aiding or abetting" or is it when you actively seek - like in law when it is *acta serious* or is it the *mens rea* - is it the intention or is it the act that the words seek? Then the word "destroy", is it to destroy, demolish or do away with? Why is it that Hon. Tumukunde does not say that if the principles which we have already agreed on above are contravened, then there is a crime committed, then there are some punishments and I think each one of them may have a different punishments.

So, when you also say this Constitutional Court is to declare the punishment, what punishment? You say that the thing is unconstitutional, to me therefore, even the question of who initiates this case to record, is it the individual, is it the opposition Party which is fighting this one - say like, could it be interesting if DP went to court to, say, ban UPC for this reason, or are we asking Parliament to put an organisation which is going to foresee these Parties to make sure that the principles we have agreed on plus some of the intentions Hon. Tumukunde is raising have got spectacles that they are using to supervise, to inspect, to oversee the activities of these organisation and political or civic organisations? If this Constitution is supposed to be a legal document which is even referring to the Constitutional Court to determine on; pronounce themselves on, make declaratory statements on, why can the wording not be made in such away that all these 1000 questions I am asking are not left to them? Unless you want them to be the ones to write the Constitution - because they can, the court will write the Constitution. If we send this wording as it is, it is a pity that I am seeing it, that I never had a chance to consult Hon. Tumukunde about these question, but I think if we put this to court, the court will definitely pronounce itself one way or the other depending on what they think and then that will be the Constitution, but if we want to assist ourselves and make sure that what Hon. Tumukunde intends to achieve is achieved, I really think the wording has to be tremendously improved on. Those are my fears, otherwise, I have no problem with his intention of seeking to stop a certain mischief. Thank you,

MR. MASALU MUSENE(Manjia County): Thank you, Madam Chairman. Madam Chairman, I think we should, as we write this Constitution, be as clear and as precise as possible and avoid making laws which in future may even turn against ourselves. We should try to make laws really which are straight forward and which are easily understood by the population. Why I am saying this, Madam Chairman, first of all, there is, I think, a malicious report about my brother Hon. Tumukunde in *The Monitor* of yesterday. I call it malicious because I do not think he could do it, but it on page 7 of *The Monitor* of yesterday and the heading is: *"Wapa asked to can CAD"*. It is very brief and I will read it. It says: *"the RC executive Nyakishenyi sub-county have appealed to the Constituent Assembly Chairman, James Wapakhabulo to discipline the area CAD, Maj. Henry Tumukunde for threatening to shoot and beat those who did not support him. Council sitting at Nyakishenyi sub-county, Rubabo county, Rukungiri District, June 10th, was informed by the RC III Chairman, Bonny Biryatwita, that Maj. Tumukunde threatened to box their sub-county Chief, Steven Tushungirwe and the District Executive Secretary, Elias Bushoberwa, for not supporting him."* Now, if we come up - because this would amount to conduct of officials of a Party or organisation like the National Resistance Movement. Now, this would now open room for Parties

or political organisations in future to start counter accusing each other that your official in this area has done this, had done like this malicious report. I am sure it is not true.

So I am saying that really, let us make a straight forward and clear Constitution and avoid bringing in these other provisions which will complicate the whole issue. We have the law relating to treason, Madam Chairman, so anybody who threatens the sovereignty of this country, or the Constitutional order, it means he is committing the offence of treason and therefore, he will be taken to courts and charged accordingly. We have laws of sedition and any other person who behaves in a way of hooliganism, the laws are very clear. For example, in 1985 when UPC was overthrown, when Obote was overthrown, the DP people in Iganga started destroying houses of UPC supporters and cutting them, but it did not take long because the Police arrested very many of them. In fact, we even held courts on Saturdays to try to alienate these people who had destroyed and burned houses and so forth, and sooner or later, law ensued. So, we have laws in place regulating conduct. Whoever commits a criminal offence, I think should face it, other than trying to complicate by bringing in this other. And then the experience of Germany, Madam Chairman, it is really different, I do not think the experience of Germany is exactly equal to our experience here and besides, some one even yesterday talked of a code of conduct for political parties. So, we would rather go with a code of conduct other than bringing in these other complications with which we might end up even hanging ourselves in future. As you can see this malicious report in *The Monitor* of yesterday. I thank Madam Chairman.

THE DEPUTY CHAIRMAN: Hon. Delegates, we debated this yesterday for the whole afternoon before Pulkol you come in. I am proposing that we proceed like this. Now, we know that Hon. Tumukunde's Motion is no longer part of 96 because 96 is on multiparty politics. His Motion is all embracing which means it shall constitute its own article. If that is the case, then let us first get 96 out of the way. If we are to refer this for amendment as Hon. Karuhanga has done, it should be standing on its own because actually it is on its own. So, it should not bog us down, wasting another morning just because we are discussing this. I do not know what your view on this one is Hon. Tumukunde, but that will be my proposal; that we stand over this one, after all it is not even part of 96 any more. So, we go to 2, we pronounce ourselves on 96, then we should proceed immediately. Otherwise, we are discussing this in a vacuum, because it does not belong to 96 any more. - *(interjection)* Where is the procedural problem?

MR. SSENDAULA (Bukoto South): Madam Chairman, as you have rightly put it, we have debated this issue substantially and a lot of facts have been advanced. To say that it is for the general inclusion in the Constitution any where, I think it will be only wasting the time of this Assembly. The issue has been debated, the best thing that we can do is to put it to vote, and I go along with others who have spoken before. I do not accept and I do not agree with the principle. Let us pronounce ourselves on it and do away with it and finish it and then move to 96. I would have wanted to contribute but I am prepared to accept a vote on it whether it is within 96 or anywhere else in the Constitution so that we pronounce ourselves on it. Thank you.

MAJ. TUMUKUNDE (Rubabo County): Madam Chairman, I will give my views about whether we can - I think your point is very clear that this very article may not belong to 96. However, I think you should give me one minute or two to say something about the comments given on the article because I insist this article is very necessary. You are throwing it out today, tomorrow, you will find it very useful when it is already outside the Constitution. However, let me mention a few things. I could go to Hon. Karuhanga's points. Objectives, of course published and unpublished - objectives which are usually published are never bad. You will never read a Manifesto any where - objectives of a party or organisation which are ever bad or unconstitutional. So, these objectives are either published or not published, but as long as the Constitutional Court finds them out of order or in any way antagonizing the Constitution, they should be handled. Then about conduct, covert or overt, it does not matter which way, all we need to do is protect the people of Uganda from overt or covert conduct which is threatening their existence. Madam Chairman, about how high we narrowed it to officials so that we leave the party or organisation responsible to its own group and make sure they discipline them, at least at officials level, I thought that would ease our life. Then 6, where he is asking whether it is aiding or abetting it could be either of those as long as the court establishes it - the Constitution court establishes it.

About whether destroy means demolish, I am sure we can have a way of getting may be better work and destroy can mean broader than demolish. Then Madam Chairman, I think Hon. Karuhanga made a technical mistake of saying that the Court shall prescribe punishment, not necessarily, the most important thing is that, it shall be clear whether the conduct and objectives of this organisation are constitutional or not and if they are not constitutional, then I am sure the punishment is very clear. The punishment is that they cannot be allowed to operate, that is why we put a court so that what is being feared here, that a Party will use tactics to throw in another Party, I think we should have trust in our systems. I believe the Constitutional Court we are going to put in place is going to be a fair Constitutional Court and people who are opposing it have been even victims. I see some people so opposed have been under serious pressure from organisations or Parties before, I thought therefore, this should be in their interest but I see them attacking it. Others thinking it will - Hon. Masalu thinks that it will turn against us. Why not turn against us if we are gone so bad? I also agree that we must have - if you think you must continue to protect yourself and you refuse to write laws because you think they may hold you and therefore giving an impression that you intend to perform bad, to commit atrocities, to lodge excesses and that because we fear the law may not get hold of us, we should not put it here. I feel that is really writing a Constitution just for ourselves, and I think it is very unfair.

About Hon. Masalu Musene's views about *The Monitor* and therefore using it to prove conduct, being a Magistrate, you mean because murder is murder we should never legislate for murder because usually there will be some contrasting views on murder in the court? There shall always be contesting views on any matter in the court so we cannot fear to write laws on murder just because some body will say, I did not kill, others say, I killed, giving an impression that because they have written something on *The Monitor* on my person, therefore, we should not put this law in the Constitution lest tomorrow I will be one of those officials being accused! I think this is really limiting our whole reason for being here. We are not here to legislate for small interests, I think we are here to legislate for the future generation of this country and I think it is very important that we use our experience and history to write appropriate laws to handle these - about underrating the situation in Uganda or even neighbouring Rwanda and saying the Germany experience was bad. Who told you the Germany experience is the last and end of all the atrocities that are likely to be committed against humanity? When Amin came here, we imagined all was over, we will never have the experience, but you have seen the Rwanda situation, look at what is happening in former Yugoslavia! Saying the Germany experience was so peculiar is underrating what is likely to come up in the future.

I think Madam Chairman, I agree we can find a home for this principle but I insist, Madam Chairman, even going to Rwomushana's view that it is already covered elsewhere, I think it is sometimes very crucial that we become specific especially if our experience has shown that vagueness has caused more problems. I think I should leave it at this. The House will decide. I am not writing this law for myself or my son, I am writing it for the whole of Uganda. If you think because of small interest, it will hold us and so we should drop this law, well, my views still hold and I just request this House to be more considerate and agree that we need this law. Madam Chairman, I agree we can postpone the debate but I will continue to raise this matter until I am defeated and I hope I will be on record for having raised it.

THE DEPUTY CHAIRMAN: Hon. delegates, we discussed this issue the whole of yesterday and I had given Hon. Tumukunde the last time so that he answers the queries that were aired by the various Members. I had given an alternative that as this is no longer on 96, either I can put the question or - (*interruptions*) - We need some order in the House - or we can divide. Even if we put the question, either it is positive or negative, there is more time to synchronise this and it may come later. So, I suggest that I put the question on Hon. Tumukunde's Motion, that it should be included in Article 96 to be part of the Constitution.

(Question put and negatived)

THE DEPUTY CHAIRMAN: So now we go to 96 (2) so that we pronounce ourselves on 96. There is no other amendment on 96 so we go to 96 (2). Hon. Kivejinja's Motion was integrated in another Motion by Hon. Hope Mwesigye. So, No.2: "*Parliament shall by law regulate the establishment, financing and functioning of political parties.*"

DR. MAGEZI (Jinja Municipality East): Thank you very much, Madam Chairman. Madam Chairman, there was a little insertion proposed on that particular position to the effect that actually Parliament can also amend these principles because there has been no provision for that at all. But as time comes and goes, it is envisaged that the principles you have already outlined can be added on to as can be seen by Parliament so that the position is that: "*Parliament shall by law amend these principles to regulate the establishment, financing and functioning of political parties.*" Maybe for lack of better English, there could be a provision and a better rewording of the ability for Parliament to add on to these principles but that is the gist of the inclusion I would like to bring to the notice of the members. I thank you Madam Chairman.

MR. MALIRO (Mwenge County North) Thank you Madam Chairman. I think there is a general provision for Parliament to amend any part of the Constitution under certain circumstances, whether by a simple majority of the members of Parliament or whether by two thirds, whether by first consulting the parties concerned like districts, so we do not need to emphasise that Parliament can amend except that what I would think, if he says that Parliament can add on, that would be okay, but amending is obvious and we need not constitutionalise it.

THE DEPUTY CHAIRMAN: I think that is very clear, there is a provision for the amendment of the Constitution. I do not see how we can now do it piece meal for the first time since we started. So, if there is no -

LT. COL. SSERWANGA LWANGA (NRA Delegate): Thank you Madam Chairman. Madam Chair, I am seeking a small clarification from the Movers on this word "establishment", that "*Parliament shall by law regulate the establishment...*" I think the Constitution is the one which has established the political parties. Do you not think it would be better if we used "procedures of registration" so that the Article reads: "*Parliament shall by law regulate procedures of registration, financing and functioning of political parties*"? Because I am saying that the Constitution itself has already established that in a multiparty system, there will exist political parties. So in my view, I think it would be more talking of the procedures for registration - how a party comes to be registered. I am seeking a clarification from the Movers or from -

THE DEPUTY CHAIRMAN: Hon. Magezi, you are one of the Movers...

DR. MAGEZI (Jinja Municipality East): Madam Chairman, in view of the intended new Article 97, the right to form political parties, I think that does encompass any procedures that would have been for the establishment. So, I would go along with Hon. Sserwanga Lwanga that maybe establishment can be covered by what we have said in 59 (e) and also Article 97.

THE DEPUTY CHAIRMAN: If I can remind the members, there is an amendment coming on the Floor which reads - *Right to form political parties* - "*Subject to the provisions of this Constitution, the right to form political parties is guaranteed.*"
(2) "An organisation shall not operate as a political party unless it is registered, as such under a law prescribed by Parliament." And taking in mind Hon. Sserwanga's interjection, can I have some comments, would this one still be necessary?

MR. LOOTE OGWEL (Moroto Municipality): Thank you Madam Chairman. I just wanted to concur with the rest on this word "establishment". We have already given a provision of this establishment here and also in the amendment which we are going to discuss in the next Article, there is also the provisions for this. So, I think that part of provisions can go away. But then, I also wanted to find the clarification from the movers of this amendment especially where it says that "Parliament shall by law regulate the financing of a political party." Now, how do you regulate and in whet terms will you regulate the financing of an organisation? Is it the external, is the internal, is it the way they raise their funds or the funding of their organisation? So, that is the clarification I want to seek from the Movers of this amendment. Thank you very Madam Chairman.

PROF. KANYEIHAMBA (Rubanda County East): Thank you Madam Chairman. I was worried about procedure, Madam Chairman. As you correctly pointed out, there is Article 97 coming under which political parties, organisations and the role of Parliament are prescribed and I was thinking that Madam Chairman, this particular amendment would be appropriately discussed under that Article. As you rightly said, yesterday we indicated who are the movers of this Motion, I think for me it would be proper when we are debating that Article, for this amendment to come there rather than to be discussed here in isolation.

THE DEPUTY CHAIRMAN: Then, that being so, I propose that we put the question on 96, then we go to 97 and we see how we integrate the ideas in (2). First of all, I put the question that, (2) be deleted from 96.

(Question put and agreed to)

THE DEPUTY CHAIRMAN:(2) is deleted from Article 96. Now, I put the question on 96 original (d): "every citizen of Uganda has a right to lawfully participate in any political party activity intended to influence opposition" Did we not delete that one? We deleted that one, perhaps to be more orderly, let me put the question on (d), that (d) be deleted from 96.

(Question put and agreed to)

THE DEPUTY CHAIRMAN:(d)is deleted. So, I put the question that 96 as amended do stand part of this Constitution.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, 96 is out, we have an amendment on 97 by Hon. Masalu Musene, Hon. Hope Mwesigye and Hon. Mavenjina.

MR. MASALU MUSENE(Manjia): Thank you, Madam Chairman. Madam Chairman, I move that Article 97 be amended to read as follows:
Clause(1): *"Subject to the provisions of this Constitution, the right to form political parties is guaranteed."*
(2): "An organisation shall not operate as a political party unless it is registered as such under the law prescribed by Parliament."

Madam Chairman, just one or two remarks in support, is that the guaranteeing of the right to form political parties is in line with the freedom of assembly and association as guaranteed in the United Nation Universal Declaration of Human rights, the 0. A. U. Charter and in a number of other international covenants and conventions to which Uganda is a party. We have also already embodied the same in our Constitution under Article 59. So, given the phenomenon that power ultimately lies with the people, then any democratic Government should be based on the consent of the governed so that when multi party political system is in place in Uganda, the people of Uganda should have a free choice from among the organised political parties and lastly, although, the history of this country of political parties in this country, especially between 1962 and then 1980 and 1985 has not been the best, all the same, Parties can have a positive contribution in future especially where past mistakes can be avoided. In Europe for example and elsewhere, Parties have taken over a century to be fully appreciated and to be seen as an integral part of democracy. The same process must therefore be allowed to take place in Uganda, hence guaranteeing the formation of political parties in the Constitution. This will show our people and indeed the world as a whole, USA and the European countries that the National Resistance Movement is not opposed to the evolutionary growth of political maturity of pluralism. The only difference is that according to the views of the majority of the people, this process should be gradual and there should be a transition to the same under a peaceful atmosphere and environment which will pave way for sanity and proper functioning of the same in future or at any time when the people of Uganda so freely choose.

So Madam Chairman, with those few remarks, I move that this Article be embodied in our Constitution to guarantee the freedom or the right to form political parties in this country. I beg to move, Madam Chairman.

MR. KWERONDA RUHEMBA.H (Kajara): Madam Chairman, while I agree that political parties should be formed, and that they have a right to be formed, I wish to observe that all along we have been talking about a multiparty system and we have also been talking about the conduct of political parties. What that means is that we have already recognised the right of political parties to be formed. In Article 59, (1) (e) Chapter 5, on protection of freedoms of conscience, expression and movement, we have said in (e), that freedom of association which shall include freedom to form and join associations or unions, including Trade Unions and political parties and other civic organisation is already guaranteed. I find it repetitious to come to Article 97 and again talk about the right to form political parties being guaranteed. How many guarantees are we going to give to political parties in this Constitution? 59 gave the right, now in 97, again you are trying to give another right! I thought a right was a right and you do not have to have so many rights to have a right confirmed as right. What should be our concern in Article 97 should be

what we were trying to argue for in 96 and that is how parties should come into existence. What we are concerned with here is to spell out how a Party should come about. If I want to form a Party, what should I do? What I should do is embedded in Clause (2) of 97, that is; Parliament will sit down and spell out how Parties can be formed, spell out how they can be regulated and spell out how they can function, and even spell out how the financing can be transparent, but to repeat in 97 (1) something to do with the formation of political parties, I think it is not in order.

So, Madam Chairman, I wish to move that we delete 97 and we retain (2) and call it (1). So we do not need (1), we need (2), so let us have one clause in 97 to spell out how Parties shall be formed and to give power to Parliament to prescribe how Parties can be formed. I thank you.

MR. RUZINDANA (Ruhama): Thank you Madam Chairman. Madam Chairman, I think Hon. Kweronda Ruhemba did not understand the purpose of 97 (1). 59 (1)(e) which he is talking about gives the right to the individual to belong to a political party or any other organisation. To belong to that political party, it must first be formed; you cannot belong to an organisation which does not exist. Now, 97 (1) says, that the right to form political parties is guaranteed so that 59 (1)(e) can be exercised by an individual. If an individual - *(interruption)*

MR. WAGIDOSO MADIBO (Bulambuli County): Point of information! Thank you Madam Chairman. I wanted to inform Hon. Ruzindana that Article 59 (e) which he has just referred to actually also grants the right to form because they say freedom of association which shall include freedom to form and join. So, it encompasses both - to form and to join a political party. So, as has been said, 97 (1) is a mere repetition of 59 (e). Thank you Madam Chairman.

MR. RUZINDANA: Thank you for the information. I do agree that it does give the right to form and to join but at the same time, we must take into account that the times in which this Constitution is being formed, there is a general debate outside this House and within this House which seems to imply that there is a group of people who actually are against the formation of political parties or the exercise of the right to form political parties and this Article 97 (1) affirms that right to form political parties and it is, I think, more right that it is being affirmed by the group of people who are alleged perhaps not to support the formation of political parties and I think this is just right that we should make this affirmation here when we are discussing a political - I think it is quite right particularly because of the time when this Constitution is being made.

Secondly, Madam Chairman, I do think that as a follow up to (1), we should transfer (2) of 96 which we have just deleted here. Having affirmed the right to form political parties, we should now go ahead and give a right to Parliament to regulate the formation in (2) which we have just deleted. There was a confusing word "establishment". I think we should now go ahead and use the word "formation" because we are giving the right to form. Now, we should go ahead and give Parliament the right to regulate the formation and functioning of political parties and leave financing because financing is part of functioning and I want therefore to suggest, Madam Chairman, that after we have discussed this one, then we should go ahead and transfer (2) of 96 which we have just deleted to become (2) of this one to give the right to Parliament of the formation and functioning of political parties. But otherwise, Madam Chairman, this is a clear sign that there in nobody who is against the formation, the functioning of political parties. The debate that has been going on about the political systems has nothing against political parties. It is, in fact, an affirmation of the rights of the people to form all types of organisations including political parties, including Movement and any other organisation for purposes of pursuing their political interest and I, therefore, think we should not actually delete this article and then tomorrow we see in the newspaper headlines declaring that we have abolished the right to form political parties. I think that is what would follow if we did not pass this particular clause. I, therefore support that it should be here Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Rukutaana and then Hon. Katongole.

MR. RUKUTANA (Rushenyi County): Madame Chairperson, Article 97 (1) as proposed may look repetitious but it is so important to retain it. A constitution is a compromise of several interests. We know the political clamours of those people

who still cherish multiparty politics. It is true the right to form parties is expressed in Article 59 but Madame Chairperson, that Article is a general article on so many other freedoms. Now, as a compromise with those people who cherish a multiparty system, it is important, though repetitious, to retain this article to guarantee the right to form political parties. Guaranteeing it here does not harm and makes a good compromise. Secondly Madame Chairperson, even in drafting it offers a very good floor. The principle here is to allow formation of political parties but specifically provide for registration if political parties are to operate. Now, it is a good floor to begin with (1) giving the right before you entrench the requirement that a party be registered. Madame Chairperson, since it does not harm and since it is a specific provision entrenching the right to form political parties, we can risk repeating it here without harming anybody. I beg to support that the provision remains.

Coming back to Hon. Ruzindana's suggestion, I am in total agreement that he could alter sub-article (2) to include what we have struck off Article 59 and I would request that maybe he makes a formulation for adoption of the House. Thank you Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Katongole.

MR. KATONGOLE: Thank you very much Madame Chairperson. I am also in support of retaining this article, Madame Chairperson. Some delegates are arguing that Article 59 is the same as Article 97. I think these two things are different. Article 59 is talking about fundamental human rights of individuals and as Hon. Ruzindana put it, really before an individual has a right to associate with a political party, that political party must be in place first. So, it would be really very wrong to imagine that the two articles are the same and I think that is why even the Odoki Commission had to come up with Article 97. In fact, Article 97 is talking about representation of the people which is different from fundamental human rights. Hon. Delegates, I think if we are to come up with a proper document, we should really try to avoid being biased. I do not see any danger really with Article 97 which is guaranteeing the right to form political parties by a group of Ugandans if they wanted. And after all, we are already saying that in future, we may not be in the Movement, we may be in political parties. So, why do we not give people a chance to form political parties so that in future when people want to move from Movement to political parties, they are free to do so. Therefore, since we shall not be losing anything by including or by retaining that article, I do not think we shall be losing anything by really leaving it there. I would like to implore Hon. delegates really to retain this article in our constitution. Thank you very much.

THE DEPUTY CHAIRMAN: Hon. Delegates, now I would like to hear somebody who is either opposing or amending. Hon. Byanyima.

MISS BYANYIMA(Mbarara Municipality): Thank you Madame Chairperson. I am supporting the Motion but I wonder whether - I need your guidance. Are we discussing only (1) or (2) as well.

THE DEPUTY CHAIRMAN: What we are discussing is 1, 2, and then (d) which is a transfer from what we deleted from 97 and the amendment proposed will read like: "*Parliament shall by law, regulate the formation and functioning of political parties.*"

MISS BYANYIMA: Thank you Madame Chairperson. Madame Chairperson, I think that (2) could read better if it read as such: "*An organisation shall not operate as a political party unless it is registered as such under the law*" and we do not have to say "*prescribed* by Parliament." Just to make it I think neater but otherwise, Madame Chairperson, I support the Motion.

THE DEPUTY CHAIRMAN: Let us hear from Hon. Musana. What is your comment Hon. Byanyima's proposal to stop at law.

DR. MUSANA (Buikwe North): I thank you Madame Chairperson. Why I think "*prescribed by parliament" should be included* is because there has been controversy as to whether in fact the existing political parties are registered or not because we have the Registrar of Companies and so forth; organisations, NGOs and so on but I think it is not clear as to whether there is a specific law in the country as of now under which political parties register. So, we thought that as we make the constitution now, we should clearly spell out - Parliament should spell out a law which provides for registration of political parties and organisations to avoid that ambiguity. So, that is why we felt Parliament should be included.

THE DEPUTY CHAIRMAN: Hon. Loote and then Hon. Kajara.

MR. LOOTE (Moroto Municipality): Thank you very much Madame Chairperson. I actually support the deletion of Clause (1) of Article 97. Just as quite a number of delegates have said, this is a repetition. Now, why do we repeat and we are now repeating the same principle twice in the constitution and we are also making a constitution bulky. So, why do we repeat one principle in different parts of the constitution. So, I thought the constitution must take the basic principles and it should be consistent in its basics. Secondly, (2) provides everything, It has all the principles to say just *the organisation shall operate*. Now, having provided the formation, now how does it proceed in order for the formation of that organisation to operate as a political party? It has to register in order to be legalised for its operation and functions. So, (2) actually includes this. Having provided a principle, how do you proceed with that then you come to the organisation. So, I do not see why we should have Clause (1). So, let us have Clause (2) which has given us all this and actually, as I said, the principle being provided there. Now, as for the transfer which now forms now either Clause (2) or (3) in this, I think that one is healthy but minus the financing because the financing is within the function as Parliament may prescribe this function of this political party. So, I still insist that this Clause (1) be deleted. We are repeating the principle to make the constitution bulky. You know, right now, if you went along the street of Kampala, they are asking what are you making? Are you making the constitution which contains principles or basic principles or you are making the Koran or the Bible or what are you producing? Are you producing a book, or you are producing the basic principles of the law of the country of Uganda. Thank you Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Kajara.

MR. KAJARA(Mwenge South): Thank you Madame Chairperson. I wish to support the amendment as provided by Masalu Musene, but I would like to put some small amendment. The Obiga Kania Motion sought to enshrine first of all the Movement Political system in the constitution, the multiparty political system and any other political system that could be representative and democratic. But my quarrel with this right to form political parties - Article 97 (1) is that it provides only for the right to form political parties whereas it should also provide for the right to form other political organisations. My amendment Madame Chairperson, would read that: "*subject to the provisions of this constitution, the right to form political parties and other political organisations is guaranteed*" so that you do not turn around and say to the Movement as a political organisation, you do not have a right to form it or if there is a front which is democratic and representative, you do not turn around and say you cannot form it.

So, that is my amendment on (1) Madame Chairperson and on (2), we have already laid down principles on which political parties or even Movements are supposed to follow if they are to be formed. This amendment Madame Chairman, would read: "A*n organisation shall not operate as a political party unless it conforms to the principles laid down in this constitution and is registered as such.*" So, we should provide that before a political party is registered, it should conform to the principles as laid down in this Constitution and I would implore my colleague Masalu Musene to see that we encompass these two amendments and I beg to support Madame Chairperson.

THE DEPUTY CHAIRMAN: Let us hear from Hon. Masalu Musene.

MR. MASALU MUSENE: Thank you Madame Chairperson. If we were to go by what Hon. Kajara is suggesting, then it would mean maybe we change the heading to *right to form political organisations because political parties are organisations* but then the problem Madame Chairperson, is that Movement is not a political organisation, it is a political system and in fact, that is why maybe I take this opportunity even to comment on what Hon. Kweronda and Loote have said that we should not be repetitious but we are putting this Clause (1) for emphasis because we have now two political systems; we have the multiparty political system and Movement political system. So, we do not want to give the impression that we are following - you have read, Madame Chairperson in the papers, accusations that this Assembly has turned into a delegates' conference of the National Resistance Movement. So, by emphasising the right to form political parties as political organisations as opposed to the Movement political system, is trying to cater for such accusations and secondly, unless we

say, unless we feel that there can be a Movement which is a political party or political organisation but that will bring confusion. So, my problem is that Movement - we cannot say the right to form political parties and organisations whereby we cater for Movement because the Movement is a political system and not a political organisation.

THE DEPUTY CHAIRMAN: Hon. Elyau and then we see what to decide.

MR. ELYAU: (Kalaki County): Thank you Madame Chairperson. I would have copied the idea of Hon. Kajara that there is a fear here. The other day, when we were discussing the Movement affairs and what we discussed yesterday about parties, the difference is - we require a party to have a constitution and then it is posted after it is registered. Whereas for the Movement, we say the Movement is formed without a constitution. Now, of the two, how will you put them together? Unless you accept that the Movement can also can have a constitution which shall be deposited with the registrar or any other authority, then they can rhyme together. Someone should clarify and make us know this because it is causing confusion in that aspect only but otherwise, it was good to cooperate with these people in reference to Kania's amendment so that they look similar to parties, Movement and any others. They will be looked at as sets of organisations in Uganda. So, can somebody or can the people who know more about Movement help us to find whether it is possible for a Movement to have a constitution which shall be deposited with the authority so that these things look alike. I thank you Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Maliro.

MR. MALIRO (Mwenge North): Thank you Madame Chairperson. While I agree with the previous speaker that we cannot include the Movement here, but we can include other political organisations like fronts, like any other things which we said which were contained in (c) which we said of *any other democratic and representative organisations*. Therefore, there would be no danger if we said *"the right to form political organisations"*. That word political organisations does not include the Movement because the Movement is not a political organisation, it is a political system. We are not talking of the right to form the multiparty system, we are talking of the right to form parties as organisations under the multiparty system. Therefore, you can have a front, you can have other organisations. So, I think Hon. Kajara is right because if we say the right to form political parties is guaranteed, it means in future, if anybody wants to form a front which is a political organisation, he would not be allowed by law. So, I think we have got to find a way of providing for it Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Bateganya.

MR. BATEGANYA (Bukooli Central): Thank you very much Madame Chairperson. I have a few problems. In Article 94, we spelt out three systems and we have gone on to define what each system will be like and how it will operate. In my view, Article 97 is now telling us of what will obtain in the multiparty system and this is the formation of parties. So, if you are describing the formation of parties, I would suggest that at a later stage, you would also talk about the other systems that maybe our children will introduce. So, I would like to say that in Article 97, I think we should limit ourselves to the multiparty system and how it is going to operate and for that purpose, I would like to suggest that we maintain Clause(1) but I think it is not necessary to keep Clause (2) and then the other one we deleted from 96, I think there will be repetition. If we take Clause (2) as it stands, *"an organisation shall not operate as a political party unless it is registered as such under a law prescribed by Parliament"* and then we add the two we deleted from 96 which says *"Parliament shall by law regulate the formation and functions of the political parties"*, I think we shall be repeating ourselves. So, I would like to suggest that we do away with the current (2) in Clause 97 and instead substitute it with the (1) we had deleted from 96. Those are my observations, Madame Chairperson. Thank you very much.

THE DEPUTY CHAIRMAN: Hon. Kabayo.

DR. KABAYO (Kassanda South): Thank you Madame Chairperson. I am concerned about the formulation in 97 (2) because there is a lot of doubt and ambiguity. The formulation in saying *"an organisation shall not operate as a political party unless it is registered"* implies that an organisation can exist unregistered as long as it does not operate. I wondered whether we can cure this doubt by saying that an organisation shall not exist as a

political party unless it is registered. Because you may find a lot of organisations calling themselves political parties when they are not registered and it may be difficult to prove which one is operating and which one is not operating. We will therefore, cure that problem if we use the words "not existing" - "*an organisation not shall not exist as a political party unless it is registered as such under the law.*" I do not know what the other delegates think Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Delegates, in order to save time, let us now go systematically. Now, what do we do with (1)? There was a proposal that instead of political parties, we use the word political organisations. Can we have a word from Hon. Musene - and we get that one out of the way.

MR. MUSENE: Madame Chairperson, after consultations and in view of what has been put forward by Hon. Delegates, we have now come to agree on the following formulation as far as Clause (1) is concerned. The heading should be "*Right to form political organisations.*" Then, the clause should read: "*subject to the provisions of this constitution, a right to form political parties and other political organisations is guaranteed.*"

THE DEPUTY CHAIRMAN: Now, what Clarification are you seeking? Hon. Rwomushana.

MR. RWOMUSHANA: Thank you Madame Chairperson. I wanted to give clarification in regard to the right to form political organisations. We agreed that we shall have three systems of governance - Movement, the multiparty system and or any other and we agreed that in a referendum, the people of Uganda would show their choice of which system. So, if the results of the referenda are for a particular system like Movement, then that result itself is a guarantee for the formation of the Movement system.

THE DEPUTY CHAIRMAN: I think let us just agree - I think there is a consensus. Let us not be bogged down by one individual, otherwise, everybody is floating a different idea. Now, Hon. Musene is saying that we replace the word *organisations*. I do not think that would preclude the Movement because it was already catered for. So, "subject to the provisions of this constitution - okay, can you proceed from there.

MR. MUSENE: "*Subject to the provisions of this constitution, the right to form political parties and other political organisations is guaranteed.*"

THE DEPUTY CHAIRMAN: Okay, that one seems it is accepted.

MR. MUSENE: (2) "*An organisation does not operate as a political party unless it conforms to the principles laid down in this constitution and is registered*" because we are going to have a (3) which will transform the former (2) of 96 as (3) to cater for establishment, financing and functioning.

THE DEPUTY CHAIRMAN: Okay, it seems that one is - *(Interruption)*

MR. MUSENE: So, let me read (2) again: "*an organisation shall not operate as a political party unless it conforms to the principles laid down in this constitution and it is registered.*"

THE DEPUTY CHAIRMAN: Let me hear clarification from Hon. Kania and Hon. Ngobi.

MR. OBIGA KANIA (Terego County): Thank Madame Chairperson. I am seeking clarification from the Movers but more importantly, really from anybody who can help me on whether if we did not put the words conform and having laid the principles in Article 96, whether it will be constitutionally correct to register an organisation as a political party. Secondly, I am also seeking clarification on whether having transferred the provision from 96 which is now 97 (3) - "*Parliament shall, by law, regulate the establishment, financing and functions of political parties*" - *whether* there is any way a Parliament in regulating the establishment, financing and functioning of political parties, would evade the need for registration whether it is possible for Parliament to say establishment can do without registration so that we have to make registration specific. In this, in other words, I am trying to see whether Article 97 (2) is really necessary and the final clarification I am seeking is, is it necessary to have these provisions as a separate article having talked in Article 96 as a multiparty political system? Is it not possible to have what is presently 97 (1), present 97 (2) if it is passed and present 97 (3) as sections of 96 so that everything we want to say about a multiparty political system is in fact, in that article? I wanted those three clarifications. Thank you.

THE DEPUTY CHAIRMAN: Before I give the Floor to Hon. Musene, 96 - the preamble to 96 is talking about the principles on which the political parties should conform. So, when you are talking of any answer, when we are talking of conforming, you should also not forget that you have that preamble and we have already passed that article and the preamble will not be in line with the right to form political parties because that may not be a principle according to which the parties can be formed. But let Hon. Musene answer.

MR. MUSENE: Thank you Madame Chairperson. To be systematic, we have provided that under 95, we say the principle which apply to the Movement; under 96, the principles which apply to political parties. Now, why we have brought in this idea of conforming to the principles laid down in this constitution, is because of the third political system which is unknown. Any other democratic political system and that is why we have altered Clause (1) to add on political organisations because we have, in making this constitution, to cater for the future like Hon. Maliro stated that someone may come up to form a political front which is under (c) - "any other democratic political system". So, that is why such a person, when he comes up to form such a front, should, as long he conforms to the principles laid down in this constitution, namely, that his other system is democratic, then that right should be guaranteed. That is why we are trying to cater for all the eventualities and hence the reference to the principles laid down in this Constitution and in any case Madame Chairperson, the Constitution is the supreme law. So, whatever other laws applies in future, the Constitution is paramount.

The second clarification about transferring Clause (2) of 96 to (3) and especially where Hon. Obiga Kania talked of registering - that a party cannot be registered before it is established, then that one can be catered for. Instead of saying that "*Parliament shall by law regulate the establishment, financing and functioning of political parties*", we can instead say: "*Parliament shall by law regulate the financing and functioning of political parties or political organisations.*" In fact, I was thinking of putting "political organisations" instead of "parties" so as to conform with what we have decided in Clause (1). I do not know whether it clarifies him.

THE DEPUTY CHAIRMAN: But Hon. Masalu, there was an observation that financing is a function. There was a circularising that we could say "*Parliament shall by law regulate the functions of political organisations.*"

MR. MUSENE: Okay, Madame Chairperson, that one can be agreeable especially in view of what we have already passed in 96 - former (e) which is (f), stating that political parties shall be required by law to account for the sources and use of their funds and assets. So, that could take care also of financing. So, as you have stated, we can now reduce it to the functioning of political organisation.

THE DEPUTY CHAIRMAN: So, Hon. Delegates, can we now agree that (1) is accepted as amended; (2) would read that: "*an organisation shall not operate unless it conforms to the principles laid down in this Constitution or is registered.*" Otherwise, you can read it so that we pronounce ourselves on it. Okay, Hon. Ngobi and Hon. Musene please polish your papers as Hon. Ngobi finishes up.

MR. NGOBI (Presidential Nominee): Thank you very much Madame Chairperson. I shall be very brief. My problem is that of consistency. We have agreed on the formulation in 97 (1) to include other political organisations in order to remove any possibility of misunderstanding that we are not talking about organisations as such because there are many types but we are talking about political organisations. So therefore, my problem is in (2). When you say an organisation shall not operate as a political party" and yet in (1) you say that the right to form political parties or other political organisations - now, here I think it would be better that this organisation referred to in subclause (2) is talking about political organisations and not just an organisation. So therefore, I do not want to cause unnecessary confusion and delays, I am suggesting that this Clause (2) could be reformulated very easily as follows: "*No political party or organisation shall operate unless it is registered...*" so that we know we are talking about a political organisation or a political party operating as such. That, I think should clear my problem unless Members think that you bear with the inconsistency which I think is not right.

THE DEPUTY CHAIRMAN: Hon. Masalu Musene.

MR. MUSENE: Thank you, Madame Chairperson. In view of those observations, then we could polish it as follows: (2) "*An organisation shall not*

operate as a political party or other political organisation unless it conforms to the principles laid down in this constitution and is registered."

THE DEPUTY CHAIRMAN: Okay, it seems that is acceptable. Can we go to (3).

MR. MUSENE: (3) *"Parliament shall by law regulate the functioning of political organisations".*

THE DEPUTY CHAIRMAN: Now, I put the question on 97 as amended. *(Interruption)* Are you having an addition Hon. Bageya?

MR. BAGEYA (Kigulu North): Thank you very much Madame Chairperson. I am not quite happy about the third one when we eliminate "financing" because I do not believe that financing is a function. You can be financed and fail to function. Therefore, I would like "financing" to be included in subclause (3) because it is not part of a function to the best of my understanding.

THE DEPUTY CHAIRMAN: Hon Musene, can you allow us the earlier provision you read about accountability and so forth?

MR. MUSENE: Thank you Madame Chairperson. The earlier one was that in view of the fact that an organisation or political party cannot be registered unless it is established, we had now said that we would say: *"Parliament shall, by law, regulate the financing and functioning of political organisations."* It seems that is what Hon. Bageya wants, but then there was the other fear that former 96 (a) had catered for the financial part of it by stating that but then maybe one can argue that that one is for political parties only so that the financing aspect of it should be brought here since we have expanded it to include other political organisations. So, finally therefore, it should now be that: (3) *"Parliament shall by law, regulate the financing and functioning of political organisations."*

THE DEPUTY CHAIRMAN: Now, I put the question that 97 as amended do stand part of this Constitution.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: 97 as amended stands part of this Constitution. So, now we go to 98. I can see an amendment but it is labelled 99. Can I have the guidance of the Chairman of Committee Five to tell us exactly where we are?

MR. KUTESA S: Thank you, Madame Chairperson. Our formulation of Article 98 - new 99 was dealing with referendum in our report but that seems to be now going to become Article 99. So, 98 seems now to refer to what shall be done because we should have been talking about what will happen to certain organisations when the people of Uganda have chosen one system as opposed to another. What should logically now follow from what we have done? We have discussed the objectives of two systems that we know, we have guaranteed the right to form those organisations. Logically, what should follow now is what regulations or restrictions are going to apply when a decision is made by the people of Uganda through a free and fair election or referendum which we have already determined, to those systems that have not been adopted and so now, the real Article (98) relates to the restrictions or regulations on the activities of whatever system is not chosen. So, I am made to understand that there is an amendment to what we had suggested and that either Hon. Kanyeihamba or Hon. Rukutana, Babu, Faith Mwondha are moving an amendment.

THE DEPUTY CHAIRMAN: Yes, Hon. Kanyeihamba, procedure?

PROF. KANYEIHAMBA (Rubanda East): Thank you Madame Chairperson. Hon. Kuteesa is correct that since we dealt with new Article 94, matters have been coming to Legal and Drafting Committee for synchronisation and if you recall, Madame Chairperson, the Chair ruled - I think it was on Monday or Tuesday - that we should synchronise all the amendments up to the end of the chapter and indeed, we have synchronised everything except the last article as far as I recall. So, we have now dealt with new Article 97 which we have expressed ourselves on. The new Article which we synchronise now becomes 98 and as Hon. Kuteesa has said, this is dealing with some restrictions to be imposed on one system when the others are in power and on that one, we have synchronised a number of amendments and one of them wishes to delete any restrictions on political parties or Movement, whichever is outside the power and that it be moved by Hon. Eresu on the amendment we received. Then, there is an amendment on the same

article to be moved by Hon. Mwesigwa Rukutaana and seconded by Hon. Babu and Hon. Faith Mowndha which is to the effect that the new article 98 should read as follows that: (1) "*during the period when the multi party system has not been adopted by the people of Uganda in accordance with this Constitution, political parties shall not; (a) open branch offices (b) call delegates conferences or (c) sponsor, offer a platform to or in any way campaign for or against the candidate for any public elections*";
And (2) that: "political parties may, during the period referred to in Clause (1)(a), operate headquarters, offices (b) own newspapers and other publications (c) hold seminars and workshops and (d) carry out any other activity authorised by law."

Then Madame Chairperson, there was an alternative amendment to that to be moved by Hon. Kaberuka and seconded by among others, Hon. Medi Kaggwaa, Hon. Karuhanga and Hon. Kabayo. That one says: "*subject to the provisions of this Constitution but not withstanding the provisions of Article 59 of this Constitution - I think there is more detail in the latest publication - "during the period when any of the political systems provided for in this constitution has been adopted, other political systems and organisations subscribing to them may exist subject to such restrictions as Parliament shall by law prescribe.*" That is the alternative to the Rukutana amendment. Now, on this amendment, there is a further amendment, that is the amendment of Kaberuka, there is an amendment to be moved by Hon. Sekandi which seems to have escaped from my papers. He intends to move an amendment on Hon. Kaberuka's amendment to the effect that the first Parliament elected under this Constitution shall enact - I think he has changed that to say that: "*Parliament shall enact laws regulating; (a) the conduct and operation of the three political systems referred to in Article 94 (2), and (b) the conduct operation of any open political system when not adopted obviously by the people of Uganda.*" He intends to move that as an amendment to Hon. Kaberuka's amendment. Madame Chairperson, after the Legal and Drafting Committee synchronised these amendments, we came to the conclusion that the Kaberuka amendment departs furthest from the original clause and therefore, it should be debated first. It is on that article.

Then, Madame Chairperson, I want to report that we also synchronised Article 99, that is, new Article new 99 where there is an amendment to be moved by Hon. Mbabazi and seconded by Hon. Basoga Nsadhu and this one which I understand also has been circulated among Hon. Members is to read as follows: "*Notwithstanding the provisions of Article 94, the first presidential and parliamentary elections after the promulgation of this Constitution shall be held under the Movement political system which shall continue in governance, subject to clause (3) of this Article.*"
Clause 2: "*Two years before the expiry of the term of the first Parliament elected under this Constitution, any person shall be free to canvass for public support to a political system of his or her choice for purposes of a referendum.*
(3) During the last month of the fourth year of the term of the Parliament referred to in this Article, a referendum shall be held to determine the political system the people of Uganda wish to adopt." That, Madame Chairperson, is on the new Article 99.

Then, Madame Chairperson, we also synchronised new Article 100. Article 100 is to be moved by Hon. Rhoda Kalema and seconded by Hon. Winnie Byanyima and it reads as follows: (1) "*A referendum shall be held for the purposes of changing the political system if; (a) requested by a resolution supported by more than half of all Members of Parliament, (b) requested by a resolution supported by the majority of the total membership of each of at least more than one half of all District Councils.*"

Then Clause (2): "*The Political system shall be changed without the need for a referendum where Parliament, upon a petition submitted to it and supported by the majority of the total membership of each of at least one third of all District Councils, approves the change by a resolution supported by not less than two thirds of all Members of Parliament.*" That, Madame Chairperson, is the amendment the Legal and Drafting Committee synchronised on Article 100.

So, there are three articles - perhaps a further explanation on this one which I have read. The idea in this amendment which is conceived by the Movers was understood by the Legal and Drafting Committee to mean that after five years, if Movement has been in power, then there will be a referendum as provided in Article 99 which I have read. Thereafter, there will be no automatic referendum except as provided for under Article 100. In

other words, there can only be a referendum if it is requested by more than half of the members of Parliament or alternatively, if it is requested by at least more than half of all the District Councils, each council having voted by majority to request such a point but however, in Clause (2) of that Article, a political system can be changed without a reference to referendum if a petition by at least a third of the District Councils request Parliament to change the political system and Parliament then considering that petition, debates that petition and votes by two thirds majority of Parliament to change the political system. In that case, under proposed Article 100, the political system would be changed without going to a referendum. Madame Chairperson, these are the amendments we synchronised and I beg to report. I thank you.

THE DEPUTY CHAIRMAN: Yes, Hon. Mbabazi.

MR. MBABAZI (Kinkizi West): Thank you Madame Chairperson. I just wanted to say that there has been some consultation on a legal technical point about the two Motions moved on Article 98 and it was the opinion of the Chairman - I think he forgot -it was the view of the Chairman of the Legal and Drafting Committee, it is the view of the Chairman of Committee Five and it is the view of the Mover, Hon. Mwesigwa Rukutana that if we stood over this debate on Article 97 and gave time to the Chairman of the Legal and Drafting Committee, the Chairman of Committee Five and the Movers to discuss and sort out this, it might avoid unnecessary debate on technical grounds on this Article. So, I wanted to move that this Assembly stands over discussion of Article 98 until either later this afternoon or tomorrow. We start with Article 99 and give time to the Chairman of Legal and Drafting Committee to consult with the other people on that particular issue in order to guide the debate. Thank you.

THE DEPUTY CHAIRMAN: Sorry, I am trying to sort out papers. There are quite a number. Now Hon. Kanyeihamba, are these papers circulated to the Members?

PROF. KANYEIHAMBA: Madame Chairperson, I was made to understand they had been circulated yesterday. I do not know whether Members have them as I read them out.

THE DEPUTY CHAIRMAN: Okay, there is a proposal - Hon. Kaberuka's Motion will be number what? Because it is not stated. Hon. Kanyeihamba.

PROF. KANYEIHAMBA: (98) Madam Chairperson.

THE DEPUTY CHAIRMAN: So, on 98 we have one by Hon. Mwesigwa Rukutana; we have one by Hon. Kaberuka and that is all. Hon. Amama Mbabazi is saying that these two can conveniently be synchronised so that the differences are ironed out. Hon. Sekandi's is also on 98. So, that means they are three different amendments. 98 by Hon. Sekandi, Matembe and Higiro Semajege; Hon. Kaberuka, Kaggwa and company and then Hon. Mwesigwa and Hon. Babu and they are saying they can get together and synchronise them and according to our experience, it is easier to deal with work if it has been decided on rather than trying to amend each one depending on the interest of the other. So, I think that is a good suggestion and as long as having not done 98 does not contradict 99 and 100, we can proceed with 99 and 100, then at lunch time, the work on this one we can come in the afternoon and we work on it. Hon. Kanyeihamba.

PROF. KANYEIHAMBA: Sorry, Madame Chairperson, I reported one other amendment by Hon. Eresu which seeks to delete that article. I am not aware that he had withdrawn his amendment and therefore, if he is still moving his amendment, that would have to be discussed first and it does not need to be synchronised Madame Chairperson, unless he is only withdrawing it.

THE DEPUTY CHAIRMAN: In which case if we discuss the deletion, we may not even need to go to synchronise if it is thrown out. So, can I hear from Hon. Eresu, Hon. David Mwaka and company. It seems there is nobody. What do we do? Hon. Elyau.

MR. ELYAU (Kalaki County): Thank you Madame Chairperson. I thought we would go for lunch meanwhile they should be informed to come and move it in the afternoon because otherwise, it is a very important item to be discussed first.

THE DEPUTY CHAIRMAN: We started at 11.00, we want to go before the prescribed time? Rather than adjourning, I rather say that if we can take the division as part of 98 and leave it and see

what we would do with 99 and 100. They may be straight forward and we get them straightened out of the way so that when we come back in the afternoon, we address 98 in its entirety. So, can I have the Mover of the amendment on Article 99. Hon. Amama Mbabazi.

MR. MBABAZI (Kinkizi East): Thank you, Madame Chairperson. I beg to move that article 99 the article which was explained by the Chairman of Committee Five Hon. Sam Kutesa, be amended in the following terms. I will read through it again because after the synchronisation by the Legal and Drafting Committee and after consultations with one or two Colleagues, I have come up with an amendment of Clause (1). So Clause (1), Article 99 reads as follows: "*Notwithstanding the provisions of article 94, the first Presidential and Parliamentary elections after the promulgation of this Constitution shall be held under the Movement political system.*" That means that we have agreed to delete all the words after the word "system." In other words, "*which shall continue in governance subject to Clause (3) of this article*" be deleted. Then Clause (2): "*two years before the expiry of the term of the first Parliament elected under this Constitution, any person shall be free to canvass for public support for a political system of his or her choice for purposes of a referendum.*" And Clause (3): "*during the last month of the fourth year of the term of the Parliament referred to in this article, a referendum shall be held to determine the political system the people of Uganda wish to adopt.*" Madam Chairperson, I beg to move. If I am seconded, I will give the reasons if it is necessary.

THE DEPUTY CHAIRMAN: I see Hon. Babu and Hon. Basoga Nsadhu supporting you.

MR. AMAMA MBABAZI: Thank you Madam Chairperson. Clause (1), I think as is clear is saying that the next Presidential and Parliamentary elections shall be held under the Movement political system. You know in the last few weeks, this Assembly has had heated debate on the question of the system; who determines the political system that governs this country, and at the end of the marathon debate, we have come to the conclusion that it is the people of Uganda, as we have provided in article 94, that will determine the system of governance over themselves. However, in this clause here, you can see this Motion is suggesting that this Constituent Assembly determines the question of political system for the next five years. Why does this motion call for the departure from a principle we have already established? Madam Chairperson, I think it is important to remind Members of this Assembly that although we have agreed that system will be determined through a referendum or election this particular time, this Assembly is a culmination of a process.

I wish to remind members that when the NRM administration took power, it made a promise to the people of Uganda that they would be widely consulted on the question of promulgation of laws that would govern them and the government duly established a Commission under Justice Odoki which, for about four years, traversed the whole country seeking the opinions of the people at all levels and at the end of the four years, it presented its report to the government and to the people of Uganda. Its findings were that for the next five years, the people of Uganda wish to continue with the political system called Movement political system. Following that finding by the Odoki Commission, the NRC, our national Parliament, enacted a law establishing this Assembly in order to give effect to the decision of the people of Uganda as it is reflected in the Odoki Commission Report that the political system for Uganda for the next five years should be the Movement political system. A law was enacted, this Constituent Assembly was elected about one and a half years ago and it was a one issue election. The issue on this election in March last year was promulgation of this Constitution and I was given a mandate, if I may speak on behalf of the people of Kinkizi West, to come here and promulgate a constitution and specifically to put in this constitution a provision that allows for the continuance of the Movement political system for the next five years and I was instructed that in this constitution, we should say that after these five years, then the people should be consulted again to decide whether to change the system or not.

Madam Chairperson, this motion seeks to give effect to that instruction by the people of Kinkizi West. Through that general debate we had here about a year ago, I noted that most delegates speaking or delivering messages from their constituencies, the overwhelming majority of Ugandans wanted the system called Movement political system to continue for five years and therefore, it is to give effect to that. I have heard through a number of circles people say that this is an issue that should

be determined by a referendum. Speaking for myself Madam Chairperson, I have no problem with that, certainly not but considering that the people of Uganda have already expressed themselves on this and they specifically mandated this Assembly to make a decision on this particular issue, I find it absolutely unnecessary for us to go back to the people in a referendum to seek their views again because we know their view.

Secondly, given that the interim period of the National Resistance Movement government is coming to an end by the end of this year - by December or January next year, it is obvious that we do not have sufficient time to organise a referendum unless the National Resistance Council extends the period of NRM again and as you know - and this is my personal feeling, you would not get support for such a proposition that the NRM interim period be extended further. Therefore, considering the short period left before the interim period expires, it would be impossible for us to organise a referendum because I do not think it will be easy to raise the funds. I do not think it will be possible for us to level the ground for all those who want to influence opinion of the population to determine the political system.

So Madam Chairperson, I think these are clear issues. I need not labour too much on them. The mandate we have here of the majority of our people is that the Movement political system continues for the next five years and Clause (1) in this motion seeks to give effect to that desire of our people. Clauses (2) and (3) were found to be originally - you may recollect Madam Chairperson, that when I moved a motion in Committee Five deliberations, I did not cover this question of when the referendum is to be held. But subsequent to that, there was an outcry from some interested parties in this country. They said that they did not feel free enough to influence opinion of the people on this issue. So some of us felt that it was very important to level the ground in this Constitution so that all interested parties have enough time to talk to the population in this country before the population pronounces or decides on this question of political system. Therefore, in Clause (2), we are proposing that assuming that five years begin to count in 1996, this Movement political system should be fully operational without hindrance, without encumbrance for three years and at the end of the third year, we should open up to anyone else who is interested in canvassing for support in the country.

So, it is proposed in this motion that two years before the expiry of the term or before the end of those five years, anyone who is interested is free to canvass the population for support for a political system he or she may be supporting and that they should be given a whole year in which to canvass for this support and that at the end of that year, then the people should pronounce themselves on this matter and determine what system should follow and once they have done that, then of course the system that they choose will be the system for the country. So Madam Chairperson, what we present in this motion therefore is a timetable for those that have been asking. This is a timetable now, we are saying that at the end of the interim period, this Constituent Assembly duly mandated to do so has determined that the system will be Movement political system but thereafter, we give a timetable for change if the people so wish and we are saying, at the end of three years, there will be freedom to canvass or campaign by political parties, by individuals, anyone who is interested and then at the end of the fourth year, the people of Uganda will pronounce themselves and determine what political system follows. Madam Chairperson, I beg to move.

MR. KIRENGA (Mityana North): Madam Chairperson, I would seek from the mover clarification on two things. In one, he is speaking of the first Presidential and Parliamentary elections. In two, he is speaking of two years before the expiry of the term of the first Parliament. Why has he not deemed it fit to include also the first Presidential election? Is the President becoming less important in this aspect at this stage? Also, the same thing applies to the repetition of the fourth year of the term of Parliament without referring to the President. That is one aspect. The second aspect of my query is, what happens if there is another Presidential elections for some reasons, we have already said in the constitution? For instance, if the first President dies or he is removed so that we have to have another Presidential election, how will it be held? We have not addressed this because we could have another Presidential election one year after the first election! Will it be held - do we assume that the first Presidential election includes any subsequent ones before the five years? I think this should be clear. Lastly, I am wondering whether this should not be a transitional matter because this is just a timetable of what is going to happen before a referendum.

THE DEPUTY CHAIRMAN: Let us hear all the requirements for clarification rather than debating.

MR. KATONGOLE: Thank you very much Madam Chairperson. I also have a problem with (2) and (3). I want to be clarified by the mover why in (2) and (3), he concentrates on referendum whereas when we were considering Article 94, this is what we passed: *"The people of Uganda have the right to choose and adopt a political system of their choice through a fair and free election or a referendum."* Now, I want to be clarified by the Mover why in (2) and (3) the element of election has not been pointed out. Thank you very much.

MR. ELYAU: Thank you Madam. I also seek some special clarification on this matter and many people want to know. Madam Chairperson, in this Conference Centre, when the President was opening the 9th Session of NRC which is going to be closed soon after, he mentioned that that was now the last time for NRM government so that people follow it keenly and interestingly. I want to be clarified as far as this motion is concerned on number (1), immediately after the interim period of the current government ends, the Movement which is being talked of now, is it going to be the same National Resistance Movement or any other kind of movement? Because people are asking that kind of question and it is a very serious matter that we should clarify so that everybody is informed properly. If your period is ending now and then he wants to opt for another second period, is it going to be the same movement system or the movement system people have been talking of this kind of movement system as a transitional period? I want that clarification so that everybody is well informed especially for people where we come from. They expect that if something is ending today, it cannot continue tomorrow.

The second issue is that supposing the interim period for the next five years as specified by this motion in section (2) states that the two years, when it is about to end, people will be ready to canvass for public support. I think this one also should be taken very carefully because this small two as the movers may say, is too little a period as I see it. Because if we are interested and we have opened the chance for Movement and for any others to come, I think they should be given a better period so that people follow and understand what are those kind of things. Some of them have taken a long time to be seen, some have never been seen. So I think for the sake of our people, the period of two years is too short. I want the mover to consider it and then lastly, these words "free and fair elections" has been omitted. I remember when we were passing an amendment, it stated clearly that there shall be free and fair election or referendum. I think those words will always be accompanying so that we do not appear to be rigging either. So these are my simple queries. I thank you Madam Chairperson.

LT. COL. KIZZA BESIGYE: I thank you Madam Chairperson. I have three issues on which I am seeking clarification. The first one is on clause (1) of first Presidential and Parliamentary elections. I think that the intention here is for all elections, not just Presidential and Parliamentary because we are also going to have local government elections. Are you saying that the local government elections will be held under any other system? I think there is need to change this to all public elections to be held under the Movement system subject to this because whatever election, whether parliamentary, whether local government or any other public election, I think, should be held under that system. And therefore, the Mover may wish to clarify on this or make the necessary adjustment.

The second point is on this question of continuing in governance. I think a point has been made a number of times that the political system cannot be in governance. Either persons or organisations under that system would be in governance but not the system itself and therefore, you may wish to maybe change it to *"shall continue to apply"* but not to be in governance. And the third point is to again find out whether the Mover still has difficulties in transferring these provisions to the transition because clearly, we have entrenched all systems which will be in Uganda all the time. We have provided for how those systems shall come to apply all the time in Uganda. There is no question of any system being temporary or otherwise but these activities of the first five years are only unique to the first five years. Subsequently, they will not be applicable anymore and therefore, for neatness of drafting, I do not know whether there is still any reservation as to whether these should not be transitional provisions.

MR. HASHAKA (Kibale): Thank you Madam Chairperson. I also have two problems in Hon. Amama Mbabazi's amendment. One is what Hon.

Elyau had said about the period when these other political systems could be allowed to resurrect. I feel two years to the expiry of the term of the first Parliamentary elections or the Parliamentary term of service is too short a time because you still have to leave one year under which the referendum has to be held. So in essence, these people have to be in the field for only one year and those who have been disorganised perhaps for a long time may even not be organised within one year. So I feel that perhaps, if they would be allowed to resurrect, two years after the promulgation of this Constitution, then perhaps they can use a stretch of two years and then after that they can be subjected to a referendum. Then I also have the same problem as to whether these could not be considered under transitional provisions That is the problem I have Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. delegates, before we continue, there is a continued question about where this article should be. Perhaps I may at this juncture ask Hon. Kutesa, the Chapter on transitional provisions, has it been circulated?

MR. SAM KUTESA: That chapter was circulated on the 16th of May this year.

THE DEPUTY CHAIRMAN: I do not know what is the view of the delegates, but it may be neater first of all to consult what is in the transitional provisions. Because this one is also some kind of a transition because we pass it, then it contradicts what is in the next chapter and there will be some kind of confusion.

MR. SAM KUTESA: Madam Chairperson, during our debate of Chapter Six and Chapter Twenty, this article was left in Chapter Six and it was not included in the transitional provisions. That does not mean however that if this Assembly felt the need to transfer it to transitional provisions, that there is anything to stop it. That can be discussed. You can discuss it, agree on the principle and if you wish and that is, if this Assembly wishes to put it in the transitional provisions, it is a decision that can then be incorporated into the next chapter if you so wish - Chapter 20. But as of the time of the Committee, it was left in Chapter Six. So there is nothing that stops us from leaving it where it is or transferring it to the transitional provisions. What is important I suppose, Madam Chairperson, is the provision and the principle. And I would think that here we may require the understanding of the rules and the input of a technical committee because it should be able to run smoothly. If we are writing a constitution, we can run it, it should be able to be read and be smooth. I for one, Madam Chairperson, provided the fact that it is in transitional chapter, it is not understood by anybody to mean that any of the systems introduced in this constitution is temporary which I think we have done. I for one would feel that from even a legal point of view, this should best be in the transitional provisions.

MR. AMAMA MBABAZI: Thank you, Madam Chairperson. If I may begin with that question because that is what everyone has been asking, first of all, Chapter 20 of the Draft is the chapter dealing with transition and that chapter deals with a period between promulgation and when the interim period comes to an end and a new political order takes control. That is what transition is and should be. And obviously, this provision would not fit in that period. Now there may be a suggestion from Hon. Besigye and others that even the period after should be regarded as transition. I think that could be raised for debate in my view. It is not. The fact that you are saying these are going to be operation for only four years and then they end does not make them transitional. They are not temporary. They are for that period. So we are talking about a period of four year or five years and we are saying for that period, this will apply. Now, Madam Chairperson, I agree of course with Hon. Kutesa the Chairman that we can discuss this a little more, we can task the Legal and Drafting Committee to look at both the legal implications and then advise this Assembly on the legality of the matter and then we debate it and of course decide as an Assembly in our wisdom.

Now Hon. Kirenga raised a point about reference to the presidential elections, I think in clause (1) and dropping any reference to it in clause (2) and (3) and he asks, why is this so? Madam Chairperson, in clause (1), we referred to both the Presidential and Parliamentary elections only as reference points, that you start counting the time - I think this was Hon. Kiiza Besigye who raised a point that why do you refer only to Presidential and Parliamentary elections and not other elections? I think that was a good point. We just wanted to make it a reference point but I will consider his amendment for all public elections because we just wanted some starting point. That is all. However, if you think by

referring only to Presidential and Parliamentary elections we are missing out the other elections and we should incorporate them, I do not see harm in making a reference to all the elections. Hon. Kirenga I think said we refer to Presidential election in clause (1) and drop any reference to it in clauses (2) and (3) and he wondered why. The reason is clear that in clause (2), we are talking about three years after this system has taken effect and we drop or only refer to parliamentary elections. This is because as you remember, we have fixed a term - we have given a fixed term for Parliament. Parliament has got five years. It cannot change according to the provisions we have already passed. However, the President we elect next December may choose to resign or retire in June, 1996 or he may be impeached or he may die. So we cannot reasonably therefore anticipate that the President after this election would be there or the elections would coincide. Indeed this is why we rejected the Dick Nyai amendment. So the reference to the President is dropped because this can change whereas the term of Parliament does not change. It is fixed, if they are elected in January, 1996, the next election will be exactly five years after that, not before.

Hon. Katongole wonders why in clauses (2) and (3) - and I think the same point is raised by Hon. Elyau and someone else. They wonder why we have dropped reference to "free and fair elections" in these clauses. Why are we only talking about a referendum when in Article 94 we said the choice would be either through a referendum or an election? The answer is that this one is only dealing with a referendum, the next article which is Article 100 takes care of the elections. So, it is just a systematic way of presentation. The idea is not really to abandon elections. There is a way change can come about. In fact it is Article 100 which talks about how a system can change and that is where we refer to change by referendum or by elections. So it is not ignored. Hon. Elyau raised a very fundamental question. At the end of the interim period, is it NRM government that is going to continue or not - If I may rephrase your question. And clearly, the answer is no, of course not. What is going to continue is the system called Movement political system. Even if there is a change of name or anything like that, there will be a political system called Movement political system which will be in charge of the governance of this country for the next five years. However, that does not mean that NRM government is going to continue. I agree with Hon. Elyau that there has been a misunderstanding because even the great British Broadcasting Corporation, in reporting the decision of this CA on Article 94 reported that Museveni earns himself another five years without sweat. Of course this is a misunderstanding of what is happening here. We are talking about a system that will be in charge of governance of this country for the next five years. We are not talking about the government. When we hold general elections in December, that is when the people will determine the government to take charge of the governance or the executive arm of government. So I agree this is an important question. It has been misunderstood and I hope people do understand now that we are talking about systems as opposed to governance or organisations under those systems.

Hon. Kizza Besigye raised a point which I answered I think when he was away. He was talking about continuance in governance. We have amended clause (1) to put a full stop at the end of the word "system" and deleted all the words following thereafter. So there is no reference to governance at all. I think those are the points raised. Hon. Hashaka raised a point which I thought was a point of debate. This is our proposal. He thinks two years is too short. I do not know whether he means that we should give them five years or three. That one, he can make the point but I have no other illustrations or clarifications to make except to say that if people are given one whole year to canvass, in my opinion, it is adequate. I thank you.

PROF. NSIBAMBI(Presidential Nominee): Thank you, Madam Chairperson. I have two points. First, if a group of people win elections and they are opposed to the Movement system, how can they ensure that that system is operated properly? Number two concerns the principle of automatic resumption of political parties after the period of extension because as you know, I am a great advocate for automatic resumption of political parties after the period of extension because first of all, you maximise opportunities for open contestation. Secondly, you reduce the desperation of the political groups which would like also to acquire the capacity to determine we shall get what, when and for how long. Because that is a fundamental opportunity when you have acquired State power. Thirdly, it is my submission - initially I had said two but other issues now can flow spontaneously into the brain and I have to relay them spontaneously.

When the NRM holds a referendum when it has been in power for so long, it suffers from a problem of incumbency. These problems have to do with performance and therefore, many other issues invade the referendum question. Secondary issues invade the referendum question and there is a great possibility that many people who are going to pronounce on the issue of the referendum may actually vote for other issues. And I wanted to make a last plea to the Members present and those who may read this statement that it is in the interest of those of the NRM which has led to a qualitative improvement in the conditions of our quality to ensure that it creates propitious conditions for us to move to a society led democracy and that when you have a society led democracy, you allow for automatic resumption for political parties so that they can compete without feeling disadvantaged so that they do not become desperate and resort to other methods which might actually work against the qualitative conditions which have been introduced in Uganda. Can the mover or the movers of this amendment introduce automatic resumption after the extension? That is my plea to them.

THE DEPUTY CHAIRMAN: Hon. delegates, I see there are quite a number of hands for people wanting to speak. I think this would be a good breaking point with a call by Hon. Nsibambi to the mover to revisit his motion. Perhaps as we go for lunch, they can go in the corridors and discuss the issue. Meanwhile, we adjourn until 3.00 o'clock but please, let us all come back and finish this Chapter, and the other people who are concerned with synchronising the other paper can also sit together at lunch time to synchronise the papers. Thank you very much. We stand adjourned until 3.00 o'clock.

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

THE DEPUTY CHAIRMAN: Hon. delegates, before we start, I want to make a few announcements. As we learnt this morning, Hon. Frank Guma passed away and the Clerk's office has made some arrangements for recognition of Hon. Guma and that arrangement is at 9.00 O'clock. His remains will be brought here, that is when any Member will move a resolution and then recognize him as we usually do. Then at 10.00 O'Clock, we shall go to Christ the King for the service. then after the service, definitely by 11.30 it will be over around let us say 12.30 we shall all come here and work express. Because we are behind time by four weeks that is the estimate I have been given. So we have to finish this chapter this week, and this week means there is only one day and that is tomorrow. So let us do that in the morning and all of us come here in the afternoon. That is assuming that we will not finish today. If we are luck and we finish today, the better. So that is where we are. So now, can we go to the Motion, the amendment we were discussing by Hon. Amaama Mbabazi on Presidential and Parliamentary elections.

DR. BYARUHANGA(Kitagwenda): Madam Chairperson, I support this proposed new article 99 but before I give my reasons why I support this amendment, I would wish just to make a brief comment on what Hon. Nsibambi said this early afternoon. Hon. Nsibambi has been telling us - because this was not the first time that, in order to get real democracy we have got to move from state led democracy to people or society led democracy, and that this society led democracy only works on open contestation. I agree with Hon. Nsibambi that definitely, society led democracy is superior to state led democracy, but then in our circumstances, to go the way Hon. Nsibambi says that we should reconsider our position is to presuppose a number of erroneous ideas. One, Hon. Nsibambi presupposes that by returning to UPC and DP tomorrow, we would achieve democracy and I do not think this is correct because after all, these two organizations failed to deliver democracy in the first 25 years of our statehood. He also presupposes that the NRM revolution was not people based, that it was sort of a palace coup, and that is why he talks of our present democracy being state led. But the NRM, even before it came to power, was a peoples organization and it only got fused to the state when it got into power. But even during this time it has been in power, it has tried consciously to remain a peoples organization. That is why we have the RC system, that is why we have participatory democracy which is direct democracy at the grassroots level, and this is why we even have this system of decentralization right down to the grassroots level.

So although I accept Hon. Nsibambi's view that society led democracy is superior to state led democracy, this pure society democracy in Uganda will definitely come but it is not going to come today by us holding our bags and handing over to UPC and DP. This, I imagine in future that the NRM

or the Movement, now that the NRM may wither away, the Movement will detach itself from the state and probably after that stage also, the Movement will by fusion split into a number of democratic organisations and then we shall be home and dry with the Nsibambi's society led democracy. Or if the Movement at one stage becomes corrupted, then other forces in our society will emerge and form some other parallel democratic organisations that will deliver this society led democracy. But I can assure you Hon. Members UPC and DP will never deliver democracy of whatever sort to this country.

The new Article 99 is really very necessary because in 94 we have already said that the people of Uganda shall choose a political system of their choice. Now as we sit here today, we have three alternatives. We can have a referendum as soon as this Constitution is promulgated, or two, we can allow the NRM government to continue in power until we as the people of Uganda are ready for a referendum. Why I am giving this alternative is that we have had several people say that they would not be ready for a referendum now. Some people have been telling us that they have been in the cooler for very many years and that forcing a referendum on the people of Uganda now, to decide a political system would be unfair to these forces who claim that they have been in the cooler. But the third alternative is what has been suggested to us by Hon. Mbabazi and Hon. Basoga Nsadhu. This one gives authority to the CA to choose a political system. Now this authority stands on two legs. One, as the Constituent Assembly of this country, we can decide on anything under the sun that is pertinent to this Constitution, for the people of Uganda. Two, in 94 we said that the people can choose the political system through either the elections or referendum. Now by doing it the way Hon. Mbabazi is proposing would actually be choosing a political system by election. Because as you know Hon. delegates, we were elected to this Constituency Assembly, and during our election, the question of the political system was put before everybody and in fact it was one of the main issues that the people considered when they were electing us to this CA. Therefore, if we sit here as the CA, and by election choose a certain political system as Hon. Mbabazi is proposing now, we would actually be doing so on behalf of the people who elected us here.

Now, the advantage of this arrangement as compared to my arrangement number two of the NRM government continuing in power is that by taking the Hon. Mbabazi arrangement, we are not adding on the time that the NRM government will stay in power, we are not extending the NRM, we are not extending Museveni. Because this amendment would allow us to hold a general election, a general election under which we would choose a new government. It only presupposes that these elections will be under the Movement system that we shall choose Parliamentarians and even the President on the basis of individual merit. Now the article also goes on and tries to be fair as compared to my first suggestion that we can have a referendum now, the article goes on and gives an arrangement that in a way would level the ground for a referendum as he proposes that in the third year, people would begin canvassing for support among the people for a political system of their choice and this canvassing for support is not actually one year, it would go virtually two years because it is supposed to cover the third year and most of the fourth year because the elections, I imagine, would be probably towards the end of the fourth year. So these two years that Hon. Mbabazi gives is really ample time for whoever would wish to propose a system to the people to do so and then thereafter, we can have some form of permanent political system. However, to completely understand Hon. Mbabazi's suggestion or proposal, it is important to still a look at the proposed Article 100. There is one which has been circulated. Because there, it gives you a complete picture of what is anticipated after this period.

Now as to where this article should go - because I know there are going to be very many arguments here about whether it should be in the transitional chapter or whether it should be in the main body of the constitution, but really this should not bother us and should not delay us because I believe it is a matter for the technical committee and after all, wherever we finally agree to put this article, it will continue to be part of the Constitution. So where it lies does not really matter. With those observations, Madam Chairperson, I support this proposed article.

DR. KINYATTA(Kinkizi East): Madam Chairperson, I thank you. I want to support this Motion because in preparing this Motion, I am sure the Hon. Movers have considered the people of Uganda first because the Motion as it is reflects the views of Ugandans which were composed in the Odoki report. The referendum is one of the cardinal points

of the people of Uganda, we have to consult them before we go forward and after five years, we are supposed to consult also whether or not they are still interested in the Movement system of governance. Madam Chairperson, the people of Uganda, particularly the people of Kinkizi whom I represent had earlier on requested that I request this House for extension of the Movement system of governance for ten years. Now, we are narrowing it down to five years. I think that is the lowest my people can go. Therefore, when we talk of five years, I can only support that not to go below that state.

Madam Chairperson, this Motion also is very considerate to those who are supporting political parties because it gives them time to prepare themselves for the referendum and eventually for the elections at the end of the fifth year. So I think in preparation of this Motion, the Hon. Movers have thought very kindly about the multiparty advocates who wish to come in as early as possible and we are saying, people had said that they should come in maybe in a referendum after the fifth year but this House has been very generous, they are bringing them in at the end of the third year. So I hope that the multiparty supporters will really come forward to support this Motion also because as we stand now, the Motion gives more time than the people of Uganda had given them. So, I do not have to labour too much and I would like you to put the question.

MR. KIWANUKA(Busiro): Madam Chairperson, in principle, I agree with the amendment but I have got a fear here because some of us - the way we interpret this amendment that we are going to extend the NRM for another five years as Hon. Nsibambi and the others do think. I do not think so because even my people of North Busiro, we are saying that we should have a Movement system for another five years but not NRM. Now, that is why I could appeal to the Mover at least to explain more because the way I understand the people - the majority of Ugandans, is to extend a Movement type of system but not NRM as some of us are saying

Secondly, it is the same problem with Hon. Elyau as he was saying that those who understand the Movement - because it seems as if the majority do not understand the Movement as they do say so. Because for instance, the people of my area, they used to say that *"Mutwongereyo Omugendo"*. *"Omugendo"* - that is a Movement system - for another five or ten or twenty years. Then you find that people were saying that we should have NRM for more ten or five years. So I appeal to the Mover at least to labour too much on what the extension means. Thank you, Madam Chairperson.

DR. MAGEZI: Madam Chairperson, on what I consider is a very important article Madam Chairperson, I have some problems with this proposed article and part of the problem is due to the position where this article should be in our Constitution. I could debate differently depending on where this article is to be. I find that if put in the main text of the Constitution, it is inconsistent with the Obiga Kania position we took on Article 94 because by the article, we bound ourselves and Uganda to determine the political system through an election or a referendum thereby, we effectively disqualified ourselves as delegates, from proposing a political system for Uganda. Much as you may hear "notwithstanding the provision". Why not withstanding the provision? Why are we saying we should not implement what we have just passed in Article 94? Much as you may want to argue, the Odoki Commission cannot constitute a referendum, it has its limitations. Even the elections of the CA cannot - you cannot make that an issue that it was an election to determine whether the National Resistance Movement goes on for another five, ten or twenty years.

Madam Chairperson, in my own constituency and one of the reasons why I think I was elected was to reassure the people of Jinja East that this matter of determining a political system is so fundamental that I want them to bear the cross and decide for themselves what system they want and that if it was to be decided by my election, that I was supporting either a multiparty system or a Movement system, then on the night of the results, this matter would have been decided. That is not being so, I would like us Hon. Delegates here present to recast, why did the NRM go to the Bush? Why did Obote become so unpopular in Uganda? What did he do? He was not bon unpopular! It would be unfortunate if we became so subjective in our discussions here that we fall in the tricks that have befallen people before us.

Madam Chairperson, there is nothing very unique about the past - about the first five years, once we have finished the Constitution. Any government of the day can carry out the instructions we have given

them in the new Constitution. We must not convince ourselves that a particular system simply because it maybe of convenience to us, is the only one which can implement the provisions we are putting in the Draft Constitution. Uganda is at a cross-roads today, people are talking, people are observing. In fact, I think one of our problems is the way forward, the modus operandi having made a Constitution. That is why I said in my opening remarks that I wish we could know where this position is going to be because there seems to be only two alternatives. The first one is to agree that we go and have a referendum now because that is the provision we have passed in Article 94. Is it debatable so that the people of Uganda, although they may have said this to Magezi, I have no capacity to consult the people of Jinja East to the level where I can say that the people I represent, the totality of the people who are voters in Jinja East have given this position. I just do not have that capacity and I doubt if any distinguished Delegate has the capacity to tell us that actually, of the 70,000 or 40,000 voters, he has been able. Odoki even had better facilities but even then, when you look at the index you can see that there are sections of our people who could not participate in that position.

That is why, I think for the sake of collective responsibility, I want us to put a system which we shall defend collectively. We shall defend it, if we have made any mistakes, we can correct the mistakes. But we would defend it collectively rather than starting to point fingers at us. We sometimes read it to people who went to Lancaster Conference. I want to assure you that in their own judgement, at that time they thought they were putting together a document which will stand the test of time. The difference there, they believed they carried the peoples' views, and I think the time has shown that actually the only system which can be sustained is where the grassroots does participate in the decision of their governance and I am begging you to appreciate my position that there is nothing unique about the first five years. Because if there is nothing unique in the first five years, what about the next five years also? We should consider that choosing of an electoral system is going to be one position which will show the world that nobody has been bought, nobody has been promised heaven and has come here just to rubber stamp the position in this Constitution. If we cannot go to a referendum, and I need to know whether that position can be debated, then the matter is to clearly finish the Constitution, put it on the side and say that now we have a transition. We must have a transitional period because we have got to hold elections, we have got to do other things. Now what happens during this transitional period, and clearly that can be a position which cannot be referred to that you were inconsistent.

I conclude by saying that the politics in Jinja today is highly paralysed, people are losing interest. Some people are starting to believe that this august House is irrelevant to this country. They seem to think that may be we are just trying to suit our own positions here and not looking at them because we are not *"Ebyo Bya Mmwe"* - those are your things, you are making your things you are not consulting us or you are not putting our views across and we should therefore push the ball to the people to decide for themselves or we clearly state that we are in a transition period and we discuss this matter as a transition facility.

MR. ZZIWA GEORGE(Kawempe North): Madam Chairperson, before I contribute, I would like to make a few comments on what Hon. Magezi has just told us. Hon. Magezi thinks that a referendum is automatic. Madam Chairperson, we have conditions laid down in the Draft Constitution which needs somebody to go for a referendum and one of the conditions is that the issue has to be contentious, and even if it is, we have a number of stages through which we have to go before we come to a referendum. And for that reason, Madam Chairperson, I would like to advise Hon. Magezi that his people should not think that everything has to be decided by a referendum right from the beginning. Secondly, I would like to warn the delegates in this House that let us not commit a sell-out in the strictest sense, a sell-out of Ugandan citizens. We have clear instructions, instructions given in the Odoki report that people want a Movement system, a Movement political system for themselves for the next five or ten years. This is my clear mandate from the people of Kawempe, and I have to say without hesitation that these people in Kawempe have not changed their minds like the people, maybe of Busiro. Madam Chairperson, the common man is looking for a better life, he is looking for two meals or three meals a day, and he is looking for an extra shade and extra. This can only be achieved when a political system in place is a system that can deliver the services and this has been proved by the Movement system as practiced

by the National Resistance Movement. We listen to hard figures from the budget which has shown that our GDP is gone up by 10 per cent compared to what it was. We have had figures that the inflation has been contained to about now 3 per cent compared to 240 which was in the previous years. This is what the common man is looking for; he wants shelter, he wants education for his children and he wants a better life to sum it up.

Madam Chairperson, let me now turn to deliberate on the amendment as brought in by Hon. Magezi and I have first of all to say that the promulgation of the new Constitution will open up a gate way to a more refined democratic order in this country. It will definitely open up a gate way to a more defined democratic order in this country. In this order we have distinctive features; predominant features of peoples' representation through fair and just electoral processes or through a referendum stipulated in the Constitution. The article we are debating is an issuing initiation, it is an initiation article for some of the electoral machinery to be put in place. That is, it is an initiation of the first Presidential elections and the first Parliamentary elections and an elective government. This, I would like to emphasise that, being an electoral or an initiative system or machinery, it should not be constituted to be a temporary measure as some people do say that because we are coming in with a kind of initiation which does not constitute election or which does not constitute a referendum. This should be treated as transitionally. This is the wrong way of looking at it.

The machinery comprises of the people of Uganda, this machinery which is initiative is a machinery which comprises the people of Uganda who expressed their wishes through the Odoki Commission overwhelmingly saying that the new political and social order be molded on the Movement political system. This verdict arrived at by what I would call a quasi-referendum is in the form of the Odoki report, which is really consistent with articles 94 and 95 that we have just passed. I am repeating, this one is consistent with what we have actually passed. It is a quasi-referendum and it is quite in order despite the fears of some people that it is inconsistent. The initiation of this new political order will not be transitional, it is not a transitional phenomenon, it will be the head of the permanent future and any subsequent change in whatever form, whether multiparty or otherwise is going to be built on this firm foundation. Let us therefore not be misled to call this a provisional or a transitional feature of the Constitution. The Constitution, Madam Chairperson, has put in place procedure for the election of a mid-term President and under the circumstances of death, resignation or removal from office, this will be taken care of by what we have already passed in Chapter Seven. I am saying in reply to what one of the Delegates has said, that what would happen in case the President dies Mid-term? That one has already been taken care of and I hope the Delegates will be put at peace.

Let me, Madam, say something about clauses (2) and (3) of the amendment. These two clauses seek to allay fears of those doubting Thomases who think that the Movement political system is meant for perpetuity, that it is meant to be there and stay on and on and not give anybody a chance to come in. Madam Chairperson, this is not true. It is not true in that, these two clauses put down a programme of how any alternative system will come in power and this is what everybody has been asking. This is what I have been asked by my electorate and see how is it that you want to extend the Movement system and this is what I have to explain to them and tell them that we have in place a programme which will be put in the Constitution to show how the alternative multiparty system or any other system could take power peacefully and not through any other form. Madam Chairperson, these fears are to a certain extent justified but believe me, we all should put our heads together to devise means of lifting these fears. Let us examine subsequent amendments to see whether this can be done and we overcome it. I thank you Madam.

DR. NAKYANZI(Ntenjeru South): Madam Chairperson, before I comment on the real issue of principles in this amendment, I would really like to get some clarification. Madam Chairperson, I am seeking clarification from the movers of this amendment. Was the CA election, Madam Chairperson, a form of referendum on the form of government which Uganda should adopt or was it not? Madam Chairperson I have some difficulty in interpreting the way things are moving. I have the feeling that simply because, for example Dr. Nakyanzi supports the Movement, it does not necessarily mean that all the people of Ntenjeru are supporting the Movement and therefore, I do not think it is proper for her to assume that simply because she supports this and she was elected therefore, it follows that all

the people of Ntenjeru she represents follow that. The second clarification I am seeking is why is it that the referendum is to be only after five and not any time before? Why is it that it should be after five years and not any time before or on the promulgation of the constitution? Is there any reason as to why the status should be like that? And the third clarification I am seeking Madam Chairperson is that, regardless of the answer to the above, why is it that during this time the Parties were away while the Movement is in power, why is it that we are trying to gag the Parties; that the Parties should not talk, the Parties should not organise and yet as you all know, during the time when the Movement shall be in power, it shall have all the State machinery, it shall be controlling all the State coffers and it will be able to mobilize and talk freely as far as it wants and indeed, it will be free to use all the State coffers in addition to the so many years? Why is it that these Parties again have to be stopped from organizing and yet one of the reasons I have heard on the Floor against the Parties is that they are internally democratic? Many of them have not been holding the so-called delegates' conferences, they have not been changing their leadership.

Now if you are seeking again to stop them from doing that, what legitimacy or morality will we have to criticise them for not doing that when it is us who are stopping them from doing that? Or is it that we fear parties to be much, much stronger than the Movement if they are left to compete at par, or what? I am seeking some clarification. And, lastly Madam Chairperson, I am looking at this amendment as it stands, it talks of two years before the expiry of the term of Parliament and so on, now I am wondering, supposing at a referendum people decide that the Movement should continue for another five years, what will happen? Because it seems this amendment is only catering for the next five years as if after that five years it is automatic that Parties will win at a referendum! Supposing in that referendum people choose the Movement, what will happen in the next five years, or the time thereafter? I would have expected a provision which is more general to cater for if there is a referendum, maybe people choose a Movement or choose Parties and thereafter, some system continues and after another five years again, the same thing is repeated. But when we provide only for two years before expiry of the term of the first Parliament, to me it appears like we were not providing for a long term solution, we are looking on the next five years or as if we are assuming that after five years, people will not choose the Movement, in which case, the whole thing will be irrelevant. And if that is the position, then why don't we take it in the provisional arrangement if we are just providing for the next five years?

Madam Chairperson, I am seeking those clarifications before I can make up mind. Thank you.

MAJ. GEN. TINYEFUZA(NRA Delegate): Madam Chairperson, I would like some clarification from the Mover, Hon. Amaama Mbabazi especially on (1) and (2) in so far as he seeks to entrench the idea of the continuation of the Movement system irrespective of the results of that election. I would want first of all, for him to clarify to me whether it ever crosses his mind that, come next elections we could get a Parliament which is predominantly multiparty? Does he ever think about that scenario? If it so happens, suppose even I could go further, you get a Presidential candidate who campaigns openly in the coming election on a multiparty ticket, says I am opposed to the Movement and if you elect me, I will bring multiparty politics and this man gets elected, even the fellows who come in Parliament are a majority and here you have entrenched in the Constitution that in the coming five years, according to the Odoki report, we must constitutionalize five years. And here, the people of Uganda, through a free and fair election have returned this multiparty President and a majority of the multiparty representatives in Parliament, what happens? Is this not a constitutional crisis, because I think that once you get a majority in Parliament and you get two thirds majority, you can actually cause change! You can amend this Constitution unless you are telling me that if such a scenario comes, come next January, we get our first amendment to this Constitution if that scenario comes. Otherwise, if it is not that, why don't we as a matter of principle - this is a clarification I want because you see, politics to me is dynamic, it moves, it is not static. It changes so that the Parliament of the day, depending on the outcome of the election - because after all, if I have a majority in Parliament, I can even cause a referendum. If I have a majority of representatives in Parliament of the day, I can even cause another referendum before the fifth year.

So what are we doing, constitutionally we are causing chaos! What are we trying to do? There-

fore, I want clarification whether it would not be better to allow Parliament of the day to regulate this type of ability to change systems when one system comes in and so on and not constitutionalize the continuation, and instead we agree along the lines of transitional arrangements so that we do not have to amend this Constitution in February or January and so on. So I think for political realities, I want Hon. Mbabazi to clarify to me in those situations what happens, or you tell me that you are going to provide in this Constitution that it shall never be amended until after five years. Unless you have that, and that is democratic in your view, then I seek clarification. Thank you, Madam Chairperson.

MISS KALIKWANI(Women-Kamuli): Madam Chairperson, I would like to contribute in support of the motion as moved by Hon. Amama Mbabazi and supported by Hon. Basoga Nsadhu. Madam Chairperson, I support this Motion because it actually answers quite a number of questions that Kamuli people have been asking me especially in regard to political systems. First of all, maybe let me tell the House that I bring congratulations from the people of Kamuli to the Constituent Assembly for having succeeded in enacting article 94 in the Constitution because they were quite worried about what would happen if multiparty supporters have their way in the House. They are happy that at least now they have the Movement not only as a permanent feature of our political life, but also as an alternative way of government of politics in this country. They believe the political system of a nation is the mother and probably father of all political activities. They were particularly worried about what would happen after the expiry of NRM term. They were asking what next after NRM's term is over, what happens? Are there going to be elections? Now this question is saying yes, there are going to be elections and after that, on what basis are those elections going to be and the Motion is saying it is going to be on the Movement principles and this is what they believe in. Because they were actually worried about the demands of multiparty supporters to return to multiparty politics immediately or now. In fact I would like to say that for them, they are not worried about a referendum even now because they know what they want and they will choose what they want. So if you have money to even carry out the referendum, they will do it and choose what they want.

Now there has been a question of a scenario where they say they want Movement and yet multiparty supporters are elected to Parliament. They say they are wiser than that. If they say they want Movement, they know their people, they know who contributes to Movement, they know who contributes to multiparty politics. So they will not be so foolish as to say, we want Movement and then bring multiparty politics to advocate for that Movement. At least the case of Kamuli is very clear. You give them a referendum, they will know the system they will choose and they will know the people to choose to promote that system. So they say, much as the question is a fundamental one, the question of political system is fundamental, and maybe they might need to decide. They are very confident that when we were being elected to come here in the CA, the question was not a secret. People were being asked and many of us came on the grounds whether we were for Parties or whether we were for Movement. But if there are people still with doubts, they can try them again and see what they would do.

So, Madam Chairperson, may be to end, I would like to say that they actually asked me to say that those who are demanding for a referendum on Parties now should know of a story which they share amongst themselves about birds. There was once upon a time the Kingdom of birds. Mother weaver bird forgot her children under a very huge stone when she was going to look for food. Unfortunately when she came back, the stone had moved over and covered the children under the stone. So they mobilized all the birds and said we should rescue the babies of Mother Weaver bird. Now when they looked around, they were all the big strong birds these are the ones they asked to rescue. Unfortunately, the more they knocked on the stone, the deeper the stone sank over and on top of the babies. Now there was a small bird which had not been even recognized. It offered assistance and the moment it stepped there, the stone started opening. They started at least hearing the cries of the babies. Now the birds said okay, that little one had done it but let the big ones come back to complete the job. Those big ones came and unfortunately the stone just went back. So here, what they say is that, since this little bird, small as it is, unrecognized as it is, it seems to have had the technic to open this stone and rescue the babies. Let it be given a chance to complete the job so that the babies come out. Now these bigger birds, if later on there comes some other problems which they can solve right from the beginning, they will be given that chance. But this particular job now, of rescuing these weaver bird babies, is for the little small bird so we give it a

chance. And that is the five years now which we are putting here. Let us wait for the referendum after the five years and then after that five years, if the referendum again asks for the little bird to come, surely we should allow it to go on because in the judgement of the people, that is what should be done. Thank you very much, Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. Delegates, let me make one small point. It seems to me we are degenerating back in what we said during the general debate, let us be more constructive. We have Hon. Amaama Mbabazi's Motion. Whether you are supporting it or not, will be decided when pronouncing ourselves and we are pressed by time. By the way, you all know it. So what I am proposing is, we give Hon. Amaama Mbabazi to clarify the Members who wanted to be clarified, then after that, we go to number (1) and bring amendments. If there are none, we see what to do. Number (2), amendments, and then we move.

MR. AMAMA MBABAZI: Madam Chairperson, I think the first point to clarify is the point raised by Hon. Nsibambi and amplified by Hon. Tinyefuza because they are making the same point. Madam Chairperson, Hon. Nsibambi asked in the morning that supposing two people rigged elections and won, how could they ensure the Movement political systems works? Presumably these two people would be against the movement political system. And Hon. Tinyefuza asked, supposing in the next January election, a multiparty supporter is elected President, and Parliament has a majority of those for the multiparty system. Are we legislating for chaos, he asked? Madam Chairperson, I would like to invite this Assembly, whenever we are debating one article, to do it in the context of the whole. I would like us not to just look at the article alone because there is no article that is going to operate on its own. We should look at the article in the context of all the other articles in the Constitution. And I am saying, because of subsequent provisions under other articles that are coming later on, that really we are providing for change of system.

There are provisions which govern this country, there are provisions which, say if there was need to change a system, how this system can be changed and I would therefore like to invite Hon. Nsibambi and Hon. Tinyefuza who are raising the same point to look at those and then find an answer because the answer is there and maybe I should not preempt the debate on those by talking about them but generally speaking, what I can say is that they are clear provisions providing for change of system both under referendum and under elections because, of course, this Assembly has already taken the decision that a system can change by elections or by referenda. I think it is Article either 100 or 101 which specifically talks about that change either via a referendum or elections and I would invite my friends to read them and raise their points when we come to those relevant points. Hon. Magezi representing Jinja East, raised questions which I really - I think maybe before Hon. Magezi, there is Hon. Kiwanuka representing Busiro which has changed its mind about NRM. *(Interruption)*

THE DEPUTY CHAIRMAN: Let Hon. Kiwanuka put you right.

MR. KIWANUKA: Thank you, Madam Chairperson. I want to inform Hon. Amama Mbabazi that Busiro is demarcated into three constituencies here. It is Busiro South for Hon. P.K. Ssemwogerere which changed the mind, then we have East for Hon. Mukwaya and North and Maj. Kiwanuka which has not changed mind. That is the information I had just to give you.

MR. AMAMA MBABAZI: Thank you very much Hon. Kiwanuka. I am better informed. I was under the impression that it was the whole of Busiro because that is what I heard in the last debate. I am happy to note that it was only one-third of Busiro that has changed its mind. But he asked the question which I answered this morning. This extension we are talking about in this provision, is it extension of NRM government or not and I would like, for the sake of those who were not here this morning and therefore who did not hear my answer, to repeat it that in this Motion we are talking about the system, we are talking about the Movement political system being in charge of governance of this country for five years and we are not talking about the NRM government being in power for the next five years because, of course, there are going to be general elections in December or thereabouts and the people of Uganda will choose what government is to take charge of the executive functions of government. So, I want to make it very clear both to our people here in Uganda and to the outside world because I know that there have been similar misinterpretation of what happened last week when we took the decision to empower our people, that what

we are talking about is extension of the system called Movement political system and not NRM government.

Madam Chairperson, Hon. Magezi asked the question about the referendum, why do we not hold a referendum now and I think a similar question was raised by Hon. Nakyanzi, that why do we not hold a referendum now? Again in my main presentation this morning, I think I answered that question. As you can see in this Motion, in answer to the cry by a number of interested parties, we proposed that the ground should be levelled and in order to level the ground, we would like to give sufficient time, enough time to those who subscribe to the system - to systems other than the system called Movement political system, to go out into the country and canvass our people for support. Madam Chairperson, we have said that these people will be given a whole year to canvass for support in the country and then just in case the people have changed their mind and they vote for another system, we say another year should be available for them, for those who want to reorganise our politics to do so. Therefore, we think it takes at least two years for the people to change a system after adequate campaigning to influence people's opinions in this matter by interested parties and the holding of a general elections. Now, for us therefore to have a referendum to determine the next political system, we would have to seek for an extension of this interim period under the NRM Government for two years.

Now, Madam Chairperson, I think the general consensus in this Assembly and in the country at large is not for that idea, the idea that we should have an extension of NRM for another two years. It is impossible for us to hold a referendum between now and December when the general elections is to be held and then give effect to the outcome of that referendum apart from the expenses - I had also talked about the expenses earlier on this morning. So that is why we are saying that we cannot hold a referendum now. But Hon. Nakyanzi asked another question. Why after five years then? First of all, I would like to correct her that the time-table we have given for opening up for debates in the country is that there will be uninterrupted control of the Movement political system not NRM. The Movement political system will be in control uninterrupted for - I hope it will be NRM by the way - for three years. After the three years, then there will be opening up, every one who is interested in this question will be free to canvass for support after the three years and then a referendum will be held and depending on the outcome, elections will be organised accordingly. This is a clear time-table we are making. Three years, one year of canvassing, a referendum is held, then one year of preparing for general elections and that completes the five years. We did not think that it could be done in a short period. So in fact, in effect to what we are giving our people that peace and stability they have yearned for in our politics, we are only giving three years. Many of them had asked for much more time but we are actually giving three years only.

Now, the other question was, was C.A. elections a referendum on the system? This was again from Hon. Nakyanzi. Again I think she was not here this morning, I dwelt at length on that. I said that this election of this C.A. was a culmination of a process that after the Odoki Commission had gone out and consulted our people, they had received memoranda from all the interested persons and groups; political parties, R.C's, everybody! They had actually gone out in the country, they had traversed the whole country, they came up with a report which said that our people wanted the continuation of this system called Movement political system and this C.A. was elected only on one issue, to promulgate a Constitution dealing, among other things, with the question of political system and therefore, I feel personally fully mandated by our people to make a decision on this matter and I would like to invite my Colleagues in this House not to have any hesitation at all that they do not have adequate mandate to determine that question. I think those were the main questions that were asked for clarification. Hon. Tinyefuza, certainly I am not ignoring the possible outcome of the next general elections, what I would invite you to do is to look at the provisions that are coming where you will find the answer to that question. This question of the transitional period is a question which we debated earlier on when we debated Article 94 and I really do not think it is necessary for me to respond to it now. Thank you very much.

THE DEPUTY CHAIRMAN: Hon. Delegates, I think we have had those people who were raising questions. According to my recollection, there wasn't anybody who came clearly to say no. Those who said no, it was implicit by requesting for clarification. Those who were in favour are quite many. So my proposal is that now we do it

constructively by looking at whether we are making an amendment or not.

MR. AMAMA MBABAZI: Sorry, I did not realise that I should have used this opportunity to say that Hon. Besigye - and I have received many notes from colleagues, he had proposed that instead of in clause (1) referring to the first Presidential and Parliamentary elections alone, we should cover all the elections and, Madam Chairperson, I accept that proposal and of course this is subject to work by the Legal and Drafting, the technical people but I would be happy to say something like "*notwithstanding the provisions of Article 94, all public elections after the promulgation of this Constitution shall be held under the Movement political system.*" All the first public elections after the promulgation of this Constitution shall be held under the Movement political system. I thank you.

MR. BAGEYA(Kigulu North): Madam Chairperson, I just wanted to inform Hon. Amama Mbabazi that it should not be practical or feasible to tie the local government elections to these particular elections because parliamentary and presidential elections have got a duration of five years whereas under local government, we decided the duration of those local government elections will have a duration of four years.

MR. SEBALU(Youth Central): Information! Thank you very much, Madam Chairperson. I would like to inform Hon. Bageya that what we are talking about here is not the duration but how the elections are conducted whether they are conducted in the Movement type of governance or in the plural or partisan system. So it is the mode of election, not the duration. I think that is where he missed the point.

THE DEPUTY CHAIRMAN: Any other improvement?

MRS. MUKWAYA(Mukono South): Madam Chairperson, If Hon. Mbabazi could accept, rather than saying "public elections", he maintains "*the first presidential, parliamentary and local government elections.*"

MR. WAGIDOSO MADIBO (Bulambuli County): Thank you, Madam Chairperson. I seem to have problems with the way this Article is phrased and I do not know why we departed so strangely from the Article in the Committee Five report because I would think that puts the situation better and I would have preferred that it reads this way: "*Notwithstanding the provisions of Article 94, the Movement system of governance as prescribed in this Constitution shall apply for a period of five years from the commencement of this Constitution*". Because then that covers - you see, it talks about the Movement system without necessarily talking about presidential elections, parliamentary elections and so on and so forth. This is how it was framed in the Committee Five report.

THE DEPUTY CHAIRMAN: Is that acceptable? Okay. Hon. Loote any improvement?

MR. OGWEL LOOTE (Moroto Municipality): Thank you very much, Madam Chairperson. I wanted to request Hon. Amama Mbabazi if he could accept this simple amendment so that it reads like this that "*Notwithstanding the provisions of Article 94, the first presidential, parliamentary and local government elections after the promulgation of this Constitution shall be held under the Movement political system*" so that it covers all the three aspects so that these elections does not affect the periods of the others. So I would like to find out if he could accept that humble amendment.

MR. AMAMA MBABAZI: Madam Chairperson, I think that proposal is exactly the same as the one we got from Hon. Janet Mukwaya and I accept it.

THE DEPUTY CHAIRMAN: That means Hon. Loote is seconding Hon. Mukwaya Janat's proposal. So it seems (1) is quite okay.

LT. COL. KIZZA BESIGYE (NRA Delegate): Madam Chairperson I would rather that we avoid spelling out specific elections whether presidential, parliamentary or local government because we may have even other elections other than those. We have, for example, provided that Parliament is going to establish organs of the Movement. Some of the offices under those organs may be elective. Are we going to have those under a different system? So I would rather that we have a provision which is going to cover all elective offices either provided for under this Constitution or by law to be held under that system for that period and I had, of course, suggested the use of the term "*public elections*" but if that is not acceptable to the Hon.

Member, I would also suggest that *"all election to offices established under this Constitution or under any law..."* something like that rather than simply limiting it to presidential, parliamentary and local government.

THE DEPUTY CHAIRMAN: Then can you construct something so that is definitive? Hon. Kiiza Besigye, can you design something so that it is definitive? Meanwhile, I will hear from Hon. Sendawula.

LT.COL. KIZZA BESIGYE: Madam Chairperson, I was not moving an amendment, I was raising an objection only to what has been proposed and giving an idea to the Mover. If the idea is not taken, if he does not think that there is any need to move away from naming the type of elections, he can respond accordingly.

MR. SENDAULA (Bukoto South): Madam Chairperson, me I feel that this particular amendment is very important in this Constitution and therefore, I feel that we need to give it a deeper consideration, deeper thought and maybe examine all aspects of how best this thing should be framed as we consider accommodating it is in our Constitution. In Article 94 on which we spent almost two or three days, we entrenched the Movement political system in the Constitution and considering that we already have the Movement system in the Constitution, I see no fear why we should not reframe this amendment and arrange that it is put in the transitional chapter so that we do not use the words like *"notwithstanding"* so that the whole thing reads: *"The first elections after the promulgation of this Constitution shall be held under the Movement political system"* and we stop there because when we start with *"not withstanding"*, naturally we are back pedalling. We are the people who have already put the Movement system in the Constitution. We have all agreed and it has been accepted and there is no fear because the one side fear is that when we do not do away or we do not mention *"notwithstanding"* in 94 and put this in the transitional chapter, it makes the Movement temporary, it is no longer temporary because it is already entrenched in the Constitution under Article 94.

So, unless I have a very good answer, certainly me I feel for us to be eating our own words, we have already said in that particular Article 94 (1) that *"the people of Uganda have the right to chose and adopt a political system through a free and fair election or a referenda."* But then when we say *"notwithstanding"*, it means we are withdrawing that. This is the way I look at it. So my point of view here is that this is something temporary, even if we put it as it is, it is to be used once and for all, then why do we not accept and put it in the transitional chapter and be clear, be acceptable, be straight-forward? Otherwise "notwithstanding" is very weak and it is going to be misunderstood. We are going to be sending wrong signals.

MR. NDEGE (Luuka County): Thank you very much, Madam Chairperson. Hon. Nakyanzi raised the same issue for clarification and I go along with Hon. Sendawula that it is very right that we make a good law. We have been told by our Constitution that the Movement should continue and we are agreeable to this fact but we do not want to appear as if we are saying that the Movement is going to continue for ever. We have, under 94, told the people that they are free at any one time to change the system. Therefore, for us to say that we leave this transitional article in the main Constitution is going to have future problems. I think we should show our pride and do the right thing and take this chapter or article, whatever you want to call it, this Article (1), (2), (3) into the transitional arrangement. After all, you count it, it means about ten years of Movement system. What is wrong with that? The essence of the whole thing is to do something right not to try to annoy other people or try to make it very difficult for other people to understand exactly what exactly we mean. Sir, I beg that we should save more time and ask even legal opinion whether this is the right bed for this Article or as Hon. Sendawula has suggested, and I quite agree with him, that in order - I am not a lawyer but I would rather seek some legal guidance that even if we approve it now, we should find the right bed for it. Thank you, Madam Chairman.

THE DEPUTY CHAIRMAN: Let us hear from Hon. Kanyeihamba.

DR. KANYEIHAMBA (Ruhama County): Thank you, Madam Chairperson. I am really a bit concerned that this should take our time as to whether this is transitional or not. The important thing is to accept the principle as moved in this Motion. I thought that Hon. Amama Mbabazi had already conceded that where it is a matter for the technical committee, indeed I think the provisions

in this Article are transitional, they should go into the transitional provisions. I think that should not be a problem for us to debate here, it is a matter for the technical committee to place it.

MR. BIDANDI SSALI (Nakawa Division): Madam Chairperson, in addition to what Hon. Kanyeihamba has given, I would like to give an assessor's view although his was a legal one. First of all, unless I am clarified otherwise, even if this provision goes under transition which the majority of us feel it should, the word *"notwithstanding"* does not necessarily refer to the system in 94. I think it should refer to the point, to the fact that it said that the people of Uganda will decide themselves through election or referendum. Notwithstanding that for this particular period and for this particular elections, this is what it is. That is the assessors view point but as far as the transitional provision is concerned, definitely many of us feel that these, after deciding on them, will go under the transitional provision. Thank you, Madam Chairperson.

THE DEPUTY CHAIRMAN: Now, Hon. Delegates, let us concentrate on the actual wording because there were different views, some were saying that *"notwithstanding the provisions of Article 94 the first presidential, parliamentary and local government..."*; then another person was saying no, we use the word "general"; then another one was saying we use the word "public". I think that is where there is a problem of contention. So can we concentrate there?

MR. AMAMA MBABAZI: Thank you, Madam Chairperson. I now seek to combine the proposals from Hon. Janet Mukwaya, Hon. Loote and Hon. Kiiza Besigye by saying that *"Notwithstanding the provisions..."* incidentally, of course if I may, from a professional angle, confirm the assessors view, even if this article was to go in Transition, still you would have to use the word *"notwithstanding"*. There is no way you can avoid it. To help my friend Hon. Sendawula and secondly, of course Hon. Bidandi Ssali has taken the count and he knows the majority view but there is still a minority view that it should not be in Transitional Provisions. However, I agree entirely with the statement by the Chairman of the Legal and Drafting Committee that the stage of reconsideration is precisely to do that. One of the things they are going to be harmonizing is to see and iron out contradictions in the provisions, to see the appropriate home of provisions, whether they should be under this Chapter or that Chapter. That is why it is necessary and I believe that when that time comes, the technical committee whose Chairman's opinion is well known, will come up with a proposal as to where this particular provision should be but I want to say that I would like to combine - *(Interruption)*

THE DEPUTY CHAIRMAN: Okay, let him clarify first before you give us your final view, perhaps he is adding on something.

MR. BIDANDI SSALI: Thank you, Madam Chairperson. I would like to submit as a Member of this Assembly that a decision as to whether this goes under Transition or not is not a technical point. It is a decision that has got to be made by this Assembly and I would like the Mover of the amendment to appreciate that we are addressing or we should address ourselves to it as the Assembly, there is nothing technical about it.

THE DEPUTY CHAIRMAN: Okay, if that is the case, let us not waste time. Let us pass the principle then when we come to the last Chapter, we shall consider this one and transfer if it is necessary. What is important, even if it is in transition, still it will be in the Constitution anyway.

MR. AMAMA MBABAZI: Thank you very much for that wise ruling. I wanted to accept the amendment proposed by both Hon. Janat Mukwaya, Hon. Loote and Hon. Kiiza Besigye by saying that *"notwithstanding the provisions of Article 94, the first presidential, parliamentary and other public elections after the promulgation of this Constitution shall be held under the Movement political system."*

MR. NGOBI (Presidential Nominee): Thank you very much, Madam Chairperson. I am objecting to the word *"other public elections"*. The elections that we are talking about, that is the presidential, the parliamentary and local government elections are elections of a particular nature where you need to organise them in a particular way. If you are in th Movement, then you have to organise them accordingly so that we do not have Party representatives and so on. Now, other public elections, these are democratic. We have provided elsewhere if you are talking about elections of officials in an organ, you need, whether you are under a multiparty system or you are under the

Movement, the thing we are saying is that we observe the rule of democracy and transparency. There is no question of saying "other public elections." This I think is too wide and too vague. We are talking about these three types of elections, those are the ones that differ depending upon whether you are in the Movement or you are for multiparty politics. So therefore, I would like that we agree to stick to the formulation, we say that: "*Notwithstanding the provisions of Article 94, the first presidential, parliamentary and local government...*" and then we go on. These are the ones that matter and they are the ones that are relevant. Thank you very much.

DR. MUGYENYI (Isingiro North): Madam Chairperson, before we take a decision on that, I think there is still something we have to clear. When you say local government elections, I do remember that when we were in Committee Four, we did agree that for the purposes of this Constitution, when you are saying local government we are referring to Gombolola, that is RC.3 and District. Strictly as far as that Chapter on Local Government is concerned. So when you say presidential, parliamentary and local government elections, strictly you are referring to the presidential elections, parliamentary elections, RC.3 elections and district elections, thereby you are leaving out RC.1 - Local Government 1, 2 and 4. So from the technical point of view, I think Hon. Bidandi Ssali is here, when we were discussing that on Local Government, I want that to be cleared before we can take a decision on this important Article. Thank you.

THE DEPUTY CHAIRMAN: What is the problem? I do not see anybody who is disorderly. We are trying to clear our minds. Hon. Bidandi Ssali can you assist us there?

MR. BIDANDI SSALI: Madam Chairperson, I do not see any problems with this because we are really talking about the councils that will be organised by the National Electoral Commission, that will be arranged by the National Electoral Commission and these are the elections for the President, elections for the parliamentarians and elections for the Local Government. So I do not see any contradictions Madam Chairperson. Thank you.

THE DEPUTY CHAIRMAN: Let us have Hon. Amama Mbabazi and we stop there. Otherwise we are just going round the problem.

MR. AMAMA MBABAZI: Madam Chairperson, the reason why I combine the two is because I found substance in what Hon. Kizza Besigye was saying. Because his contribution was that this august Assembly has already passed an Article which refers to public elections in Article 84 of this very Chapter. There is reference to public elections there. Secondly, he said that if we limit it to presidential, parliamentary and local government, since we have given Parliament the power to create organs under the Movement system, Parliament may create them and require that these organs be constituted via an election. If you leave them out would that election be held under the Movement system or something else? So in order to cover all that, I thought we could say that presidential, parliamentary and other public elections which would cover all of them - because that would cover local government but we could have - I do not have any as I had indicated earlier - I was happy to include local government, I have no problem with that.

THE DEPUTY CHAIRMAN: I think that is cleared to remove the doubt. Let all that is required be there, presidential, parliamentary, local government and other public elections. I think that is so decided. Any query on number two? "*Two years before the expiry...*" there were some problems on two years. Can we have a final say on No.2? Hon. Ongaria.

MR. ONGARIA (Tororo Municipality): Thank you very much, Madam Chairperson. Madam Chairperson, No. 2 is consistent with Article 94, Obiga Kania's article where we say that "*the people of Uganda shall have the right to adopt a political system of their own choice through free and fair elections or referenda.*" I would have liked the Mover of this Motion to include the word "*election*" or give it an option of election or referenda in Article (2), Madam Chairperson.

THE DEPUTY CHAIRMAN: Yes, Hon. Amama Mbabazi, the Mover is saying in the last line of (2) "*... his or her choice for purposes of an election or a referendum*".

MR. AMAMA MBABAZI: Madam Chairperson, I think the Hon. Member was not here when I answered that question earlier on. I said that this particular article is dealing with provisions relating to the referendum. The next Article which is Article

100 specifically deals with the problem he is raising. It deals with the question of changing the system via elections.

MISS BYANYIMA (Mbarara Municipality): Thank you, Madam Chairperson. I am seeking clarification about this period when any person shall be free to canvass for public support for a political system of his or her choice. I would like the Mover to clarify to me, supposing a Party, say a Party like the UPC, wants to canvass for multiparty support, will it be allowed as a Party to have to raise funds in order to send its people to go to canvass for their point of view and will they have particular limitations as Parties trying to canvass for this view? On the other hand, those of us who believe in the Movement system, will we have some group support to advocate for that system and some public fund to advocate for that system or will we be advocating for it as individuals? How do we envisage this period, how will this campaign be carried out? I would like some clarification on that because with Parties they are groups, they raise money, they have funding, they can propagate their view as a group either as one group or as a platform of several Parties. Now, for the Movement view, will it present its views, individuals going out on their own or the Movement will also have its own funding and its own teams going to propagate its views? Could I have that clarification? Thank you.

MR. SSEKITOLEKO (Bugangaizi county): Thank you very much, Madam Chairperson. Madam Chairperson, if it is the wish of the Mover, Hon. Amama Mbabazi, I would have wished between (1) and (2) an amendment added to read that *"All old political parties be banned - be abolished"*. Madam Chairperson - *(Interruption)*

THE DEPUTY CHAIRMAN: You are not seconded yet.

MR. SSEKITOLEKO: I am seconded, Madam Chairperson.

THE DEPUTY CHAIRMAN: Let us be serious.

MR. SSEKITOLEKO: I am serious and I have reasons for that.

THE DEPUTY CHAIRMAN: No, no. We do not have time and why do you not take it for synchronisation, where were you? You should have started there.

MR. SSEKITOLEKO: Madam Chairperson, this matter I already discussed it with Hon. Kanyeihamba and we had a good time discussing about it and I am serious about this matter and I have reasons for it.

THE DEPUTY CHAIRMAN: Okay, Hon. Delegates, I put the question on Hon. Ssekitoleko's Motion that political parties be banned.

(Question put and negatived)

THE DEPUTY CHAIRMAN: Okay, can we now proceed.

MR. KAYONDE (Gomba County): Madam Chairperson, I am seeking clarification from the Mover. What is the implication of Clause 2? For instance, would this after two years - *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Kayonde, just hold on. Can we have some silence in the House to enable Hon. Amama Mbabazi hear the clarification being requested by Hon. Kayonde?

MR. KAYONDE: Madam Chairperson, I am seeking clarification as to the implication of Clause (2). Suppose now within the third year or the fourth year - in Clause (2) you are saying: *"Two years before the expiry term of the first Parliament elected under this Constitution, any person shall be free to canvass..."* Now, will there be a specific law for this purpose? Because, our concern is that we do not want to cause chaos in the countryside where after the man realises we have entered the fourth year, everybody drives into the countryside. Is there a provision where Parliament will come in to set up a law to regulate how the canvassing will be organised?

MR. ERESU (Kaberamaido county): Madam Chairperson, I would like fellow Delegates to look at part two of the amendment which reads: *"Two years before the expiry of the term of the first Parliament elected under this Constitution, any person shall be free to canvass for public support for a political system of his or her own choice for the purpose of a referendum."* I would like to ask the Mover, Hon. Amama Mbabazi whether he also envisaged the fact that political parties should be included so that it reads: *"Two years before the expiry of the term of the first Parliament elected under this Constitution, any political party or person shall be free to canvass for public support..."* Thank you.

DR. MAGEZI (Jinja Municipality East): Madam Chairperson, I have a feeling that this new Article 98 which is going to put some restrictions on the political organisations and Parties may have to be stood over if this new sub-article (2) is to be effective. I do not know whether I am quite clear. I am saying that this provision under Article 99(2) may have to have an opening clause "*not withstanding the provisions of Article 98...*" which will be giving us some restrictions on political party organisations. I do not know whether my understanding of that is right or wrong. In which case, we would better have to stand over the whole thing until we have got 98 because it is going to restrict canvassing, I am sure, during the time when one system is in place.

THE DEPUTY CHAIRMAN: Can we be advised by Hon. Kanyeihamba on 98?

DR. KANYEIHAMBA: Madam Chairperson, first of all, in case the press misunderstood Hon. Ssekitoleko, he mentioned that he had mentioned his Motion to me. Yes, indeed, he did but I never expressed any view about it and it was not, as you rightly said Madam Chairperson, it was not synchronised by the Legal and Drafting Committee. Having said that, I told him that he has a right to raise it with the Chairperson and then it is up to the Chairperson to rule as you wisely ruled, Madam Chairperson. Having said that on this issue, I think that Hon. Magezi is raising an issue prematurely. We have yet to discuss the contents of the Motion under new Article 98. Should we pass this Motion and then we find that there is some conflicts, then of course we can iron it out if we come to that one but I do not anticipate any of the problems that he is mentioning, Madam Chairperson. I do not see them.

THE DEPUTY CHAIRMAN: Hon. Delegates, actually it does no harm, I have the version here. 98 reads: "*Subject to the provisions of this Constitution but not withstanding the provisions of paragraph (e) of Clause (1) of Article 59 and Article 72 of this Constitution, during the period when any of the political systems provided for in this Constitution has been adopted, organisations subscribing to other political systems may exist subject to such restrictions as Parliament shall by law prescribe except that the restrictions imposed under this Article shall not exceed what is reasonably necessary for enabling the political system adopted to operate.*" So there is nothing specific to political parties. Now, can we focus on (2). There is a Motion by Hon. Eresu that we insert the words "any political parties or person." Hon. Elyau wanted to contribute on that one.

MR. ELYAU (Kalaki County): Thank you, Madam Chairperson. Since we are trying to define this one, I do not think somebody should fear that there is a Motion, we want it to be beautiful. I saw the sense in which my honourable brother, Mr. Eresu, was trying to put the things so that the people who think we have fooled them should have seen that we are including them really. Not only that one, I even wanted it to be three if I was going to modify this thing further. I would further move that instead of saying two years, it should be three years so that the three years can be time for those people to get mature.

PROF. KABWEGYERE (Igara County West): Thank you, Madam Chairperson. I do not know whether I am observing a trend towards tiredness or I do not know. Madam Chairperson, if you are to accept Hon. Eresu's amendment that you now have Parties campaigning as Parties along with individuals, I think you are working for chaos and, in any case, if you are already agreed that this period the Movement is going to be in charge, then obviously other organisations must have a low profile otherwise if Parties are going to organise, they will say we cannot organise unless we have a delegates' conference and unless we fund raise, you could easily have a whole country in a lot of chaos. So I think we should be very clear. If the Movement is in charge, the Movement system is operational. There will be individuals, the system of how the campaign will be implemented will follow the Movement procedures like we had in the C.A. elections for example. Therefore, I do not see why even Hon. Byanyima should now be requiring to know what the modus operandi - of how the things will work as if now we can sit here and anticipate the method of this thing because we are assuming that there will be an authority, they will judge. Conditions will change obviously and the relevant organisational procedures will be followed. So, Madam Chairperson, I think the way Clause (2) is being presented as it is now, should be adopted and we move on. Otherwise, Madam Chairperson, we are doing a disservice to ourselves, we sit here and end up with things bad. At the end of two years, we will be very tired people.

MR. WANJUSI (Bubulo County West): Thank you very much. Madam Chairperson, I do not agree with Hon. Eresu. At the end of two years, the Parties will not have registered themselves. As we all know, no Party is registered. We want to organise them and this is the time when we will be organising them and therefore, the Movement will be in control to give the direction of where they should go. So, I would advise my colleague, Hon. Eresu and Hon. Byanyima that everybody should organise and it is good that the individuals and Parties should not be involved or mentioned in this particular clause (2). Thank you, Madam Chairperson.

MR. ERESU: Madam Chairperson, much as I appreciate the contribution of Hon. Wanjusi Wasieba, I would like to ask him to clarify to me what he means by organisation of a political party whether that excludes, in principle, the registration of political parties as such to make them be recognised so that they can reorganise themselves for that kind of referendum? Thank you.

MR. WANJUSI: I want to help to answer my friend, Hon. Eresu. What happens is that the Parties have not been registered and that is how they have behaved all this long since Independence. Since the Movement came in, it wants to organise everything to put it on track and we cannot at this particular time now discuss about the Parties and that is why we do not want to be mentioned. Clause (2) as it is mentioned is correct and I support it.

MR. SEBI (Koboko County): Thank you, Madam Chairperson. Madam Chairperson, I would like to attempt to clarify to my O.B., Hon. Eresu that if you look and analyse (2) and for purposes of clarity, let me read it. "*Two years before the expiry of the term of the first Parliament elected under this Constitution, any person shall be free to canvass for public support for a political system of his or her choice for purposes of the referendum*". Hon. Eresu, Madam Chairperson, I think this particular individual, the person who shall be free to canvass for public support will be selling the ideas he has for a political system. This would cover any political system be it Movement, multiparty politics or any other democratic representative system. That is the purpose of his canvassing. So I find it repetitive to insert political parties here because it is covered under political system. That I think would be the purpose of this man or woman canvassing two years before the expiry of the term of office of the first Parliament. And therefore, Madam Chairperson, I am requesting my O.B. to actually drop his amendment. Thank you.

THE DEPUTY CHAIRMAN: Hon. Mukwaya Janat. Let it not be a two way dialogue.

MRS. JANAT MUKWAYA (Mukono County South): Thank you, Madam Chairperson. I want to oppose Hon. Eresu's insertion in principle because I think the import of Clause (2), we are saying that we have already said in Clause (1) that it is the Movement political system which is in place. In Clause (2), we are saying, we are working out a time table that during this period, because Ugandans have to make a choice in a referendum, people will be canvassing on concepts, multiparty politics vis a viz Movement. These are political systems. So, when he talks about political parties, he is talking about political organisations. That is the difference and I do not want to bring UPC., D.P., C.P., through a back door through his amendment, Madam Chairperson. That is why I am opposing it. We are talking about political systems and it is very clear that under political system, there are three types, the Movement, multiparty or any other. This may be a Front, it may be what - any other so the people will be canvassing, I am for Movement, the Movement is good, it is broad based. Another person will stand on th dias to say a multiparty system is good because it is competitive, another person will come and say a Front is good. So these are the issues, it is not the individual parties, Madam Chairperson.

MR. RUZINDANA (Ruhama): Thank you, Madam Chairperson. Madam, the clause has got something missing, it has got some gaps in it and that is why there are difficulties in seeing how this one person, for example, runs around Uganda canvassing for support and so on. And secondly, what prompts him, the two or three years have elapsed? I do think that, Madam, we have to specify that Parliament will pass a law; it will pass a law guiding the public as to what they can do and how they will do it from the third year. That one is missing in here. I think it is Article 95 where we provided for the registration of Parties, we did not indicate when Parties could start being registered and so on. So, we do not know exactly what will be in place and therefore, we need actually to leave this to Parliament to enact a law governing the registration of Parties, governing the activities that can be

done by individuals and groups of people in canvassing for public support. I think we should not really look at this here as an academic exercise that individuals can, on their own, just run around at random unconnected. Somebody in Karamoja is running around and another one in Kigezi is running around and so on. I think we have got to be realistic and see that these individuals in one way or another have got to be connected, have got to be organised.

We in the Movement will be talking on behalf of the Movement, the Movement is concrete. We say the Movement has done this, it has united people, it leads to harmony, it does what! This other individual running around, what does he say? He has got to point to something concrete and we have got to be realistic and give Parliament the power to enact a law that makes concrete the way individuals and groups of individuals will be able to canvass for support for their particular ideas before the referendum. It will indicate the time when they can start doing so, how they will do it, and so on, and I think this is missing in this law and I think the other article which we passed on the legislation of political parties and other groups missed it. Thank you, Madam Chairperson. (*interruptions*) Madam Chairman, I am asked to come with a proposal. I think in (2) we should say that after two years before the expiry of the first term of Parliament, Parliament should enact a law directing the public on how they can go ahead to canvass for support, something like that. Other people can go ahead and draft it.

MR. KARURANGA (Nyabushozi): I just wanted to make a small contribution in order to assist, in particular, Hon. Ruzindana to understand what I think I read in (2) which is slightly different from his line so that before he passes on the back, that others can make the amendment on his behalf. The way it reads: "*Two years before the expiry of the term of the first Parliament elected under this Constitution, any person shall be free to canvass for public support for a political system of his or her choice for purposes of a referendum.*" What I read here is that if the five years, for example, the coming years are to be run on the Movement system, the Movement system is saying that two years before the end of term, which is in the third year, anybody who wants to change the system is free to go on a public rally and say, I Elly Karuhanga would like to have an introduction of multiparty politics, while my friend here Karusoke will say, I would like to have the Movement system to continue. Then after one year of us campaigning during the time of the Movement, campaigning that we want a multiparty system or any other system, we have the referendum. After the referendum, if the multiparty system wins, then the political parties will set up branches, open branches, get their flags, register their parties and have one year of free political activity in the fourth year. That is how I understand it.

Now, if this understanding is correct, then where is the unfairness if we have already decided that five years be of the Movement, but the Movement is saying, we give a concession of two years of this campaigning for the idea and then one year, if it wins we go multiparty. In other words, really the Movement is saying give me five years but I give you four years of no party activity and then the last year will be full of the Party.

THE DEPUTY CHAIRMAN: As a Mover, let people give you ideas then I will come to you Hon. Bidandi Ssali.

MR. KARUHANGA: That is how I understood it, but if Hon. Eresu wanted clarification on it, I am prepared to probably try and assist him to get clarified.

MR. BIDANDI SSALI: Madam Chairman, at first I had the understanding as Hon. Karuhanga has put it, but after issues raised by Hon. Ruzindana, I realised that definitely, I agree with him that there is something missing. I think, Madam, we can handle that as, maybe, (4) to the effect that Parliament shall pass a law to give effect to the provisions of this article, then they will definitely outline in these legal provisions how the campaigns will be conducted, how maybe, political parties will be involved. So, I think a provision of that type as number 4 should take care of the three, otherwise, definitely in my view what Hon. Ruzindana is saying is correct, but I will move as number (4), a specific amendment to take care of it.

MR. ZZIWA (Kawempe North): Thank you very much, Madam Chairperson. I wonder whether the Delegates will look at Article 100 in this Chapter. Article 100 in the Draft Constitution, I wonder whether that does not cover it.

THE DEPUTY CHAIRMAN: But we have an amendment from Hon. Rhoda Kalema and Hon. Byanyima on 100.

MR. ZZIWA: I am talking of 100 in the Draft Constitution, it is not deleted is it?

THE DEPUTY CHAIRMAN: What does it read?

MR. ZZIWA: It reads, Madam Chairperson: "*Parliament may, subject to the provision of this Constitution enact such laws as maybe necessary for the purpose of this chapter, including laws for the registration of voters, the conduct of public election, and the referenda and where necessary, making provision for voting by proxy.*"

THE DEPUTY CHAIRMAN: Okay, the issue on the Floor is whether we should add the word "political party". We are saying, Hon. Eresu, I think seconded by Hon. Elyau, moved that we insert the word "political party". So, I just need to put the question on that Motion whether it is taken or not. I do not see why Members are saying no, yes, and what have you. Let Hon. Elyau say the last and then I put the question on that issue.

MR. ELYAU: Thank you, Madam. I am saying this for the sake of clarification. Madam, what is a Party? A Party is more than one person. If an individual can talk about Parties without getting formulated ideas, discussing the manifesto, he will make nothing in this country. So, at least, Parties should be given an organisation. This is a sick person now who is in bed and we are tying him for another five years. When will he wake up and then become cured? If we are really serious and we want to go back with these Parties - because some of us will also form Parties. What we are crying for here is that let them be given time to work as an institution and not an individual. How can one person sell Parties throughout Uganda? So, we are saying that let us put there Parties because already the Movement has been allowed to continue five years. Now, why do we not allow these people also to have a chance from that time to organise themselves, teach people, and let the young ones who now are in school, who have never seen Parties, hear about Parties because a Party is a fleet of people, it is not one person.

I am not saying it because I want to become a multiparty supporter but let us give them a chance so that these people make us - let us hear our players who are opposite, because we Movement, we are now on one side, where are the Parties we are talking of? These people are defeated, they are scattered, so give them a chance after two years so that they are - Madam, I am saying Parliament should give them a chance after making such laws to give them freedom so that they do not spoil this country again. If they are going to win us, they win us and then get them organised, get them revived and so on. This is what we are saying. We are not saying that Parties for the sake of bringing it. Why do we want to put Movement and then we do not want Parties, what is wrong? Parties are equally Ugandans, Movement supporters are equally Ugandans. This is what I say. So, I support that we just put these people for the sake of being together. Thank you.

MR. NDEGE: Point of clarification! I want to be clarified and make it very clear that if we are intending, as Hon. Ssekitoleko put it, to ban the present Parties, let us not beat about the bush, let us not go around using law. If that is the idea, let us put it clearly. But if they are there and they send Delegates here, we cannot tell them that tomorrow that they cannot propagate on behalf of their organisations for what they stand for. I think this is, you know, very, very unfair when ministers will stand as NRM ministers and say vote for the Movement, but Cecilia Ogwal cannot stand as Secretary General of PPU and say me, I stand here as chief of the UPC and I am telling people that the Movement has failed. I think let us level the ground for everybody, let us level the ground. If we do not do this, we are making a bad Constitution. That is my submission, if we do not do this we are making a bad Constitution and, therefore, even the Movement should first of all be registered, if they want everybody to register, let them also register. Let us not allow ministers to campaign for the Movement using their public offices, let everybody do it as a person. We cannot have Animal Farm type of constitution or politics. I stand by that kind of principle. Thank you.

MAJ. KIBIRANGO: Point of clarification! Madam Chairman, I am seeking for clarification from the Chairman of Legal and Drafting, Hon. Kanyeihamba whether in his considered opinion, the word "person" as used in Clause (2) excludes political organisations which become legal persons on registration. Can the honourable please clarify?

PROF. KANYEIHAMBA: Thank you, Madam Chairperson. I want to give the information that really this clause is in order. We have already said

that the right to form political parties is guaranteed by this Constitution. Secondly, we have said that any organisation which wants to act as a political party must be registered, that has been passed. And any organisation which is registered in law is a juristic person, so it can be regarded as a person. Secondly, we have said that Parliament, and Madam Chairperson, that is what I wanted to raise, which I think, Hon. Zziwa ably put. You see, we cannot in every article refer to Parliament having power to make laws and laws. We have said in Article 100 which will change anyway, that Parliament shall make laws to govern referenda, election under this chapter and that takes care of the point which was being made by Hon. Ruzindana. It is also taking care of the amendment which was being proposed by Hon. Bidandi Ssali.

So, in my opinion, there is consistence here to say a person, because the right to canvass should in the first instance be a right to the person. But whether that person organises with others either in a political party or in a group of persons who are not in a party or believe in Movement, you cannot conceptualise here. Secondly, we have said that there may be other political systems which may emerge later, of which nature we do not know. Now, you put political party and particularise it here, how are you going to conceptualise those other organs which we do not yet know how they will come up?

So, in my opinion, the basic right should be given to the person, and we are not prohibiting organisations or parties from doing so, particularly as I have said that in law, a registered company is regarded as a juristic person. So, there is no conflict and I think that, Madam Chairperson, we can put the question, say from this one bearing in mind that parties and organisations are adequately covered by Article 100. I thank you.

THE DEPUTY CHAIRMAN: Okay, let me put the question on Hon. Eresu's Motion that we insert "political party".

(Question put and negatived)

THE DEPUTY CHAIRMAN: Let us hear from Hon. Amama Mbabazi.

MR. AMAMA MBABAZI: Thank you very much, Madam Chairperson. I would like, in conclusion, to answer some of the queries that have been raised here. Many of them have been answered including that raised by Hon. Winnie Byanyima about this question of "person", whether in includes parties or not. I would like to leave it to the interpretation by the Chairman of Legal and Drafting Committee. Now, Hon. Kayonde asked whether there would be a specific law, that has been answered by both, Hon. Kanyeihamba and what Hon. Zziwa had given as information. Article 101 gives Parliament power to enact laws to give effect to the provisions of the whole chapter. So, that covers these provisions as well, and of course, that answers Hon. Bidandi Ssali's point as well and his proposition to raise a new clause (5). So, I think on that note, Madam Chairperson, and having cleared all the clarifications requested or raised, I beg to move.

THE DEPUTY CHAIRMAN: Hon. Delegates, I think really we have debated this one - yes, Hon. Ongaria, you are the last one.

MR. ONGARIA: Madam Chairperson, I want to refer the mover to the proposal made by Hon. Elyau sometime, but I think he does not seem to have given an answer to that of changing two years to three years, and then thereafter, the reasons can be given, Madam Chairperson.

MR. AMAMA MBABAZI: Madam Chairperson. I think I dwelt on that when I responded earlier on as to whether two years are adequate or not, and my view was that two years is quite adequate, I do think we should extent it to three years because if we did, it would mean that we would have a period of three years before the expiry of the term in which there would be this constant campaigning and uncertainty about the political system. So, two years is
enough.

MR. KARUHANGA: Point of information! Madam Chairperson, I just also wanted to support Hon. Mbabazi but give another reason. I think that we have given so much work to the first Parliament after the promulgation of this Constitution and when Parliament comes, they will have to make so many, giving effect to the Constitution. If we give them a very short time, many of the laws which need to be in place, even to effect that referendum will not have taken place. So, I think, three years of a kind of united front in Parliament is very necessary and really is the minimum period we can give,

but if we make it short, we will be defeating almost all the clauses which we need to use in that period to consolidate the laws, to put them in place. Thank you.

THE DEPUTY CHAIRMAN: Okay, it seems (2) is agreeable. Can you briefly go to (3)? It seems number (3) is quite in order. Yes, Hon. Bidandi Ssali, you had number (4).

MR. BIDANDI SSALI: Madam Chairperson, I wanted to move that we add number (4), to the effect of Parliament making a law to give effect to this article. The reason is that the one which has been quoted by Hon. Zziwa and clarified by the Chairman of the Legal and Drafting, specifically refers to the provisions given in that particular chapter but I have indicated earlier that I was going to move that this part becomes under the transition chapter, in which case, these clauses we have just passed will not be subjected to Article 100. That is why I wanted also Parliament to come in to give effect to the practical implementation of these provisions. I beg to move, Madam Chairperson.

THE DEPUTY CHAIRMAN: Is that seconded? Okay, let us hear from the Drafting Committee.

PROF. KANYEIHAMBA: Madam Chairperson, I appreciate the point raised by Hon. Bidandi Ssali. If as he is suggesting, and I agree, that those provisions that we have passed should go under transitional provisions, then it would be necessary and really does not need us to do it here. The Technical Committee can transfer the message in the Article 100 we are talking about to those provisions so that Parliament also there is enabled to make the law as proposed. So, we do not have to make it a separate clause here. When the transfer comes they will go together.

THE DEPUTY CHAIRMAN: Hon. Delegates. if the Members are satisfied, I do not see the purpose of generating more and more debate. So, I suggest I put the question on 99 that 99 do stand part of this Constitution as amended.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: So, Hon. Delegates, having had 99, I think we have an amendment to 100 and an amendment to 98 but given the time, I do not think really we can do justice. So, I am proposing that we adjourn, and for the benefit of those people who were not around at the beginning, Hon. Sserwanga Lwanga and Hon. Dr. Mugyenyi moved that Hon. Lt. Col. Frank Guma be recognised and at 9.00 O'clock, the body will brought here. So, please Hon. Delegates, by 9 O'clock be here so that we honour our friend who has been one of us and at 9.30 the body will be transferred to the Church. So, we would not like to come here and the body is here with nobody, with none of us. After that, we shall give the Delegates the chance to go for the service at 10.00 O'clock, then we shall come here at midday. That means two hours, and we complete these two article. We shall have to complete tomorrow Friday so that on Monday we start on the Transitional Provision. At least, that is the request of the Chairman. Thank you. We stand adjourned.

(The Assembly rose and adjourned until Friday, 30th June, 1995 at 12.00 noon)

THE REPUBLIC OF UGANDA

PROCEEDINGS

OF

THE CONSTITUENT ASSEMBLY

OFFICIAL REPORT

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FRIDAY, 30TH JUNE 1995

MOTION:-

Recognition of the services of the Late Lt Col Frank Guma [Pg 5106]
Consideration of the Draft Constitution of the Republic of Uganda [Pg 5113]

Friday, 30th June, 1995.

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

PRAYERS

(The Chairman, Hon.James Wapakhabulo, presiding)

(The Assembly was called to order)

RECOGNITION OF SERVICES OF THE LATE HON.LT.COL.FRANK GUMA.

THE CHAIRMAN: Hon. Delegates, as the body of the late Hon Guma is brought in, please remember to stand in honour. The motion is being moved by Hon. Lt.Col. Serwanga Lwanga, and seconded by Hon. Dr. Mugyenyi.

LT. COL. SERWANGA LWANGA: Mr. Chairman, I beg to move that be it resolved by the Constituent Assembly, duly convened and sitting in Kampala on this 30th day of June, in the year of our Lord 1995; That the Assembly places on record its grieve at the sudden demise of Hon. Lt.Col.Frank Guma which occurred on 29th June, 1995. And the Assembly further registers its abundant admiration and gratitude for the service he rendered to the nation during his long and distinguished public career. I beg to move, Mr. Chairman.

Mr. Chairman, it is with deep sorrow that I move this Motion in order to recognise his contribution to peace and security, which is prevailing in many parts of Uganda today. The late Hon. Lt.Col. Guma had devoted his efforts and tirelessly worked for peace and the well being of the people of Uganda. In 1978, at an early age, he was among the thousands of Ugandans who joined the liberation forces. In that case, he joined FRONASA to fight with the Tanzanian forces to remove the terror and dictatorship of Idi Amin Dada. In 1980, when the UPC rigged the elections, he was among the few young officers who opposed that act of rigging and that landed him in Luzira Prison. On his release from prison, he found his colleagues in Luwero Triangle, to wage the protracted people's war against the fascist forces of Dr. Milton Obote. I personally met the late Lt. Col. Guma in Mondrean Unit in 1982. At one time, he was my company commander in the Masulita battle where our forces dispersed UNLF forces, leaving behind two lorries and weapons which we captured. He was always very quick and fast in whatever he was doing, and was totally committed to the liberation of our people.

In NRA, Lt.Col.Guma served in many capacities. At one time, he was a unit commander, then a director of finance. When we captured power, he became the chief financial controller of NRA, and later a director of construction in NRA. He honourably retired from the army to join politics of development. He was elected by the people of Bukanga to represent them in this August Assembly, which is shaping the future of Uganda, the work he has done satisfactorily. I know that the people elected him because of the virtue they recognised in him as far as development was concerned. I am sure that in this House - the CA, we shall miss his contributions and interventions which have been very frank. Guma has been one of the people who accept open criticism and at times, he would call a spade a spade. But he was honest and committed to correcting mistakes. Mr. Chairman, the people of Uganda and in particular, the people of Bukanga whom he has been representing in this Assembly, will miss a prominent son, who was devoted to peace and development of our country. I would like to send my condolences to the widow, the children, and the family for the loss of their beloved one. May his soul, rest in eternal peace. I beg to move, Mr. Chairman.

THE CHAIRMAN: Thank you, Hon. Serwanga Lwanga.

DR. MUGYENYI: Thank you, Mr. Chairman. Mr. Chairman, I did second this Motion. In such a motion that we are moving with deep sorrow, Mr. Chairman, it becomes very difficult to talk. The colleague who has just been with us and all of a sudden, he has disappeared from us! Hon. Lt.Col. Frank Guma, has been representing Bukanga County which was part of the greater Isingiro before it was divided into Isingiro and Bukanga. Right now, his constituency which neighbours my constituency is an orphan as far as representation in the Constituent Assembly is concerned. The people of Bukanga entrusted their views with Lt. Col. Guma, unfortunately, he has passed away before he sees the fruits of his struggle. Mr. Chairman, Hon. Lt. Col. Guma has spent almost all his useful age fighting for freedom and democracy in this country. He has died at a young age, he has not lived to see the fruits

of his struggle, as we have heard from Lt.Col. Serwanga Lwanga. Lt.Col. Guma was a strugglist, that is why he joined the struggle to overthrow the governments of dictatorship and he has died a strugglist. Lt.Col. Frank Guma, was frank as his name says. He was not a man who could accept to tell a lie which lie he knew would be dangerous to the country of his people. So, he was frank as his name Frank says. He was a generous man. Those of us who knew him, even before he came to the Constituent Assembly, he was so useful to our region, Bukanga and Isingiro which has lagged behind and we were happy that at least we have got somebody in high circles of government who could get us something in terms of development.

Lt.Col.Frank Guma, had cut across sectional interests which have hit this country; tribe, religion, name it. He was sociable, he had a vision for this country. Unfortunately, the Banyankole believe that the good ones stay for a short time and they do not live to see the fruits of their struggle. It is with deep sorrow that we are hear paying our last respects to our colleague. He has left very young children, you can see them seated in front there, the boy and the girl, very, very young. He has left the mother who is just seated in front of us, you can imagine how this woman is going to cope up with the children. It is unfortunate that they are seeing the remain of our colleague who has been laughing with us, struggling with us. This is the time to say bye to our colleague, Lt.Col. Frank Guma. He has been such a friendly man that we are all going to miss him. I do pray that we members of the Assembly here keep in touch with the family especially with the children. In case we meet them, we come to their assistance. And I do pray that the government in its many means, tries to assist the family where possible. Mr. Chairman, I pray hard that the family remains firm in this trying moment and I pray hard that we keep in touch with the family. Because this is where all of us are going. Mr. Chairman, I pray for his soul to rest in eternal peace.

MR. PINTO(Kakuto): Thank you very much, Mr. Chairman. I rise to speak in support of the Motion and to honour our departed colleague, Lt. Col. Frank Guma, at the age of 42. I would speak of him as one of the freedom fighters through whom Uganda has been rehabilitated and brought back to glory as the Pearl of Africa to shine again. It is in this spirit that I speak of him as a neighbour - Kakuto County neighbours Bukanga, as a fellow CA delegate and as a freedom fighter. Mr. Chairman, I will relate my eulogy on Frank Guma to the political atmosphere. I have consistently argued that the Movement system is not a perfect political system but it is the best alternative we have been given. It needs improvement, and every Ugandan should try to contribute towards its betterment. Its systems, its functions, its roles, people like Lt.Col.Frank Guma have played their part. I challenge Members and others outside to speak of a better political system that could be most affective to Africa. Is it the political party system, the multiparty system, or is it the pluralism that is enshrined in the political system, so that competition for political power is seen to be free and fair. Let us examine the other side with these contradictions and judge whether it is not right that people like Lt.Col.Guma helped to bring peace in Uganda.

In USA, Mr. Chairman, the current trend - due to people's apathy, the government does not command more than 40 percent of the voters, it could be less. Compare that with the participatory democracy applied in the plural system. Whereas we speak of fundamental human rights - inalienable rights, we should reflect on a few examples. Below a portrait of one of America's presidents at the US Supreme Court are the words; *Justice and Equality for all men.* Yet this President had more slaves than the entire State in which he was, working for him against their will, providing free labour. He had black mistresses from whom he be got beautiful healthy children. He sold them, he profited from human trade, he violated the basic fundamental human rights yet he is praised with justice and equality to all men. It is such contradictions that people like Frank Guma went to fight for. The right to life is God given. Yet the Americans slaughtered the Red Indians, killed all their buffalo, their source of food, so they could starve to death. Today, there are only 300,000 of them in reservations. They are not provided with education, health or other social services. They are denied their human dignity by the biggest advocate of human rights! When the powers that be, decided that *th time* for Nelson Mandela's freedom crusade was over, they released him. We accept that, and that they observed basic human rights. Great Britain led the scenario as seen in the Australia, in New Zealand, in South Africa and other places. The advocates of basic human rights, in practice engaged in and promoted genocide against the Black people in South Africa.

Yet among them in the hierarchy of political power are devoted Christians, born again, proclaiming to the creator, of their justice and equality for all men.

It is in this reflection, Mr. Chairman, that our colleagues who have departed from us, who have left us in this Plenary when we are carrying on the work such as the one that Frank Guma fought for, should reconsider and come back to the fold so that we can finish this job once again. I want to reflect again that in the 1980 elections, the DP electoral city in Mityana was taken up by one prominent politician who had never been a DP. Did he believe in truth and justice as the DP motto said, he is known for being a political bridegroom having gone to the UN congress, the UPC - Kabaka Yeka and DP, Movement, and now NSD. Is this the way out of political participation at the centre stage? Mr. Chairman, in 1962, Prof. Senteza Kajubi then a DP, stood in the Makerere area Constituency. The politicians cried out loudly against this noble gentleman and he was cursed with wild wailing, he lost the representation of his people because someone misled the people. He cried out loudly that Senteza and DP were anti-Kabaka. It is such injustices that our colleagues like Lt.Col.Guma went to the bush to bring us *out of,* that we come to this negotiating table and find out a chart through which a covenant could be made for Ugandans to live together. Lt.Col. Frank Guma is remembered for his commitment for a good cause. It is in remembering the good deeds of our fellow Ugandans that the spirit of patriotism, dedication to serve others, sacrificing one's life like he did, to save Uganda from the death of devastation that, it is our duty to remember and emulate their good deeds. Thank you, Mr. Chairman.

MR. RWABIITA(Ibanda South): Thank you very much, Mr.Chairman. Mr. Chairman I support the Motion, and I join the family, the members of the CA, and the Nation to mourn Frank Guma. And on behalf of the Directorate of Construction in NRA, and the staff there, and on my own behalf, I bring condolences to the bereaved family. Because Frank used to work in the same directorate as a Director, and therefore the staff are very, very aggrieved for this loss. Mr. Chairman, Frank Guma worked in the directorate of construction NRA from 1988 up to 1991 as its director. As a director, he was greatly involved in the purchase of the necessary machinery to build up a strong directorate of construction which has the job of repairing houses and institutions of the army. There are shops scattered in many barracks which carry out the work of making doors, windows and even coffins for dead solders. In his term of office, he recruited over 700 soldiers in the directorate in order to train them so that they can get skills to be scattered over the country to assist in the reconstruction of barracks and many repairs there. These consist of plumbers, electricians, carpenters and in each barracks now, there is a repair unit run by these soldiers. And also during his term, he helped most of the senior officers in the army who just left the bush and had nowhere to stay, and this was a policy in the army, to give them some building materials like iron sheets and cement so that they can build themselves a few houses at their homes. And this was done very well, Mr. Chairman.

Mr. Chairman, Frank had many qualities, and those who worked with him, knew him as a straight forward man and like his name Frank, he was very frank and straight forward and very transparent. Frank was very generous, ready to assist those who are distressed, those in want and he was very friendly with all, even with his enemies. Frank was very courageous and responsible. He was so to even a dangerous level of no compromise because he was ready to die for his principles, and that is why he joined the army at the young age and within a few years, he was promoted to the rank of Lieutenant Colonel at an age of 42. This is a very big achievement in the army. Mr. Chairman, Frank, had a stamina of perseverance. A few days back, when I went to see him in the hospital, he was already in bad shape, he could not speak, but he had his smile. He could look at you, and give you a smile, and you knew that he had recognised you. And lastly, Mr. Chairman, Frank was a hardworking person and very developmental. In his county Bukanga, he had already initiated a lot of developmental projects including himself having a very big farm of bananas and he was starting to get animals and also mobilised his neighbours to follow suit. Mr. Chairman, the county of Bukanga will miss him a lot, in the CA here, we will miss him for his frank contributions and the country will always miss him for the struggle he undertook for the liberation of Uganda so that the people of Uganda can live in peace, can live in democracy, and in development. Thank you very much, Mr. Chairman.

MR. JURUA(Vura): Thank you very much, Mr. Chairman, and Hon. delegates to the Constituent Assembly. Laid before us here is a great son of the National Resistance Movement revolution. In this moment of grief, when we recognise the contributions of Lt.Col. Frank Guma, I would like to share with you my impressions about the deceased. Very many sons and daughters of Uganda took to the bush and lit the first fires of this revolution in which we now take pride and inspiration. Amongst them was this young man whose body now lie before us. All of us know somehow the sufferings and calamities that befell these young men and women while in the bush; some of them never lived to see the day their comrades marched into Kampala, but the deceased did. On behalf of those who genuinely believe in the revolution, we are grateful that Hon. Lt. Col. frank Guma, apart from taking part in the initial stages of the revolution, he also contributed greatly to the nourishment of this revolution in post January, 1986. One of the objectives of this revolutionary process was and is the making and handing over of the new Constitution to the people of Uganda. I am glad the deceased stayed long enough to see the beginning of this process. We all do recall the seriousness with which the Late Hon. Lt.Col Frank Guma always debated articles of the Draft Constitution in this Assembly. I am sure all the delegates of the Constituent Assembly are sorry that the Late, will not be here to see the finalisation and the handing over of the new Constitution to the people of Uganda. We will definitely miss him greatly. However, for those who genuinely believe in this revolution, I want to say this that, may his soul rest in eternal peace and in the words most familiar to revolutionaries like Lt.Col. Frank Guma, I say Aluta Continua. Thank you, Mr. Chairman.

BRIG. KYALIGONZA(Buhaguzi): Mr. Chairman, I support the Motion and I would like to join my fellow delegates to mourn and say something about our comrade Frank Guma. Frank Guma become a comrade of mine way back in 1981 in the "Bush". That is when I first met him and his qualities were so apparent that he was a fellow whom we were sometimes nicknaming as Kapere. Kapere of course was meaning, a fellow who sometimes does things which are not expectable of him. Hon. Delegates, today is a sad moment when we sometimes gather to remember the dead comrades. It is unfortunate Guma was a fellow who was all the time - while we were in the bush, he was talking about when we finish our struggle, I shall do ABC. He was a great planner, he was an industrious fellow but above all, he was so committed that one time when we were so desperately in need of food, as fighters in the Bush, he was responsible sometimes for mobilisation of our food, from very dangerous areas which were occupied by then people whom we used to call enemy forces. He would ride on his bicycle and mobilise the *Wanainchi* to get us food. To me, that was a very important thing because he was even a life saver.

So, Mr. Chairman and Hon. Delegates, Guma was among the freedom fighters who demonstrated his qualities of combat as Hon. Serwanga Lwanga has already told us. He was involved in some battles but the most important thing which of course involved virtually everybody who was in that camp to fight, Guma as Hon. Serwanga has told us, demonstrated his capabilities. But I would like to differ, Mr. Chairman, from some Members who normally praise the past comrades for the sake of praising. As you know very well, Hon. Delegates, sometimes, I have never had anybody criticising a dead person. Hon. Guma, we shall not be succinct to say he is good when actually he was supposed to be bad. But this time, he is actually qualifying that he was actually very good. Because many of you who have just seen him during this period of our constitution making, you will bear witness that

Guma was a frank man as Dr. Mugyenyi has said, as by his name, he was actually frank. He was independent in mind, he was free he could not accept to be bulldozed when his mind was clear that what he was saying was correct. And therefore, Guma was the actual freedom fighter who was not fighting for the sake of excitement, because he has seen others fighting, therefore, he should fight. He was fighting on principle. Guma was the first officer in one of our meetings to criticise some of the commanders who were chairing some meetings. And these have continued to remain a landmark in his qualities. He was among the first senior officers of the army after he had been convinced that the mission for which he had gone to fight in the bush is almost over. He found it prudent for him to go and liberate the *Wanainchi* politically. So, we went to Bukanga. And the Bakanga recognised his capacities and therefore, he was elected to this Assembly. His contributions are well recognised. His manner in which he was conducting himself among us is also highly recognised.

So, Mr. Chairman, Frank Guma is dead, Frank Guma unfortunately has not been able to witness the results of his struggle. Today, if he was living, he would have reminded us to say, today is what I am, yesterday is what I was and as you knew me. Tomorrow, it will be what we should be. So, Mr. Chairman, I mourn the death of our comrade Guma, he has not seen the end, and he has not witnessed the walking out of our comrades from this Assembly. But he must have been maybe told, if he was able to understand then that there are already some comrades with whom we are supposed to have shared some agreeable understanding, who have disagreed, and have opted to walk out. But I believe at the end of the day, all of us should come to an understanding, agree to work together. To cause our mother country Uganda to be a happy place to live in. So, Frank Guma, you have gone, we shall be with you. May our Lord Bless you. Thank you, Mr. Chairman.

LT. COL. KIIZA BESIGYE(NRA Delegate): I thank you, Mr. Chairman, to give me an opportunity to add my voice in support of the Motion as moved by Lt.Col. Serwanga Lwanga. I think it is fitting for this House to register its abounded admiration, the gratitude for the services rendered by Guma. I personally knew Lt.Col. Guma way back in 1982 when I found him in Mondrean Unit, at Kitema - Masanga in Semuto. And we have worked closely since then. I would just like to add a few words to the testimony that has been given by the other colleagues about the rare qualities that the Late Comrade Guma had. Lt. Col. Guma was a person who worked with a lot of vigour. Whatever he did, he did very, very vigorously. He was very fast in his actions, his walking, in fact he almost always run. And whatever he did, he did diligently with full commitment. He was definitely a very sociable person, as you have heard, he was quite generous, very generous indeed. He was a person who worked very closely with the peasants, identified with them all the time. As you know, he was very jolly, smiling, laughing, very difficult to annoy. And he had a very high sense of humour, and to those of you who knew him, he was obviously very frank. I would like also to add my voice to those who have said it before, he was a very frank person.

I have no doubt that he has made a significant mark in contributing to the peace that exists in this country today, offered his life for it, he has contributed tremendously to development, personally, of the country, as you heard, he left the army recently and went back to his village - one of the few people who leave government jobs in the town here and actually go back to the village. I know many politicians are fond of saying, I will go back to my village and attend to my farm or look after my animals. They are not very many who actually do it. Lt.Col. Guma left his job, left his House in the town, went back to his village and worked on his farm and mobilised his people in his village to join him in work. And those of you who have passed in his village will know that he has left a mark in this country in terms of development. I would therefore, like to join the other colleagues in using this opportunity to pass my condolences to his spouse and children, to his mother who is here, and his family to all his friends and fellow delegates, to you, Mr. Chairman, and the Vice Chairman, to the government and to the people of Uganda. Because definitely, we have lost a progressive and useful person who has served this country most unreservedly. I support the Motion, Mr. Chairman.

MRS. MATEMBE(Women - Mbarara): I thank you, Mr. Chairman, for giving me the opportunity to contribute on the Motion moved by Hon. Serwanga Lwanga. I wish to support the Motion, and I wish to express my grief at the loss of my friend and brother, Hon. Guma. I wish to extend my sympathies to the aggrieved family. I personally came to know Lt.Col. Guma as soon as they arrived here from the "Bush". I do not know how he came to know me, but I came to know him later, after he had known me. Because he used to meet me and say, *Afande*, and he would salute and I had to go out and ask, who is this man who meets me and calls me *Afande* when he is the *Afande* himself! From that time, we became friends, brother and sister.

Lt.Col. Guma has been my colleague in the Bukanga County I being a representative of Mbarara District. Therefore, we have been working so closely and, you know for us in the district, we do not have homes all over the counties but Lt.Col. Guma put his house at my disposal so that whenever I am in Bukanga, even when he is here, he has to send the keys so that I use the house and his home the way I want. So, such a person is really a real brother and a friend. I shall certainly miss him so badly. I wish to say that we are here to pay tribute and honour to the Late Guma, but we can only pay meaningful tribute and honour, if we who are left behind can

maintain, uphold and defend the ideals he cherished so dearly and fought for. Otherwise, our tribute and honour is meaningless. These ideals are democracy, freedom and development. We have to uphold them. Otherwise, he would have fought in vain.

Lt.Col.Guma, Mr. Chairman, and delegates, has died a young man as Hon. Dr. Mugyenyi said, but I wish to say here that it does not matter how long he will live, what matters is what you do in the time you live, whether it is short or long? And how you live it, Mr. Chairman. Hon. Guma has definitely lived a meaningful life and has made a significant mark on the Uganda scene in his short period of life. One would rather live a short period and make a mark than living long meaningless and useless years, Mr. Chairman. How did he leave it? Hon. Guma has been a very frank and honest man, very frank. You know, simply frank as his name says and really honest. I do not know whether anybody here in this House who has collaborated with Guma has anything to dislike him for! I do not even know whether he has enemies. Because a frank person, gets annoyed, tells you and it ends there and you are friends again, and that has been Guma. He has been totally dedicated. He has been kind and ready to give himself out for others. What else can one need? What else! Because God said, love your neighbour as you love yourself. Guma has done it. Guma has been non sectarian. The county of Bukanga is mainly composed of - majority are Catholics. But Guma has been telling them, please leave sectarianism, whether somebody is a Protestant or a Catholic, you vote on merit. During my elections, he really went around explaining to the people what should govern their choices and they should leave sectarianism. And right now, certainly Bukanga has been a very, very progressive county and was not thinking in terms of sectarianism again. That means, he has been a useful and a successful leader. Bukanga county does not have many educated people like Hon. Guma. He has been a great man in Bukanga, helping all people. His developmental projects have been a source of encouragement and support to the people of Bukanga. They have really missed. It will take time to get such a replacement like Hon. Guma. The people of Bukanga have really lost and right now, they are really mourning. And they are as if they are left as orphans there in the area.

Mr. Chairman, and Hon. Members, it is God who gives life and he is the one who takes it away. We cannot do much about it. We can only say, let His will be done. But I want to say that although I accept God's will to be done, as a human being, I want to say that, I wish that Hon. Guma had lived long enough to at least get an opportunity to contribute on the going debate of the political system. It has hurt me that he did not have an opportunity to express his views to that dear subject which was dear at his heart. Mr. Chairman and Hon. Members, when human kind sinned, we read in the Bible, we were condemned to death. So, die we must, there is no choice. And the time of death is hidden from us, it just strikes! However, God our creator was good enough and was able to let us know where to go when we die. And he also left the decision to us to choose in which of the two places, which I know the Hon. Members know, where to go. That is very good. We have the power to make the decision where to go. Hon. Members, a day like this reminds us of the need to prepare ourselves for that place. It is a challenge. And a day like this also reminds us of the need for dedication and commitment to our responsibilities while we are still on this earth so that when we die, we also depart honourably and we have a mark to leave behind. Death of great men like this, are a big challenge to people like us and can we rise up and take this great challenge! So that, one day, we shall also be put on record as people who have lived honourably and lived a meaningful life. May the soul of Hon. Lt.Col.Guma, rest in eternal peace. Thank you.

MAJ.GEN.MUGISHA MUNTU(NRA Delegate): Thank you, Mr. Chairman. In honour of our Late Comrade, I would like to put on record his service as a freedom fighter. The late joined FRONASA in 1979, in Mbarara. When forces organised in Kababati to form UNLA, he was sent to Tanzania for a cadet course which he completed in 1980. He came back as a second lieutenant and he was posted to general headquarters in the directorate of finance. He was arrested on 9th February 1981, in his office and taken to Katabi barracks where he was imprisoned at the quarter guard for two months. He was later transferred to Makindye where he stayed up to late 1981. Then he was transferred to Upper Prison Luzira. He was released in early 1982, and he immediately joined his comrades in the bush. In the bush, he was appointed the Director of Finance and Purchasing Officer. In 1986, he was appointed the Chief Controller of Finance. When ranks were standardized in 1988, the late was promoted to the rank of Lt.Col. In 1989, the late was appointed the Director of Construction

until 1992, when he voluntarily retired from the National Resistance Army, in 1993. The late Lt. Col. Frank Guma was a very hardworking officer as testified by the two comrades in the army, Lt.Col. Kiiza Besigye, Lt.Col. Serwanga Lwanga and Brig. Matayo Kyaligonza. The character of the late comrade Guma as specified by those officers is one known by all officers and men who served with him from 1979 in the struggle against Amin, and then in the struggle from 1981 up to 1986, and then from 1986 up to today. The nation has lost a great person. May his soul rest in eternal peace.

THE CHAIRMAN: Hon. Delegates, the Motion is by Hon. Serwanga Lwanga and it was read out. I will put the question.

(Question put and agreed to)

THE CHAIRMAN: Now, on behalf of the Constituent Assembly, I will be sending the following message to the family, relatives and friends of the late Hon. Lt.Col. Frank Guma. "The sad news of the untimely death of Hon. Lt.Col. Frank Guma has left all of us in great shock and deep sorrow. On behalf of the entire membership of the Constituent Assembly, I wish to convey to you our heartiest condolences and sympathy. During his stay in the Constituent Assembly, Lt.Col. Guma proved a dedicated delegate of the people of Bukanga. He made his contributions on any issue before the Assembly, with both great conviction and an wavering commitment to what he always saw and knew to constitute the national good. The most untimely departure of Lt.Col.Guma at a time when the Assembly is about to finalise this important task has robbed the assembly of a very dependable contributor and debater. Lt.Col.Guma's contribution to Uganda in the struggle to liberate this country will be remembered for long after his departure from amongst us. In our memories, he will remain a shinning example of a committed nationalist who did all to advance the cause of democracy, national stability and development. We all join you in praying for eternal mercy to be bestowed upon him. May his soul, rest in eternal peace." This is the message that will issue from here to the relatives of Col. Guma.

For me, I knew my friend Col. Guma personally in 1986 through my friend Sam Njuba. At the time Col. Guma presented his credentials, in fact he was presenting his credentials in a traditional ceremony at the family of - to be able to marry the daughter of Hon. Sam Njuba at Nagabo. And so, I was there and that is when I met him. And from that time, we have been friends. And on behalf of my family, I convey my condolences to the family, the friends, and people of Bukanga for this terrible loss. The members of the Constituent Assembly, I would like to announce, have made a contribution of 634,000 shillings towards *mabugo* of the late Lt.Col. Frank Guma. Now, we shall proceed as follows: We shall lay the wreaths - those who have them to lay, and then Members can come, pass by to pay final respects, take your seats, then we shall adjourn after we have done this. Now, we can begin by laying wreaths.

(The wreaths were laid)

THE CHAIRMAN: Delegates, just before I adjourn, I would like to announce that a mini bus of 27 seats will be available tomorrow morning to take Members who wish to travel to Mbarara for the burial. Those who are in a position to travel, they can contact Hon. Mugyenyi who will be making the final arrangements and details of departure.

That brings us to the end of our proceedings for this morning, in honour of our friend, and colleague, Hon. Lt.Col.Guma, he brought us together *(Applause)*. And I wish this was a permanent development. We shall remember him for this. I now adjourn the assembly to resume at 12.00 noon. I think given the time we had assumed would be much earlier, but now I think we should resume at 2.00 p.m. because there will be prayers at Christ the King. I would like to request the delegates to remain standing in their positions while the cortege and the family of the late depart for the church. Thank you.

(The Assembly adjourned for prayers and lunch and resumed at 2.00 p.m, the Deputy Chairman, Prof Mwaka, presiding)

CONSIDERATION STAGE OF THE DRAFT CONSTITUTION OF THE REPUBLIC OF UGANDA

THE DEPUTY CHAIRMAN: Hon. delegates, can we resume our seats and proceed with our business? But before we start, perhaps let me start with this announcement from Hon. Ponsiano Mugyenyi by saying that there will be transport to go to Bukanga for the burial of Hon. Lt. Col. Guma here at the Conference Centre at exactly 7.00 a.m. in the morning tomorrow. So you will remember they announced that there will be a minibus. It will be leaving from here at 7.00 a.m. Thank you. Now at least Hon. Mwaka is around and Hon. Eresu and I see they have an amendment on 98.

MR. ERESU ELYANU: Madam Chairperson, I propose that the former Article 96 which later on numbered 98 be deleted. I beg to move.

THE DEPUTY CHAIRMAN: Okay, you are saying that we delete 96 in the draft?

MR. ERESU ELYANU: Yes.

THE DEPUTY CHAIRMAN: Which is: "*during any period when the Movement is in existence, political parties shall not endorse, sponsor or offer a platform to, or in any way campaign for or against the candidate for any public election.*" But I am also aware that there is a new amendment 98 because we only followed the Draft for 94 and 95. Then after that, we went back to the report. So when you are deleting, you should be deleting what is in the report. So can we be guided by Hon. Sam Kutesa?

MR. SAM KUTESA: Madam Chairperson, that is precisely the point I wanted to make as a point of procedure. Admittedly, a lot of our work has been interfered with or altered but I thought the procedure was that we are debating our report when we finished Article 94. So since you have guided the meeting, I have nothing more to add.

THE DEPUTY CHAIRMAN: Okay, in case we go back to the report, can you guide us which is the equivalent in your report?

MR. SAM KUTESA: Well it appears on page 31 which is new 97 on page 31 of our report. It is combined with a few other things but that is where the contents of the old Article 96 appear.

THE DEPUTY CHAIRMAN: Okay, I really do not know what procedure we should take because now we have an amendment on 98 but Hon. Eresu's Motion departs furthest. Unless he reads through the contents and feels still that the contents of the amended version also still should be deleted. It reads like this: "*Subject to the provisions of this Constitution but not withstanding the provisions of Article 12 and paragraph (e) of Clause (1) of Article 59 of this Constitution, during the period when any of the political systems provided for in this Constitution has been adopted, other political systems and organisations subscribing to them may exist, subject to such description as Parliament shall by law prescribe.*" Now that is the new version of 96 in the report or 96 in the Draft Constitution. So can we hear from you.

MR. ERESU: Madam Chairperson, when I wrote this amendment, I was following the text as in the Draft and I meant Article 96 as it appeared in the Odoki Draft and not what is written in the Committee report and that is why I thought that probably that was the best way to move that amendment. So, I do not know now where - you may have to excuse me and the Chairman of committee five could also come in. Now 96 which was in the Draft, where has it been placed as it is in the Committee report?

THE DEPUTY CHAIRMAN: It is on page 31 (96) new 97 and it is amended by Hon. Kaberuka. I think you have the amendment by Med Kaggwa, Kanyeihamba, Karuhanga and Kabayo. That is the amendment on the Floor. Okay, let us hear from Hon. Kanyeihamba.

PROF. KANYEIHAMBA(Rubanda East): Thank you, Madam Chairperson. I think that we have been reporting, Madam Chairperson, since yesterday that these amendments including the recommendations made by Committee Five were submitted to the Legal and Drafting Committee for synchronisation and I think that Madam Chairperson, if we can proceed on the amendment which we have synchronised rather than going back either to the original Draft or going to Committee Five because since you directed Madam Chairperson, these matters have now been handled by the Legal and Drafting Committee. So I think we should proceed from what they have synchronised rather than making a reference either to Committee Five or to the Draft Constitution. Having said that Madam Chairperson, my first report was that the substance of former article -

THE DEPUTY CHAIRMAN: It seems Hon. Kutesa has some problem.

MR. SAM KUTESA: Madam Chairperson, I want to correct Hon. Kanyeihamba. I do not think this is the correct position that the Committee Five report was submitted to him for synchronisation. There are amendments that have come from Members which should be amending this report after we had considered Article 94. We agreed or the Chairman ruled here that Article 94, we shall go back to the Draft. That we did and after that, all other amendments must be synchronised by the drafting committee to amend the committee's report. That must be the position. It is not that this report has been submitted to him as an amendment to synchronise.

PROF. KANYEIHAMBA: I am grateful for the clarification by Hon. Kutesa. That is precisely what I said. These are the amendments either on the committee's report or on the Draft Constitution. So there is no conflict there Madam Chairperson. The point I was making Madam Chairperson, is that the former Article 96 whether as presented by Committee Five or as synchronised by the Legal and Drafting Committee has now become 98 and the original amendment which was submitted by Hon. Eresu is on that particular substance matter regardless of the number. So I was very glad Madam Chairperson, that you read the latest amendment in that particular substance. If it is still the intention of Hon. Eresu to move deletion, then it would be deletion of 98 not original 96 because the substance has now moved to 98. So I think that you guided him correctly by saying, is he now happy with the new amendment which really now is the substance of the original 96 or does he intend still to move the amendment? And if he does for deletion, then obviously his amendment for deletion would take priority being or departing furthest from this provision. I thank you.

MR. ERESU: Madam Chairperson, the issue is now clear to say that the amendment should have - it reads restriction on political parties. Is that the case? Okay if that be the case -*(Interruption)*

THE DEPUTY CHAIRMAN: It is restrictions on the political organisations.

MR. ERESU ELYANU: Which reads that during the period **when the** movement is in charge -

THE DEPUTY CHAIRMAN: No, you get this, you do not have this one. Can you avail him a copy?

MR. ERESU ELYANU: We have a copy which is moved by Hon. Kaberuka, Hon. Med Kaggwa, Kanyeihamba, Karuhanga and Kabayo which reads: "*Subject to the provisions of this Constitution but not withstanding the provisions of paragraph (e)* ..." and on top it is written Article 96. So now, is this one standing for 96 as on the Draft or as a committee report? There is still confusion here.

PROF. KANYEIHAMBA: Madam Chairperson, the original provision in the Draft Constitution and as considered by Committee Five had separated two issues: it had said that when the Movement type of system is in power - the Movement political system is in power, there will be restrictions on political parties. But the amendment which the Hon. Member has read out, if he had read carefully, it is now common to all systems. It is saying that when one political system is in power, then what you have read, will apply to those systems which are not in power. So it is no longer exclusive to the Movement and Parties but it is common to all political systems. And then we are not imposing those restrictions but we are saying that Parliament of the day would then do the necessary if it feels that that is what should be done. So this is the new amendment that is proposed and it is not restrictive incidentally. The amendment says regulations to be imposed by Parliament.

MR. ERESU ELYANU: Madam Chairperson, whereas I agree with the presentation of or the explanation being given by Prof. Kanyeihamba, the question which still nags us is, why should there be restrictions or regulations for that matter? We must be clear about this before we take any further step.

MR. MEDI KAGGWA: Thank you very much, Madam Chairperson. I think in all fairness, the motion should be tabled and then perhaps Hon. Eresu will be clarifying, but now he is debating before the matter has been fully put and he is preempting what is going to be given. So I pray that the motion is introduced formally and then he can raise this clarification. Thank you Madam Chairperson.

THE DEPUTY CHAIRMAN: You see the technical issue is that he was trying to develop some

kind of negotiation. Hon. Eresu, Hon. David Mwaka, Owiny Dollo and Hon. Omute, their motion is to delete 96. So what we are answering is, which 96 are they deleting? One, you forget the Draft Constitution because now we are discussing the report. But for them, they had moved to delete from the Draft Constitution. We are saying that one is no longer applicable. Now, when we come to Article 96 in the report, we are saying even that one, the position has shifted. We have a new formulation but even if we have a new formulation, their motion to delete takes precedence. Therefore I was seeing why they still feel that their motion is tabled that we delete or if they are satisfied, we save the time of going through the debate on the deletion. That was the position. So let us hear from him.

MR. ERESU ELYANU: Madam Chairperson, in consultation with Hon. Mwaka, we still insist on the fact that anything like restrictions or regulations does not augur well with Article 59 of this Constitution and for that reason, putting any kind of regulation in favour or against any political organisation is not a democratic process. For that reason, we still maintain that where there is a restriction or a regulation even if that power is given to Parliament given that Parliament of the day at that particular time may have a certain position it will take because that Parliament will have a majority which will be in government and may in one way or the other legislate in favour of that government which is in power, and that Parliament will not therefore take into account the right of association with respect to the minority who must by all means have that right of association because that is their God given right, for that reason Madam Chairperson, we still stand that the article be deleted.

THE DEPUTY CHAIRMAN: Yes, he has moved his motion and it is duly seconded according to what we have. So can you debate on your motion.

MR. ERESU ELYANU: Madam Chairperson, I have partly given my points for the deletion. I would also add that we are not simply writing a constitution to create institutions which at one stage or the other may find itself in a restricted corner, we are writing this constitution bearing in mind that the long-term effect is the freedom of the individual in this country which freedom this individual will have to exercise within the laws that will be made by Parliament. The Constitution simply provides the guidelines which will be crystallised by Parliamentary legislation and laws that will be made therein. For that reason, having an article which will have to restrict or at worst, which will have the effect of regulating a particular political organisation is tantamount to denying associations of this country, in the future, to be free. We know very well that these kind of associations will work in whatever way within the laws of the land for the benefit of this country.

Number two Madam Chairperson, we have passed in Article 94 that there will be three systems in this country. We have said there will be political parties, Movement and any other system. Here, we are only saying restriction on political parties. What about any other system which we do not know? Supposing any other system which we do not know is in power, what will this article really apply in any other system? In other words, this kind of restriction is only limited or this kind of regulation we talk of will only be limited to political parties. So the law in itself is inadequate. In other words, it is not going to cover all the systems that were passed in Article 94. Madam Chairperson, we could also have to know one thing that to restrict or to regulate means there are subjective ways of handling affairs. Who is going to be there to measure and who is going to see actions of the other and feel that that action determines being restricted or being regulated? I think the person should be given his freedom and any other Statutes which will be made in Parliament which are in common law. If that person or that group goes against it, then they will be charged or they will be restricted by that kind of law or regulated by that kind of law other than stating specifically that such and such an organisation is restricted or is regulated.

I would not like to go very far because I know Members may find it difficult to agree with me because maybe the River Nile is flowing from Mediterranean Sea to Lake Victoria but I want to state that it is very important for us to realise that the freedom of the individual to associate and exercise his rights in association is very important. Thank you Madam Chairperson.

MR. ABALIWANO(Bugabula South): Thank you, Madam Chairperson. I disagree with the Hon. Member when he talks about restricting Political Parties if what we are trying to do is to find a way in which they can operate properly in our country. There is no society that can exist without some rules

and regulations. In fact the whole idea of bringing regulations and rules has come as a result of the history we had on political parties. They themselves have been most undemocratic. Political parties have more often than not been indisciplined. I think it is only fair that all that the political parties have been talking to us here is that they want the ground to be levelled and you can only level the ground if you have regulations governing everybody concerned as long as they have political parties. It is well and good to talk about the two, the three political parties in this country but we could end up with 100 political parties and if we do and we have a multiplicity of these parties without any rules and regulations governing them, we would have nothing but chaos.

So it is important that, because of our historical factor we need to regulate political parties and as long as we are giving it to Parliament and Parliament within the body itself of Parliament, there will be Members of various political leanings and I think they should be able to sit down and say this is the way we are going to level the ground, this is the way we are going to continue to operate and should be the best way in which all of us would be able to play the game fairly rather than putting everybody to task that as long as you are in the majority, you can do almost anything you want. I have seen even when it comes to democracy as some people always express it, where people were being forced to change their cards in front of crowds, that it was a pleasure for somebody to say, Sir, within this area, 8,000 people have now turned to such and such a party and they make everybody stand up even if they do not belong to that party because the regulations were such that you could do anything to anybody at any time because you have the majority. Now as far as I am concerned, as long as we are able to have this historical factor being put right and create regulations that will be able to govern these parties, everybody will be able to know how far they can go and not go within the system. I think that will be the best way in which we could have peaceful elections and peaceful parties in our country. Madam Chairperson, I think I would like to end there. Thank you.

MR. SEMAJEGE HIGIRO(Lwemiyaga): Madam Chairperson, one of the key reasons why we are here is to frame guidelines for this country in future to run smoothly; for this country not to go into chaos - the one we have been to for many years; for this country to change governments by the ballot not by the gun. Madam Chairperson, when we were voting here on whether to delete Article 94, one of the reasons why I voted the way I did was that you could not write a constitution and leave out political systems, and leave out how they will be regulated because everybody in Uganda whether correctly or wrongly believes that it is political parties - *ebibiina* - which caused all the chaos. So with this background Madam Chairperson, how can we write a constitution and leave out how to regulate political systems? I wish to inform my brothers who are moving this motion that actually what we would like to do here now is to set regulations which will not only affect political parties but even when political parties are in power, then the Movement. Those people who will believe in Movement and want it to continue will also be affected by the same regulations. So, it is not a regulation aimed at restricting political parties only. It is a regulation which will affect all the political organisation which will be in Uganda many years to come.

So Madam Chairperson, as long as you are insisting on having regulations to affect the political systems - whichever whether Movement or otherwise, I would like to say that I am opposed to deletion because it is the very purpose of our sitting here that we have to set some regulations; how we shall be affected, how will Uganda move? Either we think we are in a country where vehicles move to the right but that there must be law to be accepted. If you say anybody will drive the way he wants, those who are used to driving on the left and those who are used to driving on the right are likely to have accidents daily. Is that what we want? We want political systems to be there, multi-parties must be there, Movement must be there and any other one but there must be some framework as to how they will work so that Uganda goes forward. Madam Chairperson, I am opposing that on those grounds. Thank you very much.

MRS. LAGADA(Women - Apac): Thank you Madam Chairperson. Madam Chairperson, I wish to oppose the deletion. I am a great believer in rules and regulations for the purposes of peace in society. I really believe that wherever a person lives, be it in the family, in a small community or the wider one, you need certain guidelines in order to operate in such a manner that everybody in the society enjoys maximum benefit of harmony. When I look at this

amendment or proposal of committee five of which I am a Member Madam Chairperson, I think the committee did a very good job in providing for what parties may not do when the Movement is in governance. To say that we delete is to say that we are not recognising that the two systems, like the Movement and the multi-parties operate in different ways.

Madam Chairperson, I want us to imagine a period when the Movement type of government is on and then you say because of freedom of association, we want freedom of association to be there, people to open the branches, to hold delegates conferences and what not! We already know that the Movement type of government, at least the RC system is a very strong feature of it. Now think of a village where you have your committee of the RC duly elected by everybody because the villagers think that they are the best people to run their affairs, then you have your UPC branch also with their structure, then you have your DP branch with another structure, then these are people who are all going to compete for control of the village at the same time. So, you will have a programme, the RC says let us come and build this school, then the other people of the UPC, the officials there say no, no, let our members not go and participate because this is not our programme! You have on one hand one group mobilising the people, you have on the other hand another group demobilising the people. Indeed Madam Chairperson, I am not just saying this out of imagination. I did see it in the last CA campaigns. My district of Apac got so demobilised. You will be surprised that up to now, we have schools which were going on very well until the CA when people were demobilised and told, do not build these schools. They are Museveni's schools. Wait until our man comes back and our schools are built. I would hate to live in a society where there is so much confusion. So I think for the purposes of harmony, let us accept that this systems of government that we are putting in the constitution are recognisable, they are different so that when one is in operating, we behave in a certain manner. When another one is in operation, then we can go back and behave in the manner in which parties want people to behave and then eventually, Ugandans will decide what is good and what is not good. I thank you.

MR. NGOBI(Presidential Nominee): Thank you very much, Madam Chairperson. I am grateful that I have a chance to say something about this because as it has been pointed out, one of the main reasons of our coming here is that the political parties that were in existence did not help to bring peace in the way we expected and it became evident that somehow, if we are going to go into a better future, we have to have some regulations, some code of conduct. Therefore I am surprised to hear that the Hon. Member who advocates a system of free for all - we have been there, we have seen what has happened. Sometimes we do not want to open wounds because that is not good. This is time for reconciliation but there are certain things that you cannot forget and those things are the ones that caused us problems because parties never observed any rules. I was unhappy or a bit uneasy about the former formulations but I think this present one seems to meet my wishes that any party, any political party or organisation that is in power or it is out of power must observe certain regulations. We know that this is a natural thing. Apart from the bitter history that we have experienced, even in normal nature for instance, the body to function well, it has to be regulated. Even things which we know fairly little about, the solar system has to move in a particular way otherwise if the sun comes nearer than where it is, we shall all be burnt up. Everything has got to be regulated. The only problem comes in if the regulation is for just a particular section, it does not cover everybody, then of course you get worried. You get somebody who has got a habit of stealing another persons property, we have to regulate him. It is for the good of society and we will be doing ourselves a disfavour if we completed this exercise without providing for some sort of regulation or code of conduct of parties. Otherwise, we will just go back to where we were and people will be running, beating one another, torturing others and just because you want to be in power, you do anything irrespective of what one should do. So therefore, I think without really having to go back into history, and I am prepared, if I had time, to relate a number of things that really make one feel bitter against uncontrolled Parties or Party behaviour. I think Hon. Members should agree to the principle of regulating parties so that everybody knows what to expect, how to proceed so that we have a more civilised advanced, peaceful future. I therefore oppose the deletion but before I finish, just one word that instead of using the word "restriction", maybe we use "regulation" so that everybody should be happy. Thank you very much Madam Chairperson.

THE DEPUTY CHAIRMAN: Hon. delegates, I have heard four speakers all saying they are not in favour of the deletion. To break the monopoly, let me specifically call upon those who are supporting the deletion.

MR. OWINY DOLLO: Thank you, Madam Chairperson. Madam Chairperson, we are not saying political parties should not be regulated, that is a subject for Article 97 not 96. We are saying that if the Movement type of government is the one in operation, political parties should not be killed. We are saying this, Madam Chairperson, because my understanding of a Movement type of governance is that Movement is a concept that does not and will never assimilate political parties. It merely seeks to integrate political parties under one system of governance. It can never, never assimilate political parties. That is the only virtue of the Movement type of governance. The moment it tries to assimilate political parties, then it fails. Such a Movement, you end up with a one party organisation. The difference between a one party organisation and a Movement type of political organisation is that a one party organisation assimilates all other parties whereas the Movement concept - and it is debatable whether it has been practiced here or not - the movement concept seeks to integrate political organisations so that while they maintain their identity, it is by popular will of the people that they are not allowed to selfishly fight for political responsibility. That is my understanding of the concept of Movement. And when I proceed from this premise then, when the Movement type of governance is in operation whether for five or ten years, then logically, it means political parties should exist on the basis of the regulations which we would have put in Article 97 in the Draft which should apply whether they are in governance or the government should wait on.

There should only be one rule for political organisations and not to say when the Movement type of governance is operating in Uganda, political parties should suffer yet another curtailment in their operations which sought to be done in Article 97 in the Draft proposal or Article 96 in the Odoki Draft. Madam Chairperson, my fear is that or the argument which my other Colleagues have put that during the Movement's enjoyment of State power, political powers should not even hold delegates' conferences, not open up branches, not do this or that. The people of Uganda may have got power to political parties after 30 years and may genuinely wish to have a Movement type of governance, then after 100 years, they are totally tired with the Movement type of governance. It is not impossible unless we want to deceive ourselves. Then because you have killed political parties for 100 years, you have not allowed delegates' conference, you have not allowed for any things, the same leaders whom people got tired of are the very same leaders who will take over power because there have not been elections. One would think that in the period of Movement being in governance, the political parties should be given an opportunity to re-examine themselves to find out where they went wrong. Why is it that people who voted them in power yesterday went against them and the saying would be true for Movement type of governance! When the people get tired of Movement and say we want our parties, by popular win, then Movement should be in existence as an organisation and say that whenever we are in power, we shall integrate you. Political parties will say whenever we are in power we shall eat alone. Then the Movement will re-examine itself and say, why were we rejected despite our popularity 15 years ago? You cannot now curtail activity of the other side simply because one side has got State power. I think this would be a serious miscalculation on our part. I urge Hon. delegates to reconsider their positions and leave the curtailment or the regulations of political activity to Article 97 in the Draft and delete the present Article 96 in the Odoki Draft or 97 in the Kutesa recommendation. Thanks a lot Madam Chairperson.

MR. DAVID MWAKA (Nwoya): Thank you very much Madam Chairperson. Madam Chairperson, I strongly support this motion to delete this obnoxious article from our Constitution. Madam Chairperson, on Tuesday 20th June this year, the Movement supporters decided to entrench their political party system in our new Constitution to the disappointment of many Ugandans. I keep on repeating that the NRM is nothing but a political party just like any other political party in Uganda. Those many party advocates who walked out in protest and who are still out of this August Assembly represent many Ugandans who want free and fair elections. They want competition in politics. According to what I have so far heard from those who have spoken on this article and according to the conditions I have seen listed under the report of committee five which I know will prevail, this August Assembly is yet about to commit another very serious crime against the people of Uganda.

Madam Chairperson, for more than nine years now, this country has been under the rule of the NRM party whilst other political parties have been ordered to shut up. For more than nine years now, Uganda has been a one party State to the disappointment of many Ugandans who do not support it. I am surprised Madam Chairperson, that there are still some Hon. delegates here who want to continue in that status quo to the disappointment of the silent majority. His Excellency Yoweri Kaguta Museveni on many occasions stated without any reservation that the people of Uganda are not yet ready for multiparty democracy. That is why he would like them to be herded together under an umbrella organisation called the Movement. *(Applause)*. Madam Chairperson, for the first four years of the NRM rule, the people of Uganda accepted or tolerated it but when the NRM party extended its stay in power for another five years, the umbrella got punctured and started leaking terribly. Now it is more than nine years and you still want to herd the people of Uganda together under the tattered umbrella by force for five more years or even beyond. This is unfair, it is criminal, it is immoral.

Madam Chairperson, the people of Nwoya county want free and fair competition in politics. Why do you want to deny the people of Uganda their right to choose a party to lead them from all alternatives available? What moral authority do the Movement people have to postpone the basic rights of the people? We may talk about a transitional government of national unity, yes we could consider it as an administrative arrangement but not entrenching it in our Constitution again. It need not be called the Movement system, it could be called an interim government of national unity or a transitional government of national unity. It is true that under UPC governments the Acholi people never benefitted much. That is why you will not find many infrastructures in Gulu despite the fact that it is a regional headquarters. Under Obote's rules, development projects meant for Acholi were diverted to other areas on tribal grounds. I have always said this and I will always say it because I know it is not a capital crime to say the truth. But our people still say that they never suffered as much under the multiparty democracy as they have suffered under the NRM party. So to appease them, the NRM government has to do quite some work there to enable them change their stand.

Madam Chairperson, and Hon. delegates, I ask you to reconsider your position on this matter. Our Constitution must show that the people who wrote it were totally committed to social justice and democracy. It must show that we have tried to avoid dictatorship in all its forms and manifestations. Our new Constitution must indicate that when writing it, we were all united in our efforts to steer Uganda on the road to social justice, reconciliation, lasting peace and true democracy in order for the present and all future generations to achieve meaningful economic development. Any serious political party with a constitution must not be hindered if we mean well. Discontent breeds instability. This is something we must try to avoid at all costs. Apparently, most of the Movement proponents here are only looking at this matter in terms of the material gains they are enjoying today. This is very dangerous. You are leading this country to chaos. How are you going to hold this country together with all this greed for power? If the Movement supporters here really mean well, why do you want to regulate or restrict the activities of political organisations? You allege that political parties are not democratic and that some of their leaders have been there since the early 60s, if you do not allow them to hold delegates' conferences, to elect their officials or discuss matters to update their constitutional manifestos, how do you expect them to make any positive changes in their respective policies? You have already blamed political parties for having committed all kinds of crimes yet you are too afraid to give them a platform to explain anything to the general public. You want to do all the talking alone! You only want the voice of your party to be heard. You do not want other political parties to talk. This is most unfair. It is very immoral. This is the same as tying your enemy *kandoya* which is one of the most inhuman ways of treating God's creatures. When you have tied his hands behind him, then you start mutilating him alive!

Madam Chairperson, if this august Assembly means well, it will not constitutionalise restricting or regulating political party activities but leave any political party to organise meetings so long as they do not break any law of this country. Madam Chairperson, I strongly support this motion and I hope all Hon. delegates in this august Assembly will reconsider their position and see this objectively and look at these things in their true perspectives. Thank you very much. *(Applause)*.

MRS. JANAT MUKWAYA(Mukono South): Thank you very much Madam Chairperson. With all due sympathies to my dear colleague Hon. Mwaka, what he has just stated - the vigour and the force - really adds to my rejecting the amendment to delete. Secondly Madam Chairperson, the way individual members of the political parties have behaved ever since we came here, the way the individual members of political parties behaved in their campaigns during the CA election, the utterances, the print media dictates that these people have no moral authority to say or to talk the way they are talking. I want to answer Hon. Mwaka about the moral authority. Where do we get the moral authority to regulate political organisations? Personally, the moral authority I have is that I offered myself to the electorate of Mukono South. I was elected with an overwhelming majority. It is on that background Hon. Mwaka, that is the moral authority I have. Secondly, my people sent me here to reject and ban political parties. That is the mandate I came here with but through negotiation Madam Chairperson, I struck a compromise that okay, these are people, they tried to convince me that in future, they may clean themselves and offer political programmes. On that basis Madam Chairperson, I said okay, let us regulate the activities. Thirdly Madam Chairperson, it is our history which has taught us to decide that way. It is not out of the blue. We have been here. I am 41 at least, I was here, I saw what happened in 1966, I saw what happened in 1985 and I see what is happening now and I think it is my individual personal right to say what I am saying. Even as an individual, because it is not only the multi-partyists who have the moral authority to dictate but as an individual, and as a product of this history Madam Chairperson, I think I have the moral authority to say I reject, on behalf of my people, the deletion of this article.

Lastly Madam Chairperson, I think if we really appreciate what Hon. Mwaka is saying, I think we have been genuine people, we are really here to reconcile considering our history, considering the abuses we have received in this august House, I think we have reconciled and I would only beg the multi-partyists to respect this reconciliation and accept regulation. Finally, Madam Chairperson, God himself could have, say in one day, he could have created this earth with whatever is in this world. But he regulated his work. On the one day he did this, second day, and actually he did the work in six days. Who are we not to regulate our activities in this world? So I beg Members to actually throw out this amendment and without wasting time, let us regulate these activities so that we have sanity in this country. Thank you Madam Chairperson.

MR. BIDANDI SSALI (Nakawa Division): Madam Chairperson, thank you very much for having given me this opportunity. First of all, I would like to request those who have spoken for this motion to open their internal eyes and ears and listen to another aspect of what they have been opposed to ever since we started debating 94.

Now, this Assembly has passed 94 in the form that we passed it, the new Constitution now will recognise two and possibly three alternative political systems of governance. Now, the moment that was passed, it implies that provision that in order to allow the functioning of a particular system as decided upon by the people of Uganda, you need an environment, an atmosphere in which that system will operate and by implication, anything that will not allow that system to operate will be regulated or should be regulated, otherwise, the system that has been agreed upon, will not operate. Therefore, it is not a question of restricting or curtailing a freedom of anybody, it is a question of providing conditions that allow the operation of the Movement decided upon by the people of Uganda, that is the issue! The issue is not regulating the parties, the issue is not restricting political organisations, the issue is a provision of conditions in which the political system of the day will be able to operate.

Madam Chairman, as I said before, before 94 was passed in the way it was passed, one could debate this in the way Hon. Mwaka is debating but having realised and accepted that 94 was passed in the way it was passed, it is really incumbent on Hon. Mwaka and Hon. Eresu to debate this with the background of what was passed in 94. Madam Chairman, if I could also refer a bit, because much of this is really politics which was mentioned by Hon. Mwaka, a one party State which has been on for 9 years, I think that is politics, especially for the Press and Gallery. But let us agree and I entirely agree with him when he states that the people of Nwoya believe and genuinely too, and that could be a fact, that they have suffered more during this period of the Movement than before, nobody can challenge Hon. Mwaka on that because he is the representative of the people of Nwoya. Now, but there are also people I represent, who say that they suffered more during the multiparty politics than they have suffered during the Movement politics. Now the ques-

tion is the sum total of the people of Uganda; what do the people of Arua say, have they suffered more during this period than during the multi party? What do the people of Kumi say, what do the people of Kabarole and Kamuli and so on. Now, if you take a cross section, you will find that there are areas which will subscribe to the view of Hon. Mwaka's constituency, and those who will subscribe to the views of my constituency and in the final analysis, it will be who will be more, that is if you really pursue the logic according to Hon. Mwaka and since we are all here as people of Uganda, we tend to take the consensus, the majority and so on. Not the majority in a negative sense that has been depicted by the multi-partyists, but in the sense of the consensus of the people of Uganda. Therefore, let us discuss this matter, let us look for a consensus, let us look for a solution for tomorrow's problem, not strictly on the basis of the small spot each one of us is representing, but on the over role spectrum of our national unit called Uganda.

Madam Chairman, for goodness sake, Hon. Mwaka and some of the people having the same idea, why do we not get off this thing called greed for power, power, power! It is not true that members in this Hall are discussing power, as you are stating, that they want to keep themselves in power. I want to assure you, I am not one of those who want to keep myself in power, no way! My phobia, my ambition, my sitting here everyday is an attempt to contribute, together with you and the rest of the people of Uganda, to a foundation for our country where the sufferings so far we have gone through as a country, where the suffering which the people of Uganda have gone through or are going through, is really a foundation provided so that no such suffering happens again. That is why we are here, at least the majority of us, not because we want power. After all, power has always been here since independence. But where were we when this power was being practiced? Some of us were here, we have never been in exile, the others who were leading the walk out have always been in exile for more than 10 years, they only came back at a time when the environment is possible for us to lay a foundation and then, instead of contributing to the laying of this foundation, people are talking about power.

I have always stated, and I continue stating that if even President Museveni, if President Museveni wanted power and that was the thing, any time in the past up to day, he would have thrown this country to the elections and any political analyst will tell you that he would have been in power, we would have been elected by the majority and therefore, that would have ensured his continuity to stay in power and according to Hon. Mwaka, that would be a crime. But that is not the point. The point is, after you Hon. Mwaka, after us who are here, are we going back to exile if you retire and I retire? Are you retiring to your constituencies and mine or I will there and then find the shortest cut across the borders of Uganda? Hon. Mwaka and Hon. Eresu, the issue is not power, the issue is a foundation for solving the problem tomorrow. It is this harmony, this apparent harmony now that has been on, that has allowed us to come here and look for this foundation and try to hammer out this foundation and it is this harmony which is being misunderstood by some people here, misinterpreted by some people here to mean that it is now okay, it is now permanent. What has gone on in Burundi, where the same people there were persuaded to say now, things are alright, Parties. What happened? In Nigeria, things were now okay, if you do not do this, we will not do that, we now want parties. What happened? What is happening next door, where there is multiparty? What is the plight of the common man in that neighbourhood there? Where nobody can move now after 9.00 O'clock, where in certain areas, certain ethnic groups are against the others; murders are committed and it is all under multiparty democracy.

So, the issue is not multiparty, the issue is not power, the issue, Hon. Mwaka, is how do we go about laying a foundation to preventing what has happened, and even as you say, what is happening now! Therefore, Madam Chairman, I end by restating the fact that what we are talking about, what Hon. Kaberuka's Motion for example, is going to talk about is, if the people decide that we go multiparty, what are the conditions that will ensure that the multiparty system operates correctly and this is where we are saying that Parliament, the Parliament of tomorrow will put in place such regulations of political behaviour to the people of Uganda that will allow for the proper functioning of a multiparty system or of any other system we have been talking about that may come later.

And finally, for goodness sake, stop confusing the NRM and the Movement system. We have had governance under multiparty, we have had under

one party system, we have had governance under military and I am sure you agree that we have had governance under Movement. What we have said, that in case conditions arise and multiparty politics or governance is not possible, the resort should not be military, the people have discovered a different resort and that resort is the politics of the Movement as we have called it. Now, should it happen in future again, for goodness sake, conditions not allowing multi-parties to work, it should never be military again, it should never be one party again, the system that we have our selves experienced should be tried again and that is the Movement system or the no-party system, basing on all of us getting involved in the politics, in the governance of the country until such conditions come back to allow political party governance. That is all we are talking about - some of us. Thank you Madam Chairman.

THE DEPUTY CHAIRMAN: Hon. delegates, we still have more difficult work, this is a straight forward Motion. You know what your constituencies told you to say, it is either you want it or not. More serious work is on the amendments if we retain it, if we do not, then move on. So, I want to put the question on Hon. Eresu's and Hon. Mwaka's Motion that 98 be deleted.

(Question put and negatived)

THE DEPUTY CHAIRMAN: So now we are retaining - *(Applause)* I have a new paper circulated with amendment to new Article 97. On another one, it was 98. You see, there are so many coming on.

MR. SAM KUTESA: Madam Chairman, what is being amended is what is contained in our new 97 formerly 96 on page 31.

THE DEPUTY CHAIRMAN: Okay, it is the deletion that has been rejected on 97. Then I should put the question again, because on this paper I had, it was 98. So what was being deleted was Article 97, okay. You see, I have about four versions of the same thing, one is 96, another one 97, another one is 98.

MR. SAM KUTESA: Madam Chairman, it is the old 96 and new 97 in the report now 98, because of what we have been passing.

THE DEPUTY CHAIRMAN: So, either way, we are covered.

MR. SAM KUTESA: Yes.

THE DEPUTY CHAIRMAN: Now, we have an amendment by Hon. Kaberuka, Kanyeihamba and the rest. Then I also have another one on the same Article by Hon. Sekandi, Hon. Matembe and Hon. Higiro Semajege. Can I call upon Hon. Kanyeihamba to see which one we can handle first?

PROF. KANYEIHAMBA: Thank you Madam Chairman. After synchronisation of these amendments Madam Chairman, the Legal and Drafting Committee did recommend that the amendment by Hon. Kaberuka would be debated first. Now that we have disposed the one to delete as departing furthest from the original Draft and that Hon. Sekandi's amendment, which really is part of Hon. Kaberuka's amendment, would be moved during the discussion of Kaberuka's amendment as an amendment to Hon. Kaberuka's amendment. So Madam Chairman, our recommendation is that Dr. Kaberuka should be allowed to present his amendment and if there are any amendments to it, including that which is proposed by Dr. Sekandi. It should come during that discussion. Thank you.

DR. KABERUKA (Ndorwa County West): Thank you, Madam Chairman. Madam Chairman, the majority of us in this Assembly represent a cross section of Ugandans, the majority of whom cherish free and fair political contestation and a free and peaceful atmosphere in the country. It is because of this that the popular masses we represent demand that some regulations be put in place to bring about sanity into the political organisations in this country. It is in a similar vein that I beg to move that Article 96 - new 97 of Committee 5 report be reformulated in the following terms. *"Subject to the provisions of this Constitution, but not withstanding the provisions of paragraph (e) of Clause 1, Article 59, and Article 72 of this Constitution, during the period when any of the political systems provided for in this Constitution has been adopted, organisations subscribing to other political systems may exist subject to such regulations as Parliament shall by law prescribe provided that the regulations imposed under this Article shall not exceed what is necessary for enabling the political system adopted to operate."* Madam Chairman, this formulation is concise, to the point, and avoids over burdening the Constitution. - Madam Chairman, I understand that I should beg to move, and I Thought that since I was seconded, I could proceed. However, I beg to move, Madam Chairman.

THE DEPUTY CHAIRMAN: Yes, proceed.

DR. KABERUKA: Madam Chairman, this formulation is concise, to the point, and avoids over burdening the Constitution. Hon. delegates should be reminded that a good Constitution is one which is brief and at the same time, all encompassing. Madam Chairman, regulating a political system and organisations, is a dynamic process depending on circumstances prevailing at a given period. For this very fact therefore, it is better left to Parliament of the day to carry out the task. Besides, this Plenary has provided for more than two political systems in the Constitution and yet in the present Article, we are only providing regulations for only one system. What about the other systems since we are not in position to visualise the nature of the unknown systems, and hence competently provide for their regulations? It is safe for us to trust the job into the hands of future Parliament to deal with. Some delegates may be worried that there may be chaos between the time of promulgating of this Constitution and the time when the next Parliament puts in place these regulations. This worry, Madam Chairman, is un called for, because we have provided in Article 97 which we have already passed that an organisation shall not operate as a political party or any other political organisation unless it conforms to the principles laid down in this Constitution and is registered. Besides, Parliament in the interim period would enact a law restricting the activities of political parties in case they cause chaos during that period.

The implication of this is that once this Constitution is promulgated, there will be no legitimate political parties in Uganda until registration takes place. In short, Madam Chairman, I am saying that activities of political organisations should be regulated and that such regulations should be imposed by the Parliament of the day to allow for the dynamic nature inherent in the changes in time. With these few reasons, Madam Chairman, I beg the Hon. Delegates to support this Motion in a spirit of making a good and long-lasting document. I beg to move, thank you.

PROF. NSIBAMBI (Presidential Nominee): Thank you, Madam Chairman. The debate which had taken place earlier and the debate which is taking place now is very healthy because people are grouping for an assurance that when regulations take place, political organisations are not strangled. That is what people are grouping for because in Uganda and many other parts of Africa, political parties and other political organisations have lacked adequate political space to operate and unless they have adequate political space, when you to talk of open contestation, it is amiss, it cannot happen.

Secondly, we have talked a lot about democracy, but we cannot realise democracy unless you have a strong civil society where political and other organisations enjoy a measure of an autonomy, for when they enjoy a measure of autonomy, economic, political, and even military autonomy, then they can countervail the State, the State which has played havoc can be tamed. But the issue is to enrich the State. They enrich the State because they give people skills in organisations. In earlier Chapters, we said that power belongs to the people. But how can people be powerful unless they can organise themselves! It becomes a joke and a mere statement. So, it is essential to give the ordinary crux, the peasant and even the petty bourgeoisie the skills to organise themselves, you will have a richer State and a better political system. So, the debate about erasing and so on is essentially aimed at an assurance that these vital organisations are not strangled but at the same time, I would be unrealistic if there was no room for some kind of regulation.

Under the circumstances, I must give this formulation and it is a better formulation than the earlier ones qualified for support, i.e. subject to being assured that you will not regulate in such a way that is strangling, you will not regulate in such way that you only perpetuate one system, you do not regulate in such a way that you starve opposition into submission. I thank you.

MR. KAJARA (Mwenge County South): Thank you, Madam Chairman. I wish to unreservedly support the Motion as raised by Hon. Kaberuka. Madam Chairman, we have already - on the mandate of the majority of the Ugandans, established both systems, political systems or three, in the new Constitution. We have also said that in future, Ugandans will be able to exercise their sovereignty by choosing one of the systems to be in governance of State. While we do that, Madam Chairman, we must know that those other systems which will not be in operation will be aspiring in the negative direction to spoil whatever will be taking place or whatever one political system will be doing. They

are likely to do so many things that are incompatible and not in consonance with the well being of the Ugandans. It is necessary therefore, Madam Chairman, that we put in place some regulations. These regulations, Madam Chairman, will ensure that both systems are given a *modus operandi*. Both systems need to be redefined, renovated and regulated by law in order to make them reshaped in accordance with the peoples wishes.

Madam Chairman, there are some question as to why there should be necessity for regulation of political organisations. There is an argument, madam Chairman, that since some political organisations have mismanaged the country in the past, and behaved contrary to the interests of Ugandans, they should be strictly controlled by law to make them conform to democratic principles. Also, that when political organisations are legally controlled, then those which do not conform can be brought to book. Madam Chairman, it is also my argument that legal control will force political organisations to fundamentally change and conform to the aspirations of the people and since we have said that all those who do not obey the Constitution will be brought to book, one way to do that is by imposing regulations that will, in a way, put people in line, put political organisations in line so that they do not go contrary to the wishes of the people. Legal regulation of political parties will empower citizens to bring parties or political organisations that behave contrary to the law courts as legal entities if they violate the rights and freedoms of individuals and groups and legal regulation of parties or political organizations, Madam Chairman, is not only new in Uganda, it is also acceptable in other democratic societies and is used in both developed and developing countries. It is my humble submission Madam Chairman, that once we put down some regulations, this will improve the behaviour and performance of political organisations; those which will have been, say, defeated in free and democratic elections, bring them in line, to bring them to agree with the aspirations of the people who will have chosen one system as against another one. It is in that spirit Madam Chairman, that I support and strongly support the Motion by Dr. Kaberuka.

DR. MAGEZI(Jinja Municipality East) Thank you, Madam Chairman. Madam Chairman, I have listened to the debate relating to the Eresu Motion which we have just thrown out. I find it difficult to vote for that Motion because I think the challenge we are facing here is to try and understand and appreciate that Ugandan democracy is a process and it is has to grow. We should not assume that we have been able to develop our democracy at such level, that it will be the ultimate best that we have. Madam Chairman, when the people choose a particular political system, they are not saying that the alternatives should not coexist; they are opting to be governed under one particular system. Therefore, it is important that much as we ensure that the political system adopted is able to operate and effectively govern this country, on the other hand, we should not over stress the alternative such that they cannot operate. That is why my only problem is with the second part of the amendment, that provided that the regulations imposed under this Article shall not exceed what is necessary for enabling the political system adopted to operate. I think that should also happen on the other alternative. I think the word "adopted" there could be deleted so that when Parliament makes the laws, it is really trying to balance that whereas the Government shall be able to operate, we should not ram down and kill because the system chosen by the people has not been to say that you kill the alternatives. And you must also bear in mind that this sort of clause can be abused by extremists in any political organisation, Madam Chairman, and once we reach the area of excesses, the people of Uganda will go underground; the people of Uganda will not just sit and take everything pushed down there. So, we really have to balance this act and that is the only reason why I see the very big necessity to have these restrictions on political organisations.

I am glad that it is a Parliamentary matter so that it is not a question of amending the Constitution to remove or to include further restrictions but we should make the guideline so broad that we are not really closing the hands of Parliament, that they can only protect the Government of the day and not give sufficient room for the alternative system to operate. I thank you very much, Madam Chairman.

MR. KARUSOKE (Ntoroko County): Thank you, Madam Chairman. I want to support this Motion. It is important Madam Chairman, that regulations are put in place to regulate the behaviour of various political systems that shall be obtaining in this country in future. We, in Uganda have lived under several political systems; we lived under military dictatorship from 1962 to 1971 and from 1981 to 1985, we did live under the multiparty

political system. We have also since 1985 to date, lived under the Movement political system. Before all this, we had also lived under monarchy system and under the colonial system. So, we very well know each of these systems; we know the goodness and badness of each system and nobody can tell us what they are when we know the opposite and although Hon. Mwaka says the people of Nwoya county are suffering most now under the Movement political system, yet, the people of Ntoroko county, whom I am privileged to represent in this august House, do remember with serious bitterness the atrocities meted upon them during the multiparty political system. They do not want to remember that era of multiparty political system, and yet the people of Nwoya now, long to have the multiparty political system because that is when they had their best of times.

Madam Chairman, if we continue to live like this, there will be no end to that kind of situation. What we must realise is that, when people are suffering, those who are not suffering are the ones making them suffer. When you squeeze your brother, while he suffers you enjoy, because your purpose is to make him suffer and therefore, when he reflects about his suffering, you cannot believe it and if we go on, Madam Chairman, we shall have no answer to our problems. The best answer now is for us to put a provision in the Constitution, Madam Chairman, to allow a future Parliament to put regulations in place to guide and regulate the behaviour of each political system that will be obtaining in this country in future. I know some people have been referring and complaining a lot; some people have referred to the International Charter on Human Rights, we have been referring to paragraph (e) of Clause (1), of Article 59 and so on and I am aware that in Article 94 (1), we have given the people of Uganda the liberty to choose which political system they want. In spite of all these rights and so on, we need to put more measures in place to make sure that these rights are not trampled upon.

Madam Chairman, when the people of this country were being brutalised under the multiparty system, the International Charter on Human Rights was in place; it did not help, the Constitution of this Republic was here, and it very well spelt out the rights of the people of Uganda, but this did not stop certain powers to met very beastly treatment on their fellow Ugandans. So, Madam Chairman, let us have regulations in place despite the fact that we want our rights and our freedoms so that our rights and freedoms can very well be protected. We want the rights and freedoms of all the people of Uganda to be protected, not the rights and freedoms of a few or some of them at the expense of the rest. Let us have a system which will guide and guard: guide the activities of political party systems and guard the rights of people of Uganda under some regulations. I thank you, Madam Chairman.

THE DEPUTY CHAIRMAN: Hon. Delegates, when we were debating Hon. Eresu's Motion, implicitly we were actually debating this issue. So far, four people have spoken and they are all agreeing, so let us change the mode of debate, let me have two opposing the Motion, then after that, we go to specific amendments to this Article rather than a general debate as it were. So, two opposing, then we go to the specifics on the amendment, Hon. Eresu, then Hon. Sekandi.

MR. ERESU ELYANU (Kaberamaido County): Thank you Madam Chairman. I would like to state two things by way of clarification that I seek from Hon. Kaberuka. One, what does he really mean by saying "reasonably necessary" and to what extent does he think the words "reasonably necessary" cannot be abused? Two, Madam Chairman, I would like to correct one impression which I think has really led this House to a position, in my opinion, which I think is making our debate poor in its presentation and for the interest of this country in the present, and for the future. I think acrimonies do not help and I also want to state that I do not think in this country today, and more importantly, delegates here present, I do not think all of us here present have any moral authority to accuse each other because I am sure at one stage or the other, at whatever level, me might have been involved in some kind of problems which caused nasty situations in this country. I think we should change our mode of debate and begin to debate like statesmen, and I remember stating this kind of thing on that day when some delegates walked out. So, may I ask the Hon. delegate who moved this Motion, really to - I can see another paper coming, a new one, the Motion has again been remodified, dated 30th - *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Eresu, that is one - *(Interruption)*

MR. ERESU: I had a Motion on paper which Hon. Amama Mbabazi has stealthily removed from my place without my permission - *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Eresu, can you listen to the Chair? Hon. Eresu, you see, let us not waste time, we are debating the Motion circulated on 30th June 1995, it is the one on the Floor, so it is the one we should concentrate on, you forget the rest.

MR. ERESU: Madam Chairman - *(Interruption)*

THE DEPUTY CHAIRMAN: They were withdrawn.

MR. ERESU: At what time were they withdrawn? I have just got it and it was Hon. Amama Mbabazi who has just brought it here.

THE DEPUTY CHAIRMAN: Hon. Eresu, sometimes I beg for papers, because I do not have them here as a Chair, it happened this morning, I requested for two papers because I did not have them but I did insist that we debate the old one because the Chair did not get the amendment to be debated. Let us save time.

MR. ERESU: Madam Chairman, I respect the Chair, but I am only pointing out what has happened to me.

THE DEPUTY CHAIRMAN: You can proceed with the debate, but I was just alerting you that you debate the correct version.

MR. ERESU: Madam Chairman, in view of the fact that the correct version has just arrived, I cannot proceed with the debate any further.

MR. SEKANDI (Bukoto Central): I thank you Madam Chairman and at the same time, I want to thank Hon. Kaberuka for having been flexible in that, between yesterday and today, I have seen three versions of his amendments and I am happy that he has been able, in his present amendment, to drop the term "unreasonable" effectively and also "restrictions". Madam Chairman and Hon. delegates, I would support the Motion to amend as moved by Hon. Kaberuka if the mover would accept to delete the following offensive part which reads as follows: "*and not withstanding the provisions of paragraph (e) of Clause (1) of Article 59 of this Constitution.*"

Hon. Delegates, this potion of the amendment is offensive and should be deleted because it is in conflict with what we earlier passed after a long exhaustive debate in Chapter 5. This part is a serious assault on the human rights which we have already guaranteed in Chapter 5. By providing that not withstanding the provisions of paragraph (e) of Clause (1), Article 59 and 72, we are in fact trying to lift out of the Constitution the right to associate and this Parliament, under the proposed amendment, is licensed to ignore Article 59 (1) (e) and 72. It would therefore be able, under that amendment, to make a law that would completely deny people of the right to associate alleging that such association would not help the system adopted to operate effectively. I foresee such a legislation being a cause of serious agitation in the country with attendant consequences.

Hon. Delegates, we should appreciate that presently, our proceedings maybe equated to expert proceeding in a court of law. Expert proceedings are proceedings with one party being heard in absence of the opposite party. In such circumstances, the court is expected to be extra careful so as to end with a fair and balanced judgment, so that a fair judgement is made in spite of the proceedings having been expert. In the same way, the absence of a big number of delegates who have serious concerns over the contents of provisions in this Chapter should also be careful, sober and objective in deciding what we want to include in this Chapter so that at the end of the day, we come out with a fair, acceptable Constitution to all people of Uganda. We should endeavor to produce a Constitution under which we should be ruled and not one by which we have to rule. We should avoid making two derogations of Article 59. We have already made a derogation under Article 72, now we are trying to make another derogation under the proposed amendment. The law which Parliament should be expected to make under the proposed article should be to regulate the conduct of the organisations under the political systems not adopted so that they do not carry unlawful activities that may undermine the political systems adopted so that those organisations do not carry out subversive activities. The law envisaged under this Article should not be aimed at incapacitating the political system which is not adopted so that at the end of the day, they are unable to compete for adoption.

Article 94 was passed with a purpose of availing people with alternative political systems from which they can choose but people will not be able to adopt

an alternative system that has been crippled having been made invalid by the law envisaged under the Article. I do not think that this is what the Constituent Assembly wants to do. Let us make a Constitutional provision that will truly enable the people of Uganda to meaningfully exercise the power and the right given to them under Article 94. So, I appeal to the Mover to accept the deletion of the offensive portion of the amendment, otherwise there is a need to give Parliament power to make laws that would enable the political system adopted to be effective. But this does not necessitate an assault on human rights.

In conclusion, Madam Chairman, I beg to move an amendment to the proposed amendment by Hon. Kaberuka and should read as follows:
"*Subject to the provisions of this Constitution, during the period when any of the political systems provided for in this Constitution has been adopted, political systems may exist subject to such regulations as Parliament shall by law prescribe, except that regulations under this Article shall not exceed what is necessary for enabling the political systems to operate.*" I beg to move.

THE DEPUTY CHAIRMAN: That is seconded by Hon. Semajege.

MR. KARUHANGA (Nyabushozi): Thank you, Madam Chairman. Madam Chairman, as you see, I am a seconder in the Kaberuka Motion and I have also had the benefit of listening to the open speech made by Hon. Sekandi. I have also had the benefit of listening to him expressing these legal views outside this House, in the Legal Committee. I am afraid I am persuaded, with all my heart and energy and my legal background, to oppose Hon. Sekandi's amendment on genuine legal grounds and I would like this House to note the following: One, when you look at the Odoki Draft, Article 96, the way it was put, restriction on political parties is stated: "*During any period when the Movement is in existence, political parties shall not endorse, sponsor, offer a platform to, or in any way campaign for or against the candidate for any public election.*" This was the view that Odoki had got from the people and there was need to restrict the operations of political parties when the Movement system was in existence. Then we came to - after the Odoki Commission, we came to the Kutesa Committee, which more or less tried to reduce the restrictions by stating that: "*during the period when the Movement is in charge of the governance of Uganda, political parties may exist but shall not open branch offices, hold delegates Conferences, sponsor, offer a platform to, or in any way campaign for or against the candidate for any public elections*" and went on saying, "*subject to the provisions of this Constitution, political parties may, during the period referred to in Clause (1), operate Headquarter offices, own Newspapers and other publications, hold Seminars and Workshops and subject to the provisions of this Article, carry out any other activity authorised by law.*" That was the position of the committee of this House. But, considering the fact that the pronounced advocates of multi parties had walked out, considering that - using Sekandi's words - that there was a feeling of ex-party proceedings, that these people are not represented, many of us felt we should stand in their shoes and plead their case in the best way possible.

We have removed the kind of restrictions that was imposed only to the parties and we have said that these restrictions should be spread out to all the systems as described in Article 94, through the Obiga Kania Motion so that all the systems have the same standard test of operation in the Odoki Commission. In the Committee 5 report, it was to restrict political parties, in the Kaberuka Motion, it is to regulate not to restrict, to regulate the activities of these political organisations which exist under those political systems as described in 94, but Parliament would not pass a law which is in contravention of the existing Constitution. Such a law would be un constitutional. For example, we have already in Article 59, that freedom of association is a human right, we have described the system in 94. Parliament therefore, would have no power to pass any law to regulate the activities of the freedom of association because these same people would go to court and say, no this is a Constitutional guarantee, it is entrenched, Parliament has no power at all to pass a law to regulate the activities and conduct of these political organisations, and whether Parliament passes these regulations or not, any challenge of those regulations would be justified in any constitutional court. The only way to solve this problem is to say that notwithstanding the provisions of (e) of Clause (1), of Article 59 and Article 72 of this Constitution, Parliament has been empowered to pass these regulations, and then we go on and say, but those regulations, when made, shall not exceed what is necessary to enable the political system adopted to operate. In other words, we have

given so much power to Parliament, but limited Parliament from passing any excessive power that would not allow these systems to operate.

Now, unfortunately, those are the words that Hon. Sekandi would like to withdraw, then this amendment stays as a useless amendment in the Constitution and would not achieve any purpose at all. In fact, Hon. Sekandi goes on further to say that for him, his interest is in stopping the subversive activities of the parties but he cannot do that if he removes the words: *"notwithstanding the provisions of Paragraph (e) of Clause (1) of Article 59."* It is a pity that we failed to persuade Hon. Sekandi to see this point. What I support in his amendment is for us to drop the word "imposed" which he omitted in his amendment. Yes, if the Mover, Hon. Kaberuka and my colleagues Hon. Medi Kaggwa, Hon. Kanyeihamba and Hon. Kabayo and others feel so persuaded like I am, surely we can drop the word "imposed" because as it stands there, it is actually redundant. It reads: *"provided that the regulations imposed under this Article..."* So, we can leave the word "imposed" and say: *"provided that the regulations under this article..."* It is not harmful at all.

Now, I would go in as far as seconding Hon. Sekandi in dropping those words. We would even go further in order to show more accommodation and accommodate Hon. Magezi's request when he says that we should use the words *"enabling the political systems to operate"* and drop the word "adopted". I know that there is a slight difference but it is not of such great consequence. Even for the purposes of accommodation, I would accept Hon. Magezi's Motion but I would like to persuade Hon. Sekandi really to agree. These words are seriously operative in this and took us a long time to get these words. Not only that, we went to great length to consult at great levels; to various professionals in the line of law, to give us their consent that this is the correct word and it is applicable and it would save the situation. So, if we drop the words *notwithstanding*, then, we must go back to the Committee Report and adopt it as it is - regulating, stopping offices and this and that and I think that is not new. I think this is fair and I would, without using more words, like to persuade Hon. Sekandi to withdraw his amendment and come along and support us especially that our Motion also helps to keep Hon. Sekandi's interest of subversive activities which would come and be empowered by the Parliament when it is passing the regulations. With those few words, I thank you.

THE DEPUTY CHAIRMAN: Hon. Sekandi, with that explanation, do you still insist?

MR. SEKANDI (Bukoto Central): Madame Chairperson, I honestly believe that you can make an effective law to help a system that is adopted without necessarily lifting Article 59 (1) d.

THE DEPUTY CHAIRMAN: Hon. Byanyima.

MISS. BYANYIMA (Mbarara Municipality): Thank you, Madame Chairperson. A wise man said to me recently that there are three sides to a coin, not two as is the popular wisdom. He pointed out to me that a coin has a top side, a bottom side and a thickness and that in fact, the thickness is the one with value because the thicker a coin is, the more gold or silver there is in it, the higher its value. I think that Hon. Sekandi is trying very hard to find that third side of the coin because clearly, there is a dichotomy in our society with people overwhelming people from the countryside - the rural people, the poor people; overwhelmingly choosing one political system while another group - smaller group, more urbanite, elite, preferring another political system. I think I do respect Hon. Sekandi's effort to try to find a third side of the coin to have a Constitution for all but we have not said that - I am not a lawyer but when I do look at 59 (1) (e), I do see that if we are going to bow to the will of the people, the majority of the people, the people who choose one political system, we must provide for it either in the Constitution or through Parliament. We must regulate so that one system operates at a time.

What does that regulation entail? It certainly entails restrictions on the freedom to associate and I think that we do not need to be shy about this. We do not need to be embarrassed that some fundamental rights are being restricted. It is not true that all rights can be enjoyed in the absolute. If it is the decision of the people through a referendum, like we have provided in 94, that certain rights should be restricted for many good reasons of the people, I do not think we should be shy to restrict certain rights because my belief is that, ultimately, we will come to enjoy those rights because ultimately when the people, the majority have achieved what they want to achieve through a certain system, they may choose to enjoy the full rights of association and opt for multi party. I sincerely believe that in the Movement system, where we have one political organisation called a Movement as opposed to a multi party system where you have several organi-

sations called parties, it is my belief that in future, at some time; it may be five years, it may be ten, people of Uganda will feel that their interests are so divergent, they may decide to opt for parties and at that point, the full enjoyment of the rights to associate will be there, will be enjoyed but for the time being, if all the people prefer, if the majority of the people prefer that let us be in one organisation called Movement, then we must. If we bow to the wishes of the people, place those restrictions there.

So, Hon. Sekandi's amendment to delete that vital part of a reference, a derogation from Article 59, will make it impossible to implement the operation of one political system as Hon. Karuhanga has said. What will you get? You will get anarchy because all the political systems, all the organisations which subscribe to different systems will have their right to associate and how then, will you implement one political system? The people's power, their decision will have been perverted by allowing the very organisation to enjoy its full rights of association. I would like to point out to Hon. Sekandi through you, Madame Chair, that this amendment has been greatly improved. I was a bit bothered about the one of the 28th but this last part that adds that *these regulations shall not exceed what is necessary for enabling the political system adopted.* Hon. Karuhanga I do not agree with you. I think "adopted" is important there to operate. I think this addition is very important. It means that you can go to court - if you are a political party for example, and it is a Movement system, and challenge that a certain regulation is going beyond regulating for the political system and is intended to kill you as a political party. That is why in fact, I was totally opposed to what we had before in our Committee. For example, a provision that holding delegates conferences is prohibited. That was intended to kill the parties. But we are not trying to kill the parties. If there are no delegates conferences and Hon. Semwogerere and Dr. Milton Obote are almost octogenarians, you cannot expect that in five years time, those parties would have officers and they would not exist any more even in ten years' time because they would have no leadership. So, I was opposed to the previous article in the report but I am very happy with this one by Hon. Kaberuka because in fact, it provides for that. That parties can exist and can challenge any regulations that are intended to kill them and not merely to let them exist until such a time as when people can choose. Madame Chairperson, I therefore really urge my senior brother Hon. Sekandi to withdraw his Motion and let us approve the Motion by Hon. Kaberuka. Thank you.

THE DEPUTY CHAIRMAN: Let me hear from another person who supports Hon. Sekandi's Motion. Hon. Ngobi.

MR. NGOBI (Presidential Nominee): Thank you Madame Chairperson. I am one of those people who are advocating for regulation of parties but I am certainly not one of those who will advocate for the restriction and against protection of human rights. I have lived under a period of emergency and I would like to remind Members to read that Article 72 - "*The existence of a state of emergency shall not affect the enjoyment of the right to human dignity, life or fair trial as guaranteed by this Constitution.*" You will excuse me for being a bit personal here because at one time I was refused fair trial and I think these articles which are being cited concern derogation from particular human rights for individuals whereas, what we want is to regulate the parties or political organisations. Of course, one can ask - how are you going to have political organisations without individuals? But the more basic is the freedom of the individual and I think Parliament should be able to put in place regulations concerning parties without having to do away with Articles such as 72. *(Interjection).*

THE DEPUTY CHAIRMAN: Yes, Hon. Sam Kutesa.

MR. KUTESA S. (Mawoogola County): Madame Chairperson, I would like to inform my friend Hon. Ngobi that the 72 he is looking at seems to be the 72 in the Odoki Draft.

MR. NGOBI: Yes.

MR. KUTESA S: But the 72 referred to in this Motion is a different one which passed and this is under Chapter 5 on Page 16 of the report which the Committee has published. The 72 which Hon. Ngobi is looking at relates to what happens under a state of Emergency and it reads: "*The existence of a state of emergency shall not affect the enjoyment of the right to human dignity, life or fair trial as guaranteed by this Constitution.*" The new one is: "*In the enjoyment of the rights and freedoms described in this Chapter, no person shall prejudice the fundamental rights and freedoms of others or the public interest and; (2) Public interest under*

this article shall not permit political persecution, detention without trial, any limitation on the enjoyment of rights and freedoms described by this Chapter beyond what is acceptable in a free and democratic society or what is provided in this Constitution." So, that is the new 72

MR. NGOBI: I am very grateful for that information Madame Chairperson. That new formulation is even worse, and I think we should not adopt it at all. If we are making progress in ordering our society, we must not impinge on detaining people on doing anything to make people suffer because we are going to remain. It is not right and for me, if need be, because of our history Madame Chairperson, I would even prefer to go back direct to Article 96, take the bull by the horns - *(Interruption)*

THE DEPUTY CHAIRMAN: That is impossible because he read what was passed here during the Consideration Stage. So, what you are proposing will come later. Stick to the point and we move.

MR. NGOBI: Yes, what I am saying is that I would support this - If you allow, I agree to take the clarification.

THE DEPUTY CHAIRMAN: Hon. Amama Mbabazi.

MR. MBABAZI (Kikinzi East): Thank you, Madame Chairperson. I thank the Hon. Ngobi. Earlier on in his contribution, he had supported the idea of the state regulating the conduct of political parties. The argument raised against the Motion by Hon Sekandi is a technical argument. According to the law, Parliament cannot pass any Act which is in breach of any provision of the Constitution unless the Constitution specifically or expressly says so. So, the reason why they are mentioning Paragraph (e) of Clause (1) of Article 59 is to empower Parliament to regulate parties; because if you do not do that, then, Parliament cannot pass any law to regulate parties. So, I wanted to first of all make that legal clarification to Hon. Ngobi and ask him whether he still wants the regulation the behaviour of political parties and if so, whether he does not see that since this is the only legal way of doing it, then, there is no way we can avoid it and it has nothing to do with taking away of the right of association contained under the fundamental human rights chapter.

MR. NGOBI: Thanks very much for that clarification. If that is not necessary, why provide for it? Why do you say "notwithstanding", if you think we do not intend to take away the rights of the people. I agree with you. If we do not intend to do it, why provide for it? Let us leave it out because that is the very reason why I think we should - I know it is important that we have regulations, we have a Code of Conduct of political parties but we must not detract from sticking to giving human right to - so that we do not abuse it. I know this is a big problem but first of all, if you think that human rights are important, then that is the first thing to consider and do not take it away. So, since we are talking of regulation of political organisations, we stick to that and leave out the articles that talk about restricting or derogating rights of individuals. That is the basis why I think that we should accept this omission as suggested by Sekandi. We will be able to make the provisions, regulations but not by taking away the rights of the individuals. This has been a recipe for chaos in the past. Thank you, Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Delegates, we had heard the legal view from Hon. Karuhanga. We had heard the assessor's view from Hon. Ngobi. I propose that we put the question on this one and then go to any other amendment that may arise. So, I put the question on Hon. Sekandi's Motion.

(Question put and negatived)

THE DEPUTY CHAIRMAN: Hon. Serwanga Lwanga.

LT. COL. SERWANGA LWANGA (NRA Delegate): Madame Chair, I am seeking a clarification in view of the fact that Hon. Sekandi's amendment has been negatived, does that mean that Clause (e) of 59 should be removed from the Draft because why I am saying so, we have said that Clause 59 (e) does not matter. We go ahead and do whatever we want to do. Then, what right did we give the people? Because in actual fact, I listened very attentively to Hon. Karuhanga. The aim of the Odoki Commission was not to kill parties. In fact, for him he put only one restriction that political parties be there but do not sponsor candidates for an election. But Committee 5's report was to kill them because for them they were even saying that do not open branches, do not call delegates' conferences, that they act like newspapers and I remember one

man here saying that no. So, in my view, I am a bit confused. Since we have said that Clause (e) of 59 (1) does not matter, then what is it for in the Draft?

THE DEPUTY CHAIRMAN: Let us hear from the Chairman.

MR. KUTESA S: Madame Chairperson, thank you. I think Hon. Serwanga is entitled to an explanation as to what the words "notwithstanding" mean. Hon. Serwanga tends to think that when you say "notwithstanding" you have deleted that provision in which you are saying "notwithstanding". When you say that, you are saying you will recognise the existence of that article, however, he would like to do something else. It is a derogation on that and you cannot derogate on what you do not recognise. So, when you look at this Motion, Article 59 (e) talks about the fundamental freedoms of association. When you look at it and you look at this Motion, what is likely to happen if a Parliament came to make regulations on this, it is recognising the right of association however, it may restrict for example, the right of assembly. In fact, I do not think the right of association is the question at all. When you read this Motion, it recognises the existence of organisations, that to subscribe to other political systems which have not been adopted and it actually imposes restrictions on those organisations. So, the fact of their existence which is the right to associate is being recognised. What is likely to be restricted maybe, is their activities after they have assembled or the right of assemble has been recognised.

When you go to Article 72 which spells out the freedoms of the individual and how they should not be affected by public interest, public interest is defined here as not permitting political persecution, detention without trial, any limitation of these rights. Now, one would assume that what is feared is that this Motion can allow Parliament to get laws to detain without trial or make regulations that will amount to political persecution but within the same Motion here of Hon. Kaberuka, it says: "*provided that regulations made by that Parliament under this article shall not exceed what is necessary for enabling the political system adopted to operate.*" It is not envisaged or that, for example, if the Movement was adopted as a system, it is not envisaged that Parliament will make laws or that it is necessary for Parliament to make laws that detain people without trial for that system to operate. It is not envisaged that you make laws that will make political persecution the order of the day to enable the Movement to operate. If you are tempted as a Parliament, then surely any court with competent jurisdiction should be able to come up and say, "Mr. Movement or Mr. Parliament, for you to detain these people, you do not need it for the Movement to continue." These people whom you are persecuting, you need not do that because for the Movement to operate, you do not need to persecute others.

So, it is just a derogation. It is a derogation and what I think is most important and this point has been made over and over again. It was very well made by Hon. Karuhanga and by other Hon. Members here and Hon. Mbabazi. Hon. Sekandi knows only too well that really his amendment - it is a bull that has been disemboweled. That is what he would be doing to this Motion. He would render it inoperable. If you took the Sekandi Motion, it is clearly castrating this Motion because it cannot apply. So, I would like to explain - just as an explanation to Hon. Serwanga Lwanga, we are not saying that 59 is deleted, neither are we saying that 72 is deleted but as much of 59 and 72 that needs to be restricted to enable whatever political system that has been adopted to operate, that should be restricted. That is all, that what this Motion is seeking to say. I hope - *(Interruption)*

MR JOHN NDEGE(Luuka): Thank you very much, Madame Chairman, this is good when the Movement is in power but when parties are in power and the Movement is non partisan, how shall 59 (e) operate? Because it is non partisan, which means that all Ugandans as individuals are free to operate under the Movement system. How are you going to bring regulations on these individuals? It will really mean getting away with 59 (e) as far as Movement system is concerned. In fact, it is really anti Movement in a way. When the Movement is not in power, how will 59 (e) operate because the Movement, we are non partisan, we are there as individuals!

MR. KUTESA S: But Madame Chairperson, if the Movement is not in power, what that means is that parties are operating and 59 is talking about the rights of association. I cannot understand Hon. Ndege's problem. Because then, the right of association may actually not be - So, I cannot understand his problem. If he says it is against the Movement, it depends on his definition of the

Movement. If the Movement is an amalgamation of many parties, now, if you say parties operate freely on your own and not under the Movement, I do not see any greater - to use Hon. Prof. Nsibambi's terminology - I cannot see any greater political space that you can obtain other than that system.

THE DEPUTY CHAIRMAN: Hon. Delegates, I see there are no more amendments and clarifications have been made. I put the question on new 97. *(Interjection)* Do you have an amendment? Okay, Hon. Ssendawula.

MR. SSENDAWULA (Bukoto South): Madame Chair, when Hon. Elly Karuhanga was explaining, he did indicate that there could be some improvement on the wording here and there among other areas if all Hon. Members were following him correctly or properly. He did indicate that if we can remove to improve it, the word *"impose"* and so on, can he not be permitted or the Mover to see that we take advantage of that improvement? That is all that I am calling for.

THE DEPUTY CHAIRMAN: Hon. Kaberuka, I think he is answering you.

DR. KABERUKA (Ndorwa East): Thank you, Madame Chairperson. I wish to concede that the word "imposed" can be substituted by the word "made" so that we have that: "*provided that the regulations made under this article shall not exceed what is necessary for enabling the political system adopted to operate.*"

THE DEPUTY CHAIRMAN: Okay, now I put the question that as amended, 97 do stand part of this Constitution.

(Question put and agreed to)

THE DEPUTY CHAIRMAN: 97 as amended, do stand part of this Constitution. Hon. Kiyonga and Hon. Karuhanga on the last bit of this chapter. We have to complete this chapter today by the way. Hon. Karuhanga or Hon. Kiyonga.

DR. KIYONGA (Bukonzo West): Thank you very much, Madame Chairperson. I will start by assisting Members to see where to find the Motion. I think about two papers have been distributed and both of them are numbered (4) on top. One of them may be having four clauses and another one three. So the one we should be using is the one which has three clauses. So, that is the guidance I would like to give Madame Chairperson. Secondly, there are a few autographic errors I would like to correct. Under Clause (1) (a), at the end of it, we should add "*or*". So, when you leave (a) going to (b), there should be a connecting word "or". Then, in Clause (1)(b), second line from the bottom, we delete two words which say "more than." Then, Hon. Delegates, Clause (1)(c), for the sake of consistency, we should delete the following Clause: "*A referendum shall be held on any national issue including change of a political system.*" We delete up to there - that whole clause. Clause (1)(c) - The introductory Clause which reads: "*A referendum shall be held on any national issue including change of a political system.*" The whole of that should go so that the sub-section begins "If" - I hope we are together. Then, Clause (3) - the third word "taken" - "The resolution taken..." - the word "taken" should come out because it is repeated later and there is no necessity for us to repeat it so many times. I think as we go on, we shall be able to understand one another.

Madame Chairperson, after we passed the amendment introduced by Hon. Mbabazi, we were helped to see what will follow after the next elections after the Constitution is promulgated. But thereafter, we still had the question what happened to the referenda which we have been talking about? How will the political system change from one to the other? In this Motion, we are trying to answer that question. So, I will first read through and move the Motion Madame Chairperson: "*A Referendum shall be held for the purpose of changing the political system; (a) if requested by a resolution supported by more than half of all Members of Parliament or; (b) if requested by a resolution supported by the majority of the total membership of each of at least one half of all district councils.*" *Alternative (c), how we could have a referendum under this Motion is: "if by the initiative of at least one fifth of registered voters from each of the two thirds of the national constituencies petition the Electoral Commission.*" Those would be three provisions under that Clause.

Clause (2) - "*The Political system shall be changed by elected representatives of the people if* - and we cancel - "*where Parliament upon a petition submitted to it, and supported by two thirds majority of the total membership of each of at least half of all*

district councils, approves the change of resolution supported by not less two thirds of all Members of Parliament." Then (3): "*The resolutions taken for the purposes of changing the political system shall be taken only in the fourth year of term of any Parliament.*" Madame Chairperson, I beg to move and then explain the Motion.

THE DEPUTY CHAIRMAN: I think this is seconded by quite a number of people.

DR KIYONGA: Thank you very much. Now, under this Motion, we are providing for three different routes through which a referendum could be caused to lead to a change of political system. We are also providing that Parliament, under special circumstances, can actually change the political system without a referendum and I would like first to explain the basis for bringing in this issue of Parliament because Members may argue that what we provided for was that we can change the political system only by referenda or free and fair elections. Hon. Obiga Kania will be coming with a Motion regarding the elections but in formulating in this amendment, we discovered that actually we have a basis for also bringing in Parliament under special circumstances to change a political system. Under Article 1 Clause (4) of the Constitution, we have passed a provision which says - "*The people shall express their will and consent on who shall govern them and how they should be governed through regular free and fair elections of their representatives.*" So, implied in this provision, is that actually through our elected representatives, we could decide on the form of political system that we want to operate at any one time.

Madam Chairperson, in formulating this amendment, we have considered three principles. That when we are tackling this fundamental question of changing a political system, we should involve as a wide spectrum as possible, of our people in that decision. Secondly, that we should provide a minimum number of options to ensure that the people's interests are not suffocated or trampled upon by tricksters. Thirdly, to provide safe gates in case one provision is being misused by one party or the other. With those principles, Madame Chairperson, I will go back and explain why we think these provisions, if passed, are going to help us and provide how we should be changing the political system. In Clause 1 (a) , it is our view that unless there is a question from other quotas, if we have at least a half of all Members of Parliament who were elected asking for a referendum, we think this would be reasonably representative and fair and that on that basis, the country should hold a referendum to decide the form of political system.

Now, under 1(b), we also think that there is a case for district councils also to call for a referendum because they also represent the people. They are elected by the electorate and actually, many more in number in total as compared to Members of Parliament. So, we think if also a Motion is discussed all over the country, in all district councils and at least half of them will have a resolution to have a referendum supported by the majority of the total membership, then that should be wide enough to cause a referendum. In the third area, we do think that there can be possibilities where a Parliament could be compromised or even the councils in the districts could be compromised and since ultimately the power belongs to the people, we need to provide a loophole how the people can save themselves in case these organs are taken over by negative forces. So, the people can on their own initiate, petition for a referendum but even here, we would like a wide enough base for this decision to be taken and we are saying if we have, in two thirds of the constituencies in the whole country, at least one fifth of all registered members signing a petition, this should be adequate basis for us to go to a referendum. For the sake of illustration, I would like to show what this calculation may mean under 1 (c). At the moment, one could say we have 8 million registered voters. If we are to take one fifth of those, that would be 1.6 million people and if we take two thirds of about 1.6 million people, that would be 1 million people spread all over the country asking for a referendum. We think that will also be legitimate and fairly representative.

So, those are the three areas we think should initiate and lead to a referendum being held in the country but under Clause (2), we recognise that we should provide for situations where the whole country need not go into a referendum and in this case, we are saying the national Parliament would have to be petitioned by the district councils. After they receive the petition, then they would discuss the Motion and if two thirds of them pass that Motion, then the political system would be changed. In Clause (3) Madam Chairperson, we are saying that all these should happen during the fourth year of the term of any Parliament. So, Madame Chairperson,

I appeal to colleagues to pass this straight forward Motion. Thank you very much.

THE DEPUTY CHAIRMAN: Hon. Liiga.

MR. LIIGA (Buvuma Islands.) Thank you, Madame Chairperson. Madame Chairperson and fellow Delegates, in principle, I am not quarreling with this proposed Article 100. It sets out quite clearly the situations under which the national referendum should be held and I hope it will satisfy the likes of the multi partyists who may think that we are here holding what one of them has them told me to be an NRM Delegates' Conference which is utter rubbish of course. I find that in the proposal contained in (1)(a) of one half of the Members of Parliament to be a bit low. This one calls for an absolute majority - one half plus one, if it came to the worst at that. Madame Chairperson, a resolution to hold a referendum is a very serious matter and it is actually requesting that the system as it is should be looked into and perhaps this is easy to rigged - getting one half of Parliament is easy to rig. In fact, when we were discussing at what point a resolution in Parliament should be taken in Committee 2 and on the Floor of this House, I remember a certain section, particularly the multi partyists, vehemently arguing that during discussions, there should be no quorum but the quorum should be realised at the time of taking the vote. Which means 20, 30, 50 people could thrush out, discuss and then when it comes to the vote, they would run and collect their own numbers either to defeat or to carry through the vote.

Madame Chairperson, if the Hon. Mover of this Motion is agreeable, I would suggest that instead of one half, let us substitute two thirds of all the Members of Parliament in subclause (a) of this proposed amendment. Madame Chairperson, I would make the same proposal in subclause (b) also to substitute it for two thirds of all district councils. This is a national issue. One half of these districts - you could have the majority from a particular area where a Member of Parliament or a section of Parliament is and I will take the example of my friends from Kitgum, Gulu, Apac, Lira and that part of the nation. If those are supported by my friends from Kamuli, Iganga and Jinja and then a section from Buganda would easily reach one half of these district councils. But this should call for a serious figure, a serious vote from the whole nation and two thirds, I believe, is quite telling when it comes to the referendum being held. I have no quarrel with sub-clause (c) as well as proposed number (2). However, I have a problem with the language as it is proposed. Madam Chairperson, if the Mover reads sub-clause (b) of Clause (1), it says: "*...if requested by a resolution supported by the majority of the total membership.*" The total membership - to me I think this would mean the membership of a council. If a council has got 50 members, the majority of those should be 26 or 30 or whatever it is but Madam Chairperson and fellow delegates, if you have tried to translate this back into our own languages or dialects in which this Constitution must necessarily be translated later on, that may not make sense in the local dialects. I would propose to the Movers that this language should be made slightly neater and I propose the following formulation: "*If requested by a resolution supported by two thirds of all district councils...*" The same goes for sub-clause (1) (c) - again you find those words on the third line from the bottom - "*from each of the two thirds*", those words really are superfluous. It should directly read: "*at least one fifth of the registered voters from two thirds of the national constituencies.*" Certainly, if you are going to start from one, you get two thirds but you cannot get each of the two thirds. The flow of language matters.

Finally, Madame Chairperson, when you go to Clause (2), the fourth line from the top, again you find that expression - *"majority of the total membership of each of at least half..."* Again there, to avoid confusion, when we are trying to interpret these things to our lesser endowed brothers and sisters in the village, I would propose that we delete these words *"majority of the total membership of each of at least half"* and we leave a straight floor reading as follows: "*The political system shall be changed by elected representatives of the people if Parliament, upon a petition submitted to it and supported by two thirds of all District Councils approves the change by resolution supported by not less than two thirds of all Members of Parliament.*" I think Madame Chairperson - *(Interruption)*

THE DEPUTY CHAIRMAN: Hon. Liiga, there is somebody who wants to be clarified.

MR. DIDI (Moyo West): Hon. Madame Chairperson, I believe the Mover will have no objection if, say in sub-section (1) - of course, I believe this question of "*if requested*", I think it should be *"if petitioned"*. But I think those words the Legal and

Drafting Committee can clarify. But the point is - after they are requested by resolution of more than all Members of Parliament, what then happens? I think what is hanging, and I hope the Mover will have no objection, is to go on and say approved either by half or by two thirds of Parliament because you are saying that from the districts, a resolution supported in the districts where so many have already petitioned - you have not concluded what percentage of Parliament should approve. That is why I thought it comes in Number (1). I think Hon. Liiga's problem would not arise even if half of the Members of Parliament petition; if the approval is by two thirds of the House. On (2), if it was petitioned by the majority total membership of each of the districts, and then approved by Parliament either by half or somehow, what is hanging to me is how it should be approved. Maybe you can clarify me there.

THE DEPUTY CHAIRMAN: Hon. Karusoke.

MR. KARUSOKE (Ntoroko County) Madame Chairperson, thank you very much. I have two problems. The first problem upon which I am seeking clarification from the Mover is to do with (1)(b) and No. (2). In (1) (b), we have a provision where a half of the total membership of each District Council of half of the district councils request for a change. Then in (2), if they do, then Parliament must approve. In (1) (b), there is no need for parliamentary approval but in (2) there is parliamentary approval. If we pass both of them, shall we not have a conflict? That is one.

Two, in (1), Madam Chairperson, everything hinges on a referendum. I do not quite understand in (2) what happens when the majority of district councils request for a political change and Parliament approves, what happens - do we go for a referendum? It is very silent about it. I am seeking Clarification Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Kanyeihamba.

PROF. KANYEIHAMBA: Thank you, Madame Chairperson. I will attempt to explain both the points raised by Hon. Agard Didi and Hon. Karusoke. I think the position is very clear. First of all, let us understand that when a referendum is called, it is the Electoral Commission which organises it and conducts it. That is what we are putting in the Constitution. So, this Clause here, Clause (1) is saying who can call for such a referendum. So, in (a) we are saying it can be called by a resolution supported by more than half of the Members of Parliament. So, if Members of Parliament pass a resolution and say we want a referendum, that referendum must be held but of course it will be conducted by the Electoral Commission. So, the question of approval by Parliament which Hon. Agard Didi was worried about, does not arise. This is simply to initiate the process for a referendum. The same applies to (b). In (b), the Electoral Commission would have to conduct a referendum in the country if requested by a resolution supported by the majority of membership of more than half of the district councils. There was another problem which I saw.

Someone was saying we should delete reference to each of the councils. In fact, that is very very necessary because what is meant here is that in each of these districts, the resolution should have been supported by a majority. So, we had a majority of the council - one district. You say, Kalangala District. They must have supported their resolution by half and then this same resolution must be supported by more than half of all the District Councils in the country similarly having debated it and supported in that manner. Now, in (1) - petition is done either by the District Councils or by Parliament and the nation goes to referendum. In (2), Madame Chairperson, here it is saying that the system is not to be changed by referendum but by the votes of the elected representatives of the people which is in conformity with Article 1 of the Constitution, Clause 4. Where we have already said that the people of Uganda have a right to determine how they shall be governed through free and fair elections of their representatives. This now is implemented here as an alternative to changing a political system. So, in (2), we are saying that for changing by the representative of the people, the requisite number of district councils will petition Parliament for that change. If Parliament considers that petition and passes it by two thirds majority, then, there would be change without necessity of a referendum. In other words, a change will be effected by Parliament alone without a reference to a referendum. So, this really is the understanding of clauses (1) and (2) Madame Chairperson.

THE DEPUTY CHAIRMAN: Hon. Karuhanga.

MR. KARUHANGA (Nyabushozi County): Madame Chairperson, it is important that the Hon. Members realise that this Article 100 is changing the system in future. The system will definitely be changed. We have already pronounced ourselves on that after four years in the first term of Parliament. So, in the fourth year, we will have to have a referendum on the system. That is already passed. What we are now doing is the time after that. What will happen in the future after the next time? Now, having established that, the second part looks a little bit more complicated and I just wanted to add on the words of Hon. Kanyeihamba and Hon. Kiyonga - the part which looks difficult is (2). The rest is easy. Parliament, once it gets 51 per cent, a referendum is held. District Councils, if they get 51 per cent, without needing to go to Parliament, it is enough on its own in their areas of districts to go the Electoral Commission, a referendum is held. What is now difficult is the second part. When we do not need a referendum and that is which I would like to stress for understanding.

When two thirds of each district - let us take my district Mbarara. If two thirds of the members of the District Council of Mbarara move to say that they want to change the system, that two thirds is noted. If the same goes for Hoima, the same goes for all the districts and they come to 51 per cent of all the districts and they have two thirds, then, they move a resolution. The Electoral Commission will push this to Parliament and if Parliament gets two thirds, then the system is changed without a referendum but if the vote in the districts comes only to 51 per cent of the Councilors, and you say you want to change - not two thirds but 51 per cent and it is also 51 per cent of the districts, then, the Electoral Commission knows that this is a situation for a referendum. That is where the basic difference is and that is what we are trying to achieve here. Now, I would also like to make it clear that, all this will take place every fourth year of a term of any government. That is when these resolutions can be made or not. Whether it is bad government or not, as my Friend here is asking, you have voted for it, you stay with it for five years. But in the fourth year of that bad government or good government, it is up to you to make the move. And if there is silence, then the other system automatically, will be presumed to continue. Now, there is a change and I have agreed with Dr. Kiyonga on this as a co-mover on what he had said earlier. When you come to 1(c), you remember, he had asked you to delete the first three lines up to 'if', if you can look at the motion.

THE DEPUTY CHAIRMAN: Hon. Karuhanga, it seems hon. Byanyima has a problem.

MR. KARUHANGA: If I can only make this amendment because it is a fundamental amendment on changing...

MISS. BYANYIMA: Thank you, Madam Chairman. Madam Chairman, in view of the fact that, very many people are going to vote for their representatives and others are going to celebrate Youth Day tomorrow in their constituencies, and this Motion is so important and we need to digest it fully, and the others are getting worried, Madam Chairman. It is so important that we come and we are fresh and we debate it properly, before amendments are moved on it. Madam Chairman, I would like to move that, you adjourn and we look at it on Monday. Thank you.

THE DEPUTY CHAIRMAN: Hon. Delegates, I agree to that proposal, on condition that, all people when you go out, if you have any amendment, agree at a time very early, so that you give those amendments for synchronisation. Otherwise, this has become a habit. Whenever we are tired, we claim we want to do this, we want to do that. So, let us agree that, all amendments should be synchronised and be given to the Legal and Drafting Committee. Let us come early. Because usually, we are supposed to start at 8.30 a.m. Now, we start at 10.00 a.m. Definitely, there is enough time, next week being a Monday. So, I expect some work done from hon. Kanyeihamba. Hon. Kanyeihamba, I am addressing you. I am expecting you to mobilise your team to get amendments from the delegates so that we only look at the specifics, rather than the general debate. Thank you. Please hold on. I have an announcement. But before that, hon. Serwanga Lwanga has a comment on hon. Guma's burial.

LT.COL.SERWANGA LWANGA: Thank you, Madam Chairperson. I was making a request to the Clerk. Hon. Sam Kutesa told us that, a Chapter on the Transition Provisions was distributed, but most of us do not have it.

THE DEPUTY CHAIRMAN: Okay. Secondly; I have an announcement from hon. Batanyenda that those who wish to travel to Mbarara University for the fund raising function and maybe need transport should register with Hon Batanyenda after this session. I think that is all I have as far as announcements are concerned. And by the way, we

are supposed to meet tomorrow. We are agreed that Saturdays are working day. But because of the activities that are going to go on, we are not meeting tomorrow. So, we shall be meeting on Monday at 9.30 a.m. We stand adjourned.

(The Assembly rose at 5.30 p.m. and adjourned until 3rd July 1995, at 9.30 a.m. in the morning).