

Weaknesses in new constitution

By A Special Correspondent

UNDER the 1967 Uganda Constitution and the Legal Notices which modified it from time to time under a series of governments including that of the National Resistance Movement, it has been the Presidency rather than Parliament or any other organ of government, which has been supreme.

Under the new Uganda constitution to be promulgated in 1995, there can be little doubt that it is Parliament which is to be the Supreme Organ. It may even have become omnipotent in all spheres of governance if the CA had not had second thoughts on reconsideration.

The Legal and Drafting Committee is to be congratulated for having convinced the CA to accept that Committee's recommendation. That dismissals of senior political and civil public officers should be the responsibility of the chief Executive of Uganda without the approval of parliament.

It is cumbersome enough that under the 1995 constitution, appointment to such high posts will require the approval of Parliament. Nevertheless, the requirement is necessary in a free and democratic society, but to have subjected dismissals to Parliamentary debates would have been unreasonable and might have caused chaos in Uganda's politics.

However, even with appointments alone, there is some concern that at times Parliament may be diverted from the real issues touching on the suitability of the candidates and instead debate extraneous circumstances. It cannot be said to be beyond the realm of imagination that members who may have supported a different presidential candidate or who are disgruntled with the performance of the incumbent president may seize the opportunity of discussing nominations for approval



and embarrass the President or paralyse the Executive for political reasons.

A Parliament dominated by one faction or wing of a political party or organisation may reject nominations for appointment on the grounds that the candidates presented do not reflect their number or sympathise with the views of that faction. A minister or director of a board or commission holding different opinions from those of the members of Parliament may find opposition in that house should he or she be offered for appointment or promotion.

Conversely, a politically timid President may be reluctant to nominate an otherwise capable but controversial candidate for fear of Parliamentary criticism.

In any event, it is obvious in these circumstances both the nominees and the President are likely to be beholden to Parliament as the master and mistress of appointments for the governance of the country.

Examination of the system of checks and balances, prescribed in the new constitution shows a design intended to cater for curbing the powers of the President by a Parliament which is conceived as near perfect.

The President has no power to prorogue Parliament beyond being consulted by the Speaker who has the constitutional power to do so. The right

of the President to be consulted on the prorogation was a belated insertion on the recommendation of the Legal and Drafting Committee.

Once elected, a Parliament shall last for its natural term of five years as prescribed by the constitution, with the possibility of extending itself for fixed short periods during the time when Uganda is at war with another country. The President may delay Bills passed by Parliament if he or she is of the view that the Bill or parts of it are not in the national interest. But the delay can be overridden by a determined Parliament.

The constitution provides that where the President refuses to give assent to a Bill, and parliament reconsiders it again and passes it with the prescribed majority, the President's veto will be overridden. The Bill so passed will become law without the necessity of a Presidential assent. Under such circumstances, the political life of a President becomes precarious.

On the other hand, Parliament appears unimpeachable. The new constitution has provided that neither the President nor Parliament itself can interfere with the full term of an elected Parliament which is five years. The only possibility is when Uganda may be at war with some other state or states, then Parliament can extend its life beyond the five years for a specified period at a time.

There is the possibility that during the life of Parliament, one or several of its members may be challenged by a petition of the electors in the constituencies under the right of a constituency to recall its member of Parliament. However, the chances of such a petition succeeding are not greater than those of the state of Uganda, in its current form of financial and scientific wellbeing, in landing a manned spacecraft on the Planet Mars.

In order for a petition of recall to be proceeded with, let alone succeed, it must be supported by at least three quarters of all the registered voters in the con-

stituency concerned. Considering that a seating member of Parliament will have gained the majority of votes more than any other candidate who stood in the constituency, the right of recall in one life of Parliament is an illusion.

It is to be noted that each member of Parliament is at the same time, a potential president. They both share the same qualifications, with perhaps the exceptions of age and citizenship.

Thus, under the new constitution, the Executive will have to exhibit a great deal of patience and of an ability to negotiate to have its way in matter of politics and policy. The alternative is to resort to political duress, corruption or bribery.

To make matters more complicated, the constitution has created a hybrid between Presidential and Parliamentary forms of government. It is a kind of the USA Presidency which will exist, operate and survive under a kind of British Parliament.

The President shall be elected separately from Parliament, but they are also under individual and collective responsibilities as if they were operating under a Parliamentary form of government. It is yet to be practised and proved as to whether Uganda has adopted both the best and worst from these systems of government.

Only one thing is certain, the constitution has made the people of Uganda the ultimate determinants of their destiny. It has vested the supreme political power in the citizens of Uganda who are to exercise it through free and fair elections or referenda.

It is through these democratic methods that the people shall be the only and true arbiters between Parliament and the Executive. The constitution has thrust upon the people of Uganda, an awesome responsibility.

They must cast their votes not only correctly but wisely since this is the only guarantee and assurance against misgovernance in Uganda.

The private life of a public servant

BY PHIL

THE TAX COLLECTORS ARE DOING!

