



THE REPUBLIC OF UGANDA

**PROCEEDINGS**  
**OF**  
**THE CONSTITUENT ASSEMBLY**

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OFFICIAL REPORT

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CONTENTS

TUESDAY, 11TH JANUARY 1995

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MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 2651]

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Wednesday, 11th January, 1995

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

### PRAYERS

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

*The Assembly was called to order*

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

### CHAPTER 11: FINANCE

#### ARTICLE 187: CENTRAL BANK OF UGANDA

**THE CHAIRMAN:** Hon. Delegates, the Clerk has called item 3, of Consideration Stage on the Draft Constitution. When we adjourned for recess, the Constituent Assembly was handling Article 187 relating to Central Bank and more specifically, a number of Clauses in that Article, the recommendations of the Select Committee that Clause (1) and (2) as they appear in the Draft Constitution be retained. Nevertheless, there was discussion on the casting of Clause (3) and there were some ideas thrown around.

**DR. ODUR:** Thank you, Mr. Chairman. Mr. Chairman, I do recollect that there was debate arising out of Clause 3 (a), part of 3 (b) regarding the appointments to the Board of the Central Bank, and we were urged, as Members of the Select Committee, to freely try to synchronise those appointments so as to come with a clear picture of what the Central Bank Board is going to look like. I also recollect that as a practice, the Governor and the Deputy Governor are normally the Chairman and the Deputy Chairman of the Board respectively. So we have consulted with some Members of Committee 3 and we have made the following recommendations. On 3 (a), we would like the following Clause, as a proposal, to stand part of the Draft Constitution to read as follows: *"The Governor and the Deputy Governor who shall be the Chairman and Deputy Chairman of the Board respectively shall be appointed by the President with the approval of Parliament."* Thank you.

**THE CHAIRMAN:** The important thing there as you can note is the introduction of the words *"who shall be the Chairman and Deputy Chairman*

*respectively"* there by retaining the provision as it is but with that clarification.

**MR. KABUGO MESUSERA:** Mr. Chairman, Clause of Article 3 (a) specifically deals with the appointments of the Governor and Deputy Governor and I take it that their function to chair the Board Meetings should be a separate issue. Therefore, clause 3 (a) is something that should deal exclusively with their appointments only. I do not think it would be proper to mix the two.

**THE CHAIRMAN:** If you read the one we have already accepted, it says, *"The authority of the Bank shall vest in a Board which shall consist of a Governor, a Deputy Governor and not more than five other Members"*. That states the composition of the Board, and talks about the institution of the Governor and Deputy Governor. Now the old structure which the Hon. Odur's Committee is seeking to change was making the Chairmanship of the Board vest in some other person. They are suggesting that the Governor and his Deputy should at the same time be the Chairman and Deputy Chairman. Now, in the Statement they have issued, from my point of view, I do not see anything really wrong with it. Say, you will appoint them, they will be Chairman and Deputy Chairman of the Board because you have already mentioned the Board in (2) and its composition.

**MR. SENDAULA GERALD:** Mr. Chairman, I only wish to get a clarification over this matter. Can the Committee Vice Chairman convince me as to why we should retain the Governor as Chairman and the Deputy Governor as Vice Chairman of the Board of Directors of the Bank, because in the original Draft, as you clearly pointed out, the suggestion was for them to be left out and only come in as ex-officio people. Why are we moving away from that position? In my view the person who is running the institution on the day-to-day basis, to be at the same time Chairman of the Board of Directors, sometimes it has its own problems. I am only seeking clarification, Mr. Chairman. Thank you.

**MR. KABUGO:** Mr. Chairman, the Bank of Uganda was established in 1965 by the *Bank of Uganda Act* and the Governor and the Deputy Governor have been the chairmen of the Board of Directors and there has never been any conflict to that effect. I have been in Bank of Uganda for the last 22 years until I retired recently.

**DR. ODUR:** Mr. Chairman, in our consultations with the people close to the banking institutions, we find it very necessary that in running any financial institution like the Central Bank, the Chief Executive really should be the Chairman. Otherwise, you could create quite a lot of a mess in some areas. I think there are former Governors around here who could verify this position. But it is a fact that for accountability and proper running of the Bank, the Chief Executive should be the Chairman. Thank you.

**THE CHAIRMAN:** I think unless we are going to add new ideas to this, I do not see the need to argue that at great length. I think the Central Bank is different from any other enterprise which you run. The control of monetary policy, if you find that the Governor has to chase for his chairman who maybe also is to attend some other business somewhere in Geneva, you can have a bit of coordinating problems.

**MR. ONEGI OBEL:** Thank you, Mr. Chairman. I deliberately decided not to contribute to this matter, but since you asked me, I will. Mr. Chairman, I am being sincere and as you said from my experience, it would be a disaster to split the chairmanship from the governorship for one simple reason that internationally, the Governor of the Central Bank is respected very highly because of those two capacities. When he goes, for example, to the World Bank, he is respected not because of being a Governor but because of being in total control of that institution. It is also universally accepted that that structure is the most respectable, the most effective, to run the Central Bank of any country. The Central Bank is not a commercial organisation. It is charged with duties that are nationally so vital that you do not want a situation where the Chairman, if there is a different Chairman, should differ with the Governor and that is, bringing any international chaos in as far as a particular Central Bank is concerned. Because its recognition of that office, that actually brings also the confidence in the finance of the country. We do not want a Central Bank Governor who is being both surrounded by some chairman who might be himself fighting hard to get that job of Governor. Mr. Chairman, I repeat the word "disaster" in the sense I have said that the Governors role as the top man on the financial organisation of the country will lose some credibility, power, recognition and become half Governor. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Is the wording as proposed by Hon. Odur acceptable? May I take it that it is acceptable?

**DR. ODUR:** Mr. Chairman, Sub-Clause (b) of Clause 3. Really there is only a slight amendment there to read, "*All other Members of the Board shall be appointed by the President with the approval of Parliament*" the additional word there is "other". Thank you.

**THE CHAIRMAN:** Acceptable?

**HON DELEGATES:** Yes!

**DR. ODUR:** Sub-Clause (c) is as it is on our Report - "*The Deputy Governor or any Member of the Board may be removed from office by the President with the approval of Parliament*".

**THE CHAIRMAN:** Acceptable?

**HON DELEGATES:** Yes!

**MR. KABWEGYERE:** Mr. Chairman may I seek your indulgence. I think there is a problem with (c) - it may be okay for the appointments to be approved by Parliament but if the removal or so is to be approved by Parliament, this has the implications for most of the other appointments that will be implemented by the President. It will even include Cabinet appointments because if the appointments are also approved by Cabinet and if the removal is also by Cabinet, reshuffles will have to be approved by Parliament and I think this is dangerous.

**THE CHAIRMAN:** No, here we are not talking about Cabinet. Or are you trying to argue by analogy rather than by straight method because here we are talking about the Bank.

**MR. NDEGE:** Thank you very much, Mr. Chairman. When you look at 187 (f), any Member of the Board may be removed by the President with the approval of the National Council of State and wherever there is National Council of State, we put Parliament. So, I do not see the argument at all. I think we continue, Mr. Chairman.

**THE CHAIRMAN:** I think the argument is whether some jobs should be protected from the executive and power shared with Parliament or should be left to the President to remove the people. So, Hon.

Kabwegyere is saying that this inclusion of the need to have the approval of Parliament would unfairly tie the hands of the President.

**MR. ELYAU:** Mr. Chairman, I think when we talk about approval, it has been usually that the President will report to Parliament. I do not think Parliament will turn down something which is genuine because there will be reasons why the President will submit.

**DR. HIGIRO:** Mr. Chairman, just as you said it, Members of Cabinet are really people who must work with the President when he needs them and where for instance, you have got several parties, when the Executive gets off they get off. But the Central Bank is there to stay so that we do not want to say, a change of Government also means to change the management of the Central Bank. We want the Central Bank to be stable. That is why we are trying to put in this word of informing the Parliament, and as the previous Speaker said, the Parliament may not necessarily be against what the president will propose. But there is that kind of protection. So, Mr. Chairman, there is a difference between Cabinet and Management of the Bank of Uganda. Thank you.

**MR. KAIJUKA:** Mr. Chairman, I wish to inform the Chairman and the House that the Committee was actually on this matter. Just as it has been stated, one can see the point in saying that Board Members should be subject to the approval - the appointment should be subject to approval of Parliament. But when it comes to removal, obviously there is the element of protection so that the President does not wake up one morning and remove the profession on his own right. That element was emphasized. But where we differed at Committee level, some Members wanted the degree of protection limited to Cabinet so that should there be good reasons, there should not be paralysis in terms of management of the Central Bank because people argued that once you go to Parliament, instead of addressing positions of Governor and Deputy purely as professionals you may end up not getting what you want. But people felt that this was high time we went to Parliament and if the President has good reasons, that it is another group, then they would automatically uphold his decision. But I must confess as a student and practitioner of good management - *(Laughter)* - I must confess I personally had gone for Cabinet. Once the President has good reasons, Cabinet should move. Thank you.

**THE CHAIRMAN:** Now, the position is this, the Committee recommends that the President involves Parliament in removing the Directors and the Governors. So far I have had two Speakers in favour of that position. But we have got Dr. Kabwegyere who thinks that may be he should not. Now, Member for Sheema North has come up with a new proposition that Cabinet instead of Parliament should be included.

**MR. WANENDEYA:** Thank you, Mr. Chairman. Mr. Chairman, the recommendation by the Committee as it stands is most appropriate and indeed the Governor, if he is to be removed, because he is involved in quick financial decisions which are in the best interest of the country. Mr. Chairman, when devaluations for instance, were done in France, not so long ago about five years, a lot of money moved from America to the European Continent and therefore, in order to protect any Central Bank, the Parliament must be involved as a way of getting things to be managed properly. Mr. Chairman when you look at what is going on in the field of corruption in our country, if it is only Cabinet which is involved, then you can rest assured that there may not be a fundamental change in financial management of the finances of our country. So, Mr. Chairman, this is a must and it can only be changed in the future by those who will be in Parliament if it is Parliament which will make the decision. I thank you, Mr. Chairman.

**DR. MUSAANA:** Mr. Chairman, we have been looking at appointments and saying that it is good that Parliament should approve. But when it comes to removal of such people in high offices, my fear is that we are looking at the present situation where, may be we may have a Parliament where the President is also in control of it. But in order to untie the hands of the President so that the President has also got confidence, I am of the view that we should leave him to remove monsters from office without tying his hands down because time may come when someone may become impossible, then it would be very easy to lobby a committee of Parliament and then the Parliament will refuse and if Parliament refuses, what happens?

**THE CHAIRMAN:** Now, there are two positions. There is a recommendation from the Committee that in removing the Directors and the Governor and Deputy Governor, the President should do so with the approval of Parliament.

*(Question put and agreed to)*

**DR. ODUR:** Mr. Chairman, Members will notice that we decided to leave the functions of the Bank out of the Constitution. Therefore, it became necessary to have a new Clause in place so that in future, Parliament is responsible, from time to time, to define and regulate the functions of the Bank. So, Clause (4) reads as follows: "*Subject to the provisions of this Constitution, Parliament may make Laws to regulate the functions of the Bank of Uganda*". Thank you.

**THE CHAIRMAN:** But this one as you also will notice is taken from 188 so that they are using 188 (3), to be able to say that we leave out all the rest and leave it to Parliament.

**PROF. NABUDERE:** Mr. Chairman, although I am agreeable to the idea that we leave the functions to Parliament, I am reluctant to accept the recommendation because the existing Clause (2) has other elements in it and the emphasis really in that Clause (2) is that the Bank shall conform, when carrying out its function, to this Constitution, that is a very vital element. Also towards the end, "*shall not be subject to the direction or control of any personal authority*". I think these elements are essential to remain.

**THE CHAIRMAN:** Hon. Nabudere, I think you are jumping the gun in a sense. Does removing (3) from where it is now in the Draft Constitution make any injury to 188? We shall come to that. In other words, the proposition is this, what Dr. Odur has reported was that we add a new Clause (4) by lifting Clause (3) of 188 to come to be Clause (4) of 187 essentially because it is going to be recommended that we do not accept the provisions of 188. Now what we have to resolve first, there are some members not disagreeing with the requirement that Parliament should make provision for the management in banking of the Bank, but Hon. Nabudere is saying that when it comes to considering 188, then he would rather have that (3) remain as part of 188. So, if we accept to transfer (3) to 187, then it means, the only thing that will be left is for Hon. Nabudere to argue that (2) of 188 should remain as an Article on its own.

**MR. DICK NYAI:** Mr. Chairman, I think the Committee's suggestion already takes the fact that 188 will be no more. So, moving sub-Clause (3) to 187, sums up the position about the Bank. So, Mr. Chairman, I was thinking if it is the furthest out

position, with a little blessing from you, I think it would be useful for the House first to agree that the rest of the contents of 188 are unnecessary before we move on to 187. Thank you, Mr. Chairman.

**MR. OMARA ATUBO:** Thank you, Mr. Chairman. Mr. Chairman, there is a lot of sense in the proposal that the provisions regarding the functions of the Central Bank may not have to be put in details as it is now in Clause 1 (a), (b), (c) and (d). I came to move that suggestion, Mr. Chairman, simply because if you look at Article 187, Clause (1), the Central Bank is established and empowered with the authority to issue the currency of Uganda. If you look closely, Mr. Chairman, at (a) and (b) of 188, those functions do form basic functions of a Central Bank, mainly to promote and maintain the stability of the valuable currency of Uganda, to regulate the currency. So, it is more-or-less saying that when you issue the currency of Uganda, there are certain things which follow in the process of issuing that currency. You must have the stability of the value of that currency and then regulate the currency system and in (d) again it is talking about the economic development. That one, if somebody looks at the Bank of Uganda Act, it is one of the functions stipulated in the Bank of Uganda Act. So, Mr. Chairman, there is quite a lot of sense in that proposition. But as Hon. Nabudere has said, in 188 (2), it basically protecting the Bank. It is providing for the autonomy of the Bank and I think it is an important provision because if you read the provision, it is saying that in exercising its functions, the Bank of Uganda shall conform to this Constitution and implement the fiscal and monetary policies made under it. Now, one of the basic functions of this is fiscal and monetary - relating to issuing of the currency and so on. Now, the Constitution is saying that you are not going to have a situation which occurred possibly in Uganda between 1971 and 1979, where the Government and for that matter its leaders could go and direct a Governor of the Central Bank to issue a notice for payment of some of its public officers and the Central Bank, for purposes of professional functions, has to comply to that. Mr. Chairman, these are very important functions. So, I think that 188 (1) could safely be removed. Thank you.

**THE CHAIRMAN:** Now, let us proceed this way. Let me ask Hon. Odur. Do you still feel strongly - and some Members of your Committee, in view of the arguments advanced by Hon. Omara Atubo and Hon. Nabudere that it may be necessary to retain

188 (2) and if you did that then we could retain 188 (3) or at least come to them and see whether they should be retained. If that is acceptable to the Committee, then all that we would do is now to pronounce ourselves on 187 as recommended to us by the Select Committee and then come to 188 in light of the comments which have been made.

**DR. ODUR:** Thank you, Mr. Chairman. I think as a result of further explanations, we really do not have very strong feelings against having Clause (2) of Article 187, and that of course would mean that we shall also retain Clause (3). But at the same time, we will have to modify that to take care of Article 187 because the general idea is that Parliament will be responsible, from time to time, to review and formulate the functions of the Central Bank.

**MR. MULENGA:** Thank you, Mr. Chairman. Mr. Chairman, I was seeking clarification in regard to Members of the Board. The new Article 187, we have accepted Clause (2) which provides for Members of the Board and under the old (3), we provided for the term of service to be five years. But this has been dropped out. I am wondering whether Parliament in the course of regulating the business of the Bank would also stipulate that period these Board Members would serve. It seems it would have been dropped out and need to be provided for. We have only been told what should be appointment for Governor and Deputy Governor but nothing is said about the Members of the Board.

**DR. ODUR:** Mr. Chairman, actually we are completely against having the terms of office or Board Members included in the Constitution. We think that this can be taken care of in an actual Parliament. The Bank can take care of the duration of the Board because there is no reason why it should be five years. We found it unnecessary to include duration of the Board as a constitutional matter.

**MR. WANENDEYA:** Mr. Chairman, I would like to draw the attention of Members to the sub-headings under 187 where it says, "*The Central Bank*" then under 188, you find the functions of the Bank. Mr. Chairman, it was in that connection that we recommended number (3) under 188 to come under the Central Bank and therefore by provisions of this Constitution, Parliament may make Laws regulating the functions of the Bank. This is an important way of framing a legal entity Mr. Chairman, and therefore, since it is also constitutional, it was in that connection that we removed Sub-Article (3) to be

part of Article 187, Mr. Chairman. Therefore, I want personally to recommend, because we carefully thought about it and some of us as Hon. Kaijuka was saying, are students of good management, I would recommend that to this plenary session. I thank you Mr. Chairman.

**THE CHAIRMAN:** You see, the situation is as follows: The Constituent Assembly has approved (a), (b), (c) and there was an attempt to introduce a new Clause. Objection was raised, the Chairman of the Committee was saying, in view of the statements made, they will be prepared to go with the proposition that retains (2) and (3) where they are in 188. Now, Hon. Mulenga is saying that what about the term of service and the conditions of people you are seeking to protect in 188 (2)?

**PROF. NABUDERE:** I think there should be a provision there to the effect that subject to provisions of this Constitution, Parliament will make regulations concerning those things which have been left out. I think it will be proper to do so.

**THE CHAIRMAN:** In other words, the Committee is recommending that we leave to Parliament the question of the fact that their salaries shall not be reduced while they are holding office. That they shall hold office for five years. But when they recommend the role of Parliament, they are confining Parliament to regulating the functions of the Bank, but not relating the terms and conditions of service of the Governor and Deputy and other Directors. Now you go to (2), we are saying, in excising their powers and functions under this Constitution, they will be subject to no direction or control of any person or authority, and if you leave it open as it is suggested, then the other method of exercising control and direction of them would be by attacking their emoluments and other terms and conditions of service. Now, do you not think that the Constitution should also say something about that?

**ANHON. DELEGATE:** Actually Mr. Chairman, when we were deleting that Clause, first of all, in exercising these functions the Bank will conform to this Constitution and that was already provided for in Chapter 1, Article 2, that every institution shall be subject to this Constitution and then we found that we could not leave the Bank of Uganda to exercise this authority without any direction. It has to be under Parliament. Also there is the Minister and the President. That is why we actually wanted to delete it.

**THE CHAIRMAN:** Let us first agree to pronounce ourselves on the recommendations as already made to us by the Committee so that we create Article 187, then we go on to 188 in view of the comments and in view of the Committee's view. Then we can discuss whether we can have no direction of or have it and whether Parliament should be confined only to making Laws relating to the functions of the Board or functions of the Board including other matters pertinent to the operations of the Bank. So, now 187 as recommended. I would like to put that it does stand part of the Draft Constitution namely Clause 3 (a), (b) and (c).

*(Question put and agreed to)*

**THE CHAIRMAN:** The question is that 187 as amended do stand part of the Draft Constitution.

*(Question put and agreed to)*

**ARTICLE 188:**

**DR. ODUR:** Mr. Chairman, in view of the developments on the Floor, the Committee now would like to propose that Article 188, Clause 1, Sub-Clauses (a), (b), (c) and (d) be deleted. Thank you.

**MR. NDEGE:** Under 188, we are talking about the functions of the Bank, the status for these functions and the protection. So, I think that one is too detailed and I concur with the Committee that it should be deleted. But I would like to add on No.3 that "*Parliament may make Laws regulating the functions and terms of service of Bank of Uganda*". So, that one will take care of the terms of service and functions. Parliament will have both the power to regulate the functions of the Bank and the terms and regulations of the employees of the Bank by an Act. Because if we do not do that, then Parliament will not have the power to regulate the terms of service of the officials of Bank of Uganda. Thank you.

**MAJ. TUMUKUNDE:** Mr. Chairman, during the discussion in the Committee, we got to sort of an agreement that all that 188 caters for is functions. We also agreed, Sir, that (2) does not make legal sense. We even sought legal opinion if my mind is still at par. So, Mr. Chairman, we said that (2) is not a function and even if it was to be left as it is, it does not make legal sense. I remember we were given advice to the effect that actually, it does not make sense, Mr. Chairman. So, we also agreed that since

we are in a developing situation, it is not suitable for us to draw hard and first Rules in the Constitution that it is so difficult to amend. But on functions, we agreed that (2) was not a function and that even it is does not make legal sense. In fact we agreed to delete 188 to avoid leaving it with just one Article and then add the third Clause in 188 under 187, spelling out a provision to the effect that Parliament shall make Laws to regulate the functions of this Bank. I must accept again Mr. Chairman that we forgot something about that. Thank you.

**DR. MAGEZI:** Mr. Chairman, as things stand here, I cannot support the proposed deletion of 188 (1) because we have created the Central Bank of Uganda, we have defined it, the Governor and the Deputy Governor under Board. But Mr. Chairman, we have also to define the functions. What is it going to do. Leaving 188 (3), it is only talking about regulating the functions of the Bank which have been defined elsewhere. I agree we cannot put all the functions here but it may be pertinent that some key functions that are expected in a Central Bank be included here and then Parliament may add on. So, in absence of a Clause which is giving Parliament clear mandate to define the functions, you cannot tell the Parliament to regulate what is non-existence. So, I think the Chairman of the Committee has to convince me that somewhere in the Constitution, the functions have been defined.

**MR. MASALU MUSENE:** Thank you, Mr. Chairman. Mr. Chairman, I also find difficulty with the recommendation that Clause 1 of Article 188 be deleted. The reason is because it would be very inconsistent with the spirit with which we have been making this Constitution. It is, Mr. Chairman, not proper to set up a commission or an authority and then you do not define its duties. As Hon. Delegates will recall, for example, when you look at Article 76, setting up the Uganda Human Rights Commission, it is immediately followed by Article 77 spelling out its functions. When you look at Article 173, to do with Judicial Service Commission, it is immediately followed by Article 174 spelling out its functions. Similarly, it would be improper and inconsistent if we just set out the Bank of Uganda but without some basic functions being set up. Mr. Chairman, we are mandated by the people of Uganda to make a Constitution. It would be naive therefore, to be leaving most of these important provisions to Parliament. If that is the case, why are we here? So, we must clearly do a thorough job, set up a body with

basic functions so that, should there be any other thing which - because functions, I agree, change from time to time but basic functions remain because I am not foreseeing any Government or any Parliament which will come and remove the functions of Bank of Uganda promoting and maintaining the stability of the value of the currency. Or regulating the currency in the interest of the economic progress of Uganda. So, I strongly support the view that Article 188, Clause (1) spelling out the functions of the Bank - the basic functions should be left, and not be deleted. I thank you, Mr. Chairman.

**DR. KABAYO:** Thank you, Mr. Chairman. In appreciation of the good points raised by Hon. Dr. Magezi and Hon. Maliro, I wish to propose an amendment to what our committee passed, that is to include the word "determining" - *(Interruption)*

**THE CHAIRMAN:** Not Hon. Maliro but Hon. Masalu Musene.

**DR. KABAYO:** I wanted to propose an amendment which accommodates the meaning of creating functions. And that is to say that "*Subject to the provision of this constitution, Parliament may make laws determining and regulating the functions of the Bank of Uganda.*"

**THE CHAIRMAN:** It has not achieved secondment.

**MR. KITARIKO:** Thank you, Mr. Chairman. I believe, Mr. Chairman, the reason why you have said that the appointment of the Governor and Board of Directors should be approved by Parliament and so their removal. That relates to the exercise of the function of the Bank, and I cannot believe you can do that without article 188. Because if the Bank is the central bank, the Chief adviser to government for the monetary and fiscal policies, it is the lender of last resort. I do not know how you cannot constitutionalize those functions which government should not interfere with. And, therefore, what we have done is to ensure that these people cannot be removed from their positions for political reasons. They can exercise these Bank functions Bank without due interference by government. I believe really you cannot do that without having article 188 as written in the Draft Constitution. I believe we should retain it as it is. I visited the committee myself - committee (3), there was really consensus in these chapters, and

I believe we should discuss it rationally here and retain article 188 (1) (2) and (3).

**MR ONEGI OBEL:** Point of clarification! Thank you, Mr. Chairman. I would like to clarify one thing that is probably not clear to some of us here, particularly those asking for specification of the role of the bank. Mr. Chairman, the Bank of Uganda has an Act which established it, *The Bank of Uganda Act* in which all its functions are spelt out very clearly, and to which some amendments have been made by act of Parliament to regulate and change whatever is necessary at particular moments created by the demands of change. Mr. Chairman, it is therefore unnecessary to think that we are first of all making the Bank of Uganda. The Bank of Uganda is over 20 years old. It is also not correct to think that we can create new functions which are now being done, where necessary, by the Parliament through amendments of that Act. The regulations, the rules, the functions of the Bank, Mr. Chairman, are in that Act. Thank you, Mr. Chairman,

**THE CHAIRMAN:** Are you saying that there is no need to have these two provisions?

**MR. ONEGI OBEL:** Absolutely no need, Mr. Chairman.

**THE CHAIRMAN:** Okay. I think we have made a good survey of the situation. The question before us which was moved by the Deputy Chairman of the committee was that Clause (1), and its paragraphs be deleted *(Applause)*. Hon. delegates I think you have congratulated the Hon. Member sufficiently for his new dress. Can we now come back to - We have a proposition on the Floor from Hon. Odur on behalf of the committee that we delete Clause (1) of article 188. There have been arguments against it, and those for it. What we should do is decide the fate of that Clause right now.

*(Question put and agreed to)*

**THE CHAIRMAN:** In view of the fact the rules require 51 and I see less than 10, then the matter speaks for itself.

**AN HON. DELEGATE:** Point of clarification Mr. Chairman. I am seeking clarification in the light of the position taken by the House, because I think perhaps we did not take time to listen to the main reasons why the committee came up with this posi-

tion. If we are to retain 188 Clause (1), then we had better do a good job of it. In other words, this is not an exhaustive list of functions of a Central Bank, neither can this House pretend to aim at exhausting the functions today and tomorrow. It is true that we can look at today's functions, and we are happy with the level of the unsophisticated financial institutions we may have, but 20 years hence, it may have to do more. The clarification I want is, in view of the fact that given a situation in a country, a Central Bank may be in at different times - some markets may be sophisticated others may not, and we seem to be reacting to an unsophisticated rather than sophisticated situation where in future you may have a central bank doing more intermediation in Money and Capital Markets and things that we cannot exhaust.

I want to be guided on the way forward because if you look at Article 187 (1), you are talking about "*The Bank of Uganda shall be the Central Bank, and it shall be the only authority to issue...*" Issuing currency is a function, and if you note in 188 (1), (a), we are talking about promoting and maintain stability of that currency as spelt out in (1). In (b) we are talking about regulating currency related to - the function that is being emphasized there is talking about a currency. If you looked at (d) "do all such other things not inconsistent with the Article as may be prescribed by law." Now, the more reason why if you read Article 3 - if you can accept that why not accept 188 (3)? I need your guidance, Mr. Chairman.

**THE CHAIRMAN:** Actually there is a confusion here. There was a confusion in drafting but we can polish it up. They are setting up functions and in the same breath, they are purporting to make provision for powers, to do all other things not inconsistent with this Article as may be prescribed. But still they go further and they want to give Parliament power to prescribe the functions of the Bank. But really, they were saying regulate. Now you can actually expand (3) to provide not just for regulating but even prescribing functions.

**AN HON. DELEGATE:** Okay, then I am happy once you do that, Mr. Chairman.

**THE CHAIRMAN:** But you cannot amend it from the Chair. When we come to that point, I think those of you on the Floor can take that into account. Now, Hon. Odur, (1) has been retained and you had

indicated that you may want to go with (2) and (3) to subject some modifications.

**DR. ODUR:** Mr. Chairman, I was going to make an appeal to Members because we had an opportunity to look at Article 188 very closely. In fact the idea that we should list the functions of the Bank in the constitution is itself going to limit the Bank at one point and in a developing economy like ours, I find it very difficult that really we should at this point in time try to prescribe the functions of the Bank in our constitution. I wanted to appeal to Members that if we are to retain it as it has been agreed, I think let us take it back to the Legal and Drafting committee to do some surgery so that really we do not come up with something clumsy as it appears in the Draft at the moment. I wanted to make that appeal through you, Mr. Chairman.

**MR. AMAANYA MUSHEGA:** Thank you, Mr. Chairman, I wanted to be helped by the Chairman of this amendment through you, Mr. Chairman, Article 187 (3) (f). We have gone out of the way to protect the Board of Directors, and they can be removed by the President with the approval of the Parliament for non-performance of the functions. I wanted to be helped by those who are experts in management how you can protect something so viciously that is not there. So when they are being removed for non-performance, shall we go to read *The Bank of Uganda Act* which is not part of this constitution? I wanted to be helped there. If you go out of your way to protect the body whose functions are not clear, when they are not functioning how do you determine that? Secondly, I wanted to be helped by the second student of management from Sheema and another one from Budadiri whether they can vouch that money will always be there. Maybe, we should not pass a constitution at all because you can't guarantee that today river Nile for the next 1,000 years will flow to Egypt. Nobody can sit down and guarantee that. Then what is the purpose of passing laws? I think we have to pass a law. I wanted to be helped by those managers how they look at this. Having such a rigorous protection of the body whose functions are not even known, left to some future Parliaments! I would like to be helped, I thought the vote was good but I would have moved a point of order earlier, but for good neighborliness in Bushenyi, I did not pursue it. Could I be helped, Mr. Chairman.

**THE CHAIRMAN:** Okay, thank you.

**MR. KAIJUKA:** Thank you, Mr. Chairman. I did listen attentively to my brother and neighbour Hon. Amaanya. I am not surprised that he is not familiar with these functions. But I will take trouble to explain to him that we have a duty of either spelling out all the functions of a Central Bank and do a good job at it, or clearly say, all these details will be - are spelt out in an act of Parliament, and not do a half baked job. And in other words, the committee in its wisdom did recognize that rather than talk about the functions on issuance of currency and the way you regulate it, it was not good enough and therefore not exhaustive and recommended that we do adopt this if you see article 188 Clause (3) subject (2). In other words, we left the spelling out in act of Parliament. That does not mean that we did not recognize that there were functions. For example, based in Igara, there is no way you will pretend you will get to Mbarara without passing through Sheema.

**THE CHAIRMAN:** Hon. Odur was appealing that we take these matters back to the Legal and Drafting committee, but in my view, we can proceed as follows: If there are two Clauses of article 188 left, one relating to protection and the other one under three (3) relating to the functions of the Bank - also mention was made by Hon. Tumukunde and others relating to the terms and conditions of service of the members of the Board and so on. What we can do is just a suggestion from the Chair so that we proceed quickly. One Member was worried about the side not on functions of the Bank, you can add, e.t.c so that you know that you have opened up that article beyond just talking about functions of the Bank so that whoever reads that Article knows it goes beyond. So you put a comma after the word "Bank" and put "etcetera" on the side. If you look at 188 on the side of the functions of the Bank, that is the side not on one - against 188, assuming that we want to put other things in 188 other than just functions, including for instance an expansion of 188 (3) to say, "*Parliament may make laws prescribing and regulating the functions, and terms of service of the Members of the Board of the bank*", whatever way you want to add in it, then that will cover what we missed out and has worried some Members with regard to 187(2)(c) and (d), but at the same time cover the worry expressed by some Members that we have not exhaustively set out the functions of the Bank and it will be unwise to try to do so. You mentioned the important ones as we have done and then leave in (3), an opportunity for Parliament not just to make laws regulating, but also

prescribing the functions of the Bank. That way you then make provision for the three eventualities that are before us.

**MR. LEANDER KOMAKEC:** Mr. Chairman, all I was objecting in (2) was the putting in the word "etcetera", which I think is not proper in a constitution. What I wanted to do is really to move a slight amendment - *(Interruption)*

**THE CHAIRMAN:** Point of clarification! Before you go any further let me clarify you on the meaning of side notes. They do not constitute part of the legislation, they are only indicative, they help you in reading. But they constitute part of the law. And that is why you can even put "etcetera" there because it is just trying to tell you that in fact that this thing covers more than one. But it does not make part of the law.

**MR. LEANDER KOMAKEC:** Why I put up my hand was really to move an amendment introducing the word "establishing" as you suggested before "regulating" and then after the words "function and terms of service" as was suggested earlier on by one Member. So I just wanted to move formally that we insert in those two words that "*Parliament may make laws prescribing and regulating the functions and terms of service of Bank of Uganda*". Mr. Chairman.

**DR. ODUR:** Thank you, Mr. Chairman. I think we had agreed that Clause (2) should become part of the Draft Constitution, but in light of the fact that Clause (1) has also now been accepted, my appeal really is that, this Clause (1) which is also affecting Clause (2) needs surgery, it needs better formulation before really we can bring it back to the house. This is my appeal still, through you, Mr. Chairman.

**MR. BIDANDI SSALI:** Mr. Chairman, I just wanted clarification, I am not one of these banking wizards from wherever the case may be, but the provision of 187 that "*The Bank of Uganda shall be the Central Bank of Uganda...*" may be that assumes that the functions of a Central Bank are known. Two, I had always assumed that when I read the books of economics at my level, not at the professional level, the functions of a Central Bank tend to more or less remain the text book functions. That is my only understanding in my way. And I thought that what 187 is doing is to state which particular organ, which particular Bank will per-

form the functions of a Central Bank. And here we are saying, the Bank of Uganda shall be the Central Bank. So, I just want to know whether what is being sought by returning this back to the committee is to amend the text book functions or add or remove some. I just want clarification.

**DR. MAGEZI DAUDI:** Thank you very much Mr. Chairman. I was raising a point of procedure because I think we have now reported against the recommendation of the committee on article 188(1), and therefore, we revert to the text. I think you will be putting a question as presented in the text.

**THE CHAIRMAN:** It was a recommendation that (1) be deleted. That recommendation was negated. So (1) as it stands in the text is the formulation that we have accepted. The procedure is this, it was a proposal that (1) be deleted, it was discussed and the proposal was negated. So (1) remains, we now leave it as it is, we go to (2), If (2) is accepted we go to (3) whatever the fate of these two. Then I would come back and put the question on 188 whether as amended or as it stands within the text. But at this juncture, we have accepted 188 as it is. The only request being made by Hon. Odur was, okay, we have accepted 188 (1), but why don't we let the legal and drafting committee go over it in terms of formulation. Now that cannot be given by leave of the House, but I can see problems there. If a recommendation has been negated and there are no serious problems which it takes as it is, we leave it and go to the next one.

**MR. MAGEZI:** Mr. Chairman, in that case, I think that matter can only be revisited under the reconsideration stage.

**DR. ODUR:** Mr. Chairman I will suggest that we leave it as it is and see if there are any ideas, then we come back at the reconsideration stage.

**MR. KAYONDE:** Point of clarification! Mr. Chairman, I am seeking clarification in respect of Clause (2) of article 188.

**MR. BIDANDI SSALI:** Point of order! Mr. Chairman, is it in order for the Member duly allowed by the chair to seek clarification not to be heeded after such a Member has sought clarification? Because I genuinely sought clarification so that I can follow a discussion after I put the question in which I wanted to be clarified. The Chair, Mr. Chairman, did not

seem to appreciate the need for my wanting the clarification. Is it in order, Mr. Chairman?

**THE CHAIRMAN:** I thought you were seeking clarification as to - you said that merely because there is a statement in 187, the other functions of the Bank are known. And our response was that 188 (1) which sets out some functions of the Bank has been discussed and agreed upon in its contents as it is. Then we go on to do (2) and (3). A fear was raised though that 188 (1) is not exhaustive, and the a proposition was made that in fact maybe an amendment could be made to (3) which can give room to Parliament to prescribe further functions which we do not have to detail because as Hon. Kaijuka said, functions of the Central Bank in 1900 may not be necessarily the same as today because of other functions relating to securities and Capital Markets arrangements which we cannot now set out in context, but can be set out by an Act of parliament additional to these ones through the wording subject to the provisions of this constitution, i.e. you assume this and then you add.

**MR. BIDANDI SSALI:** Mr. Chairman, by that explanation, I take it that what we have agreed upon are the functions in 188 (1) and what, according to your explanation, we are trying to do is to allow for additional as Parliament will deem necessary. My question is, what happens to the traditional functions, where have we put them, where are they? In other words, I am saying, aren't we, by this procedure, modifying the functions of a Central Bank and say in our constitution these are the functions plus those that will be made by parliament?

**THE CHAIRMAN:** And you are saying that, according to your education, these are not the traditional functions, is that what you are saying?

**MR. BIDANDI SSALI:** I am only saying that according to my little information in that field, these are only some, and by implication of what you want to amend the (3), you are not saying that those which are not here will necessarily be the ones that Parliament will add on. I am just wondering at the fate of those which are not included here, but which are in text books.

**THE CHAIRMAN:** We are not writing a constitution based on convention like the British who have got their own way. We are saying our constitution be reduced in writing until the courts interpret. But

what would happen is that, if there are those functions that you know which are not here, there is no harm in repeating them in the statute which governs the Bank. And I presume they are already in that statute. And by virtue of other provisions relating to laws and other things already in force, they will be picked up and they will be retained.

**MR. KAYONDE:** Point of clarification! Mr. Chairman, I am seeking clarification in respect of Clause (2), and I want to know the implication of the statement "in implementing its fiscal and its monetary policy, it shall not be subjected to the direction or control of any person or authority". Now here, "authority", what do we mean by "authority" because in view of (3), I thought Parliament is an authority and I want also to know the relationship between the Central Bank and the executive function of government in respect of what is contained in (2).

**PROF. NABUDERE:** I am not an expert on this Clause, all I want to say is that it should remain there because it safeguards the autonomy of the Bank. That is all and as to whether the word authority has any meaning within the context of this Clause is another matter. You can, of course, say that "*shall not be subject to direction, control or authority of any person other than Parliament*" if you like to clarify the matter. Because it is already implied in Clause (3) that Parliament shall have power to make provisions regulating functions of the Bank. So there is no contradiction in my view, all that he is saying in (2) is that, it shall not be subject to the direction, control, or authority of any person other than Parliament because Clause (3) does give Parliament powers to make laws.

**THE CHAIRMAN:** But if we take that then Parliament will be able to make laws regulating and also as it was suggested, prescribing, but once it has done that, when it comes to a Bank to exercise those as given then, unless Parliament passes another law.

**DR. ODUR:** Mr. Chairman, I think it has been properly clarified. I think the fear has been that the Bank could act against the interest of the executive. This cannot be so because the physical policies which the Bank is implementing, first of all, is drawn by the government and the executive so the contradiction does not arise. We are merely providing for the independence and the autonomy of the Bank in relationship to other authorities not really the executive. Thank you,

**MR. WANENDEYA:** Thank you very much, Mr. Chairman. Mr. Chairman, to those who are knowledgeable about finances, the point made by Hon. Bidandi Ssali is very valid. It almost amounts to rewriting the Magna Charta in the sense that after so many years, it is clearly known as to the way the British people are governed. Mr. Chairman, I would appeal to Hon. delegates to know that article 188 sub-article (1) is not quite relevant in terms of finance as known in the World, Mr. Chairman.

**THE CHAIRMAN:** Hon. Wanendeya, we have already pronounced ourselves on 188 (1). If you want to re-open debate on that one, I will not allow it.

**MR. WANENDEYA:** The point is that, when some of us are well-known in this town, we should be able to be listened to and perhaps as Hon. Odur has put it, it should go back to the committee and Members re-think about it, Mr. Chairman, because how will this *-(Interruption)-*

**MR. KIRUNDA KIVEJINJA:** Point of order! Mr. Chairman, is it in order for the chair to allow debate on an issue which the House has already pronounced itself on instead of proceeding forward.

**THE CHAIRMAN:** Where the Chairman is, under our rules there is a special procedure for censoring the Chairman, and that is not one you have just applied. So I shall assume that no statement has been made.

**MR. OCHYENGH:** Thank you, Mr. Chairman. I am also disappointed that we posed (1) but my attention is really on (2), the wording of that Clause. Because it says, "*in exercising its functions, the Bank of Uganda shall conform to this constitution and implement the fiscal and monetary policies made under it...*" It confuses because I tend to think that in exercising its functions, the Bank of Uganda shall conform to this constitution and shall not be subject to direction or control of any person or authority. I thought that would be actually the more specific. But when we add "and implement", it looks implementing is different from exercising its functions, and it confuses me a bit, because it says policies made under it, as if the policies are contained in the constitution also. So, I would have preferred to just delete "*and implementing the fiscal and monetary policies made under it*" up to "but", and just leave "*in exercising its functions, the Bank of*

*Uganda shall conform to this constitution and shall not be subject to direction or control of any person or authority.*" Thank you, Mr. Chairman.

**THE CHAIRMAN:** I would like also to draw the attention of Members - if you are being purist in term of using correct language, you do not normally say, "in exercising its functions." You say, "in performing its functions." And "in exercising its powers".

**MR. MALINGA:** Mr. Chairman, I agree with you but I think the problem with this Clause is any other - "*shall not be under the control of either person or authority*". Because surely, the bank of Uganda in discharging its functions will be subject to the Board, its own Board of Directors will be giving directives to the technical arms. So what is intended here is that, no other person other than the Board will interfere - will give directives to the Bank as to how to discharge its functions. I think in this Clause we need to add the word "other" to it so as to make it clear that what we were meaning is somebody from outside. Because surely, the governors are responsible in the end for the performance of the Bank. Therefore, they must be able to give directives to the management of the Bank as to how things should be done. So they can give directives. The only people we do not want are people from outside like Minister or government

**THE CHAIRMAN:** But I think Hon. Malinga you have not read 187 (2).

**PROF. NABUDERE:** The Bank of Uganda includes the Board.

**THE CHAIRMAN:** If you look at 187 (2), the authority is vested in the Board. So you are saying, when the Board is exercising the authority of the Bank, no other people should come and interfere.

**MR. RUZINDANA (Ruhaama County):** Mr. Chairman, I am seeking clarification on 188 (2) particularly on the part that "*shall not be subject to direction or control of any person*". That means that the Bank operationally gets de-linked from government, removes the Minister for Finance and any other authority from what the *Bank of Uganda Act* allows the minister to do. Is that what we intend that the Bank should not operationally be governed by government, have contact with government or something like that? Because this is something we should be sure that we are actually making a bank

operationally competently independent from government, and this will necessitate the amendment of the *Bank of Uganda Act*. Because there is a part played by the minister, the relationship with government is quite clear, but this one now changes that relationship.

**THE CHAIRMAN:** Well, what I will correct is that, NRC was called upon recently to pass a completely new Act of the Bank of Uganda in which the role of the ministry of Finance and government as such was reduced to a minimum if I am not wrong.

**DR. HIGIRO SSEMAJEJE:** Mr. Chairman, the Act gives full authority and almost complete autonomy to the Bank so that it functions without much political interference, and that was the very principle on which this Act was based. So that the Bank has no interferences whatsoever, it acts in the interest of the country and checking the finances, currencies the fiscal policies but with that clear mandate, Mr. Chairman, the Bank now has a lot of autonomy which it did not have before.

**MR. NDEGE:** I think in theory, that is what it was. But in practice, it is different because the governor Bank of Uganda must consult the minister for Finance all the time on monetary and fiscal policies. This is because Uganda is not acting in isolation with the rest of - (Interruption) -

**THE CHAIRMAN:** But Hon. Ndege there you are making a different thing. The words "direction" and "control" are different. If you want to interpret the words "direction" and "control", you can read about ten Volumes of Law Books, on what it means when in a statute. As a distinct provision for consultation or interaction, consultation, I think is defined in a meaningful exchange of views so that you do not just say you have consulted when you have not.

**MR. NDEGE:** In my opinion therefore, I would like to remove the words "Direction or Control" and replace it with the word "Interference". Because these policies keep changing all the time, and we cannot make the governor Bank of Uganda and the Board independent of realities of the wishes of Parliament or the President and the executive if policies are to change, and therefore, the way Bank of Uganda operates has to change. In any case, Parliament may call the Minister and ask him if things are going wrong, for instance if the currency

loses value so fast. We are saying, let not the currency lose value and we say nothing to the Governor Bank of Uganda. This is really what we are trying to put in the constitution.

**MR. MULENGA:** Thank you, Mr. Chairman. Mr. Chairman, I though Hon. Ochyengh had moved - perhaps he did not get secondment but at least he had moved to delete the words "*and implement the fiscal and monetary policies made under it*". We have not yet expressed ourselves on that Mr. Chairman. Mr. Chairman, the second point I want to make in support of it is that, policies are reduced into law, there are two provisions already for parliament to make law regarding the functions of this Bank. One was passed, I think, in Clause (1) (d) that the Bank shall do all such other things not inconsistent with this article as may be prescribed by law. Then next will be in Clause (3). Since, to me, It seems that there is merit in the proposal that we make Clause (2) clear by deleting reference to implementation and just say in exercising or whatever was the correct word, in its functions, the Bank of Uganda shall conform to this Constitution, and shall not be subject to direction or control of any person or authority, and the reason, Mr. Chairman, as I understand it, is to give the Bank autonomy in carrying out those functions which have been reduced into law, either in this Constitution or in some other Act. Hon. Higiyo has confirmed what you stated that even the current trend has been to give that autonomy.

Mr. Chairman, for those who fear that, there will be de-linking, I think that fear is unnecessary. There are other bodies which are deliberately given autonomy for purposes of avoiding what is generally called political interference. So, Mr. Chairman, we have for example, the DPP - Director of Public Prosecutions, we have, off and on, the Inspector General of Police, I think we shall have the Inspector General of Government in this Constitution also given some autonomy and so forth. So it is a necessary protection for purposes of ensuring that these fiscal and monetary policies reduced into law are not interfered with by day to day political considerations. Mr. Chairman, if it is not formally moved, I would like to move the amendment that we delete the expression "*and implement the fiscal and monetary policies made under it*".

**THE CHAIRMAN:** Hon. Ochyengh had suggested that but I did not see a seconder at the time so I went on. Because it was not within my job to look

for a seconder for him. But now that he has been seconded, we can now discuss (2). The Motion is that we delete the words "*and implement fiscal and monetary policies under it.*"

**DR. ODUR:** Could we make just substitution instead of "exercising", can we use that word you gave us "performing". "*In performing its functions*" instead of "exercising". Can we?

**THE CHAIRMAN:** Okay, if it is acceptable to the Mover and I think it is, then we can say that we delete the word "*exercising*" and insert in the word "*performing*", and then delete the words, "*and implementing fiscal and monetary policies made under it*".

*(Question put and agreed to)*

**THE CHAIRMAN:** Those words have been removed. Now Hon. Mulenga did clearly make a distinction. It is not that the Bank could be de-linked from government. Parliament as a Supreme body will continue to be responsible for prescribing - if we adopt (3), but in any case that one we already have taken care of. In which case, should need arise, Parliament can always prescribe by law the policies and functions of the Bank and once those have been done, then they are saying that, there should be no interference. Should government want to interfere with the operations of certain functions, then they should go back to Parliament and make Parliament change it so that government can take back or release whatever it wishes to the Bank. But once you give it that function then let it perform it, but not give it and then interfere. This is what it is saying really. It is not saying that there should be no government interference but government should go through Parliament if they want to involve themselves in the affairs of the Central Bank. Let us vote on (2) as amended.

*(Question put and agreed to)*

**THE CHAIRMAN:** Now we go to (3). Hon. Kajjuka had some ideas. Hon. Odur you did hear Hon. Kajjuka express his concerns about the narrow nature of (3), and the proposition was made that possibly it could be opened up and Hon. Leander Komakec who has since moved out suggested a mode of formulation which would open up (3).

**DR. ODUR:** Mr. Chairman, I think (3) needs to be amended and we are trying to formulate that amendment right now. We shall be ready in a moment.

**THE CHAIRMAN:** When you are formulating it, could you take into account the concerns of the terms of service.

**MR. KASAJJA TIGWEZIRE:** Mr Chairman, I had the following formulation. Where it falls short of what we have already gone through, maybe Members will contribute. *"Subject to the provision of this constitution, Parliament may make laws prescribing and regulating the functions and terms of service of member of the Board of Bank of Uganda."*

**THE CHAIRMAN:** But there you could be caught in trouble. Is it prescribing the functions of the Members of the Board or prescribing the functions of the Bank. Because you see, we do not want to give the Parliament a job of having prescribed the terms of service of cleaners and clerks. They will know that I have no respect for them. So you have to find a formulation which narrows down the word "terms" and then also leave it open in relation to the functions.

**MR. OCHYENGH:** Mr. Chairman, I have some one or two comments to make. Of course, I agree that the terms and conditions of service of the members of the Board was not specified and it was necessary to specify them, and also the functions in section (3) - also it is necessary to give Parliament the authority to make legislation to regulate the functions of the Bank. But now, my observation is that we are now mixing the two, the terms and conditions of service of the Board of Directors and also Article 188 which gives the functions of the Bank. I was proposing that we agree with that, I was proposing we combine all this under (3) and introduce the terms and conditions of the members of the Board. It looks a bit jumbled up. So I was proposing maybe we make it 189 so that it covers all the two other Articles which we have passed.

**THE CHAIRMAN:** But you can have another alternative. If the House is agreeable, we can add a (4) to 187 by re-opening for the terms there so that Parliament can prescribe those, then here also. Parliament can prescribe the functions. Hon. Med Kaggwa, what do you say?

**MR. KAGGWA (Kawempe Division South):** Thank you, Mr. Chairman. I would want to disagree with the proposal to put the terms and conditions of service in the Constitution for two basic reasons. First of all, if you did, you would have made directors to appear as if they are also executive members of the

Bank of Uganda and this can be a very dangerous precedent. Secondly, I would not want to put them there because these will keep changing and I think they would have been served elsewhere in the Statute establishing the Bank of Uganda. Having said that, I would want to see in this sub-article room to provide for creating more functions of the Bank of Uganda because as times change, functions may, as of necessity, also change and to that end, I would want to propose what Hon. Tigwezire said, *"subject to the provisions of this Constitution, Parliament may make laws prescribing and regulating the functions of the Bank of Uganda"* and rest it there. Thank you very much, Mr. Chairman.

**MR. PATRICK KASAJJA (Bulamogi County):** Thank you very much, Mr. Chairman. Mr. Chairman, the issue we are discussing, I think it is a little bit jumbled up because the confusion started from the time we passed Clause (3) of the amendment when we were talking of the appointments of these members of the Board. Because here, we are talking of appointing the Governor and the Deputy Governor by the President and with the approval of Parliament. Then we are also talking of the rest of the Board members also being appointed by the President and so bringing in this element of approval of Parliament. Mr. Chairman, one thing which we are forgetting is that this is an institution of government which is set to regulate the issuance, stability and promoting development of the nation. Now, stability of the currency can not really be brought under a body which is appointed by the President and at the same time, we set the terms because these terms have to be set by the person who is going to be supervising this Board and we cannot say that the President is the one who is going to be supervising this Board.

So you can see, there has been a big confusion in this Article and if we leave it the way it is here, Mr. Chairman, it is going to cause even an implementation problem because as you are aware, in Uganda once you are appointed by the same authority even at the Board level itself there is going to be a confusion. That is on one element on the side of implementation of the policies. Then secondly, when we bring the element of the terms, it is not even necessary, Mr. Chairman, to set these terms - I mean the Parliament setting the terms because for how long are we going to have a Parliament which does make laws and at the same time also implements policies? So, there is going to be confusion also

there. So I would like to suggest here that the amendment that is being brought by the Member is as a result of the confusion that we have already made by passing this Article here. So I would request, if possible, that there has to be a re-examination of the functions and implementation of this because, Mr. Chairman, at least the little knowledge which I have under the operations of Central Banks, you just look all over globally, it is going to be difficult to find a Board which is controlling the Central Bank being appointed by say the highest executive authority of that nation and at the same time the Parliament setting the terms. I am yet to find out, maybe I will be advised by some of my colleagues like Hon. Kajjuka and so on and so forth but you will not find any. So I would not like us to have a confusion which is going to make this Constitution difficult to implement. So I would like us to re-examine this in view of some of the global functions of these Central Banks. So, Mr. Chairman, I am completely opposed to these terms being put under this Constitution - I mean to be determined by Parliament.

**THE CHAIRMAN:** I think there is confusion in the mind of the Member. We are not saying that Parliament should determine the terms by say a resolution or something like that, they were trying to say that they give Parliament the power in making laws relating to the Bank of Uganda also to include a provision relating to how long members of the Board should serve. They could give a minimum and maximum and it is up to the appointing authority. If we leave it as it is, fine. If there is no specified provision in the Statute, what we are saying is that the appointing authority shall determine the mode and length of service of the officers who are going to be on the Board plus the Governor and his Deputy. That may not be bad and we could leave it that way. In which case, what we can do in (3) is to follow the amendment which was being proposed by Hon. Med Kaggwa that we only expand it to include power to prescribe additional functions in addition to those in (1) and also making provision for regulating the Banks. Hon. Kalema.

**MRS. RODHA KALEMA (Kiboga County East):** Thank you very much, Mr. Chairman. Mr. Chairman, I have been very unhappy throughout about this Article 188 and I had supported Hon. Kajjuka because I thought his reasoning was very good since he was a member of the Committee. Now, I would like to ask the Chairman of this

Committee to clarify to us - perhaps this will help me - whether when they were debating this particular article, these particular two articles and, Sir, this whole Chapter, whether they did consult the Bank of Uganda Statute which was passed by the NRC because to know the present functions of the Bank of Uganda, to see whether there is so much error there so that they have to change a lot of it and whether it is really necessary to put in the Constitution the functions of the Bank of Uganda whereas there is a law that governs the Bank. In fact, although we passed 188, all of it, I was unhappy about the last two (c) and (d) because it seems to me that (c) which reads: "*The Bank of Uganda shall encourage and promote economic development and efficient utilisation of the resources of Uganda through effective and efficient operation of the banking and credit system*". I have been wondering, trying to put my hand up but you did not see it, I have been wondering, Mr. Chairman, how we could constitutionalise this without putting the Constitution at risk because if the Bank of Uganda cannot manage and fulfil, to encourage and promote economic development and efficient utilisation, to monitor the efficient utilisation of the resources of Uganda. Suppose this is not done and it is very difficult to precisely monitor this, that will mean the Constitution will have been broken.

**THE CHAIRMAN:** But I think Hon. Member you are not reading the Article in full. If you read it in full, you would see that they are not saying that they would be the ones to promote the development and the efficient utilisation of the resources of Uganda generally. They are saying that through effective and efficient operation of a banking system.

**MRS. KALEMA:** Thank you Mr. Chairman.

**THE CHAIRMAN:** Not a bank. Today there is Bank supervision in the Bank and other divisions relating to the banking sector but this is for the Chairman to answer.

**MRS. KALEMA:** Mr. Chairman, precisely that is what I am wondering whether it is possible, whether it is right for us to put this in the Constitution when there is a law that is governing the Bank.

**THE CHAIRMAN:** But you see, let us be clear because even if - what we are saying is that these are basic functions we are giving to the Bank of Uganda, they are put in the Constitution but we are saying we

cannot, as at this juncture, pronounce ourselves on all these areas, functions that a Central Bank can do. Then Parliament is - if we approve (3) - being given the authority. In other words, the Government, through the Minister for Finance can come and say it is government policy that we expand the functions of the Bank of Uganda in the following way and what could happen is that if there are those functions already in the Statute which is already in force now, it does not mean that if we pass this we have negated those functions as set out unless they are inconsistent with those which we have passed here. Otherwise, what will happen is that when we come to the provisions of this Constitution which we should call saving of laws in force at the moment and we cannot avoid that, we shall have to save these laws because you cannot say that this Constitution comes into force and the criminal and the penal code automatically goes out of the window because you will have to have a law prosecuting those already in the pipeline and thereafter. So, you say the following laws have been saved. So we shall most likely save the Bank of Uganda Act to the extent that it is not inconsistent with the provisions of the Constitution as approved here. So this is a summary of some functions if we accept (3), there is a provision for additional functions, some traditional, others may be new that are enumerated either in the present Statute applying to the Bank or any other Statute that may be made relating to the services of the Bank, in which case, all that we need and this is what was in the mind of Hon. Tigwezire but Hon. Med Kaggwa is trying to narrow it down by saying that forget about the terms of service. Then we say, Parliament has power to prescribe i.e. to make laws, making further functions known and also making a provision for regulating the operations and functions of the Bank of Uganda.

**MRS. KALEMA:** Thank you very much, Mr. Chairman. So if that be the functions, let it be made as condensed as possible. It is too long and in that case, it can have the end which Hon. Kaggwa has suggested but it is very long and in fact still looks like an objective, an economic objective. So, Mr. Chairman, I feel that we should make it very brief if it has to have some power - *(Interruption)*.

**THE CHAIRMAN:** Hon. Rwomushana, just before you take the Floor, did you have any objection with the intended variation of your Motion by Hon. Med Kaggwa, Hon. Tigwezire?

**MR. TIGWEZIRE:** Mr. Chairman, the effect that we drop the terms and condition in part, I agree with Hon. Med Kaggwa but we stop at prescribing and regulating the functions of the Bank of Uganda.

**THE CHAIRMAN:** Thank you. So now Hon. Rwomushana, are you going to talk to the Motion?

**MR. RWOMUSHANA (Rujumbura County):** Thank you, Mr. Chairman. Mr. Chairman, I would like to support the amendment as moved by Hon. Med Kaggwa to the effect that we give powers to Parliament to stipulate the functions of the Central Bank or the Bank of Uganda because situations are bound to change and, therefore, functions are bound to increase or to decrease given the changing level of sophistication as moved by Hon. Richard Kaijuka. Mr. Chairman, it would surely be unwise to list all the functions of the Central Bank in this Constitution for it would make it very big, it would make it huge, it would make it gigantic only to be carried by a train. So I support Hon. Med Kaggwa. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Thank you. Okay now Hon. Delegates, I think let us decide on this Motion, those in favour and those against it. It was moved by Hon. Tigwezire originally, then modified by Hon. Med Kaggwa with his approval and it is essentially saying "*Subject to the provisions of this Constitution Parliament may make laws prescribing and regulating the functions of the Bank of Uganda*". I put the question.

*(Question put and agreed to)*

**THE CHAIRMAN:** Now that brings us to the end of that part of the Report relating to the Bank of Uganda and the next part relates to the Audit Commission but I think the report differs but seeing that it is a new area and it is only about 5.00 p.m. something, I would like to suggest that we give Hon. Odur a chance to go and prepare himself on the new section and we resume tomorrow on that one. - *(Interjection)*. Sorry, I have been corrected. Now let me put 188 as amended. Sorry about that. Let us vote on 188 as amended to stand part of the Draft Constitution.

*(Question put and agreed to)*

**THE CHAIRMAN:** Before we go, I have received a note from the Desk of the Clerk that the staff in the

Documentation Centre have a cheque book whose owner they are unable to identify and, therefore, request a Member who may have displaced a cheque book to contact the office of the Clerk for that purpose.

**DR. ODUR:** Excuse me, Mr. Chairman. I wanted to make an announcement for Committee 3 that we shall resume work - I have been made to understand we have been given additional work to do and we wanted to meet tomorrow in Press Room at 9.00 a.m. to receive the work we have been given to do.

**THE CHAIRMAN:** Okay, I think that has been heard by the Members of Committee 3. Thank you. Hon. Bidandi Ssali.

**MR. BIDANDI SSALI (Nakawa Division):** Mr. Chairman, Sir, I beg your indulgence and that of the Hon. Members. I do not intend to make you tired but I wanted to use this opportunity to allay the fears of some Members of the House, some of whom have approached me as a reaction to a story that appeared in the *Monitor* this morning concerning an attempt on my life or something like that. I would like to assure, Mr. Chairman, the Members of this House that there was no such attempt at my life. It was just an incidental accident of my wife and I passing through a certain place where a certain incidence was taking place in its own right but it was not directed at me in any way. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Thank you, we note that with a sense of relief. Hon. Delegates, with that the Constituent Assembly stands adjourned until tomorrow at 2.30 p.m. We adjourn, thank you.

*(The Assembly rose at 5.10 p.m and adjourned until Thursday, the 12th at 2.30 p.m.)*