



THE REPUBLIC OF UGANDA

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

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OFFICIAL REPORT

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MOTION:-

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Friday, 13th January, 1995

*The Assembly met at 2.30 p.m. in the International Conference Centre, Kampala*

P R A Y E R S

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

*(The Assembly was called to order)*

CONSIDERATION STAGE OF THE DRAFT  
CONSTITUTION FOR THE REPUBLIC OF  
UGANDA

**THE DEPUTY CHAIRMAN:** Yesterday, we deferred Clause 3 of Article 189 to the Committee for reformulation. I now call upon the Chairman of Select Committee Three to report to us what they arrived at. Hon. Kaberuka.

**DR KABERUKA:** After consultations, we came up with the following formulation which divides the original clause 3 into two subclauses, which read as follows:

*3(a) The Auditor General shall submit to Parliament annually a report on the accounts audited by him or her under clause 2 of this article for the financial year immediately preceding.*

*(b) Parliament shall within six months of submission of the report referred to in (a) of this clause debate and consider the said report and take any appropriate action. I beg to move.*

**MR. WANENDEYA (Budadiri East):** Thank you very much, Madam Chairperson. I agree fully with the sentiments of the Amendment. The only thing which I do not quite agree with is that instead of saying "the Auditor General shall submit to Parliament", it should be "an audited report" so that you go straight to the point and some of these things of "he" or "she" should be minimised wherever possible. So, I could get maybe to correct the Amendment to read appropriately in rather technical manner. I thank you Madame Chairperson.

**THE DEPUTY CHAIRMAN:** So, can you say exactly what you want to say. - *(Interjections)* - Hon. Wanendeya, address the Chair. Hon. Wanendeya, can you say exactly how you want it to read.

**MR. WANENDEYA:** Madam Chairperson, my Hon. friend here, Hon. Zziwa - maybe if we synchronise our views together with him and some other people in the financial world, we could come up with a better version of what has been written as an Amendment.

**THE DEPUTY CHAIRMAN:** I am very sorry, are you suggesting that we defer this thing for the second time? Is it all that serious according to you?

**MR. WANENDEYA:** Well, we can pass it but it will definitely need some surgery, Madame Chairperson.

**MR. MASIKA (Mbale Municipality):** Thank you, Madam Chairperson. I do not agree with the Amendment now proposed because it departs from the one which had been submitted earlier by the same committee. The essential aspect was the time frame in which the Auditor General was to report to Parliament. As we were saying yesterday, it is important in these financial matters for the Public Officers handling them to be encouraged to report and Parliament to examine public accounts in certain specified times. Now, here six months which had been proposed earlier have been omitted. Reporting annually is not in my view, sufficient. I would prefer the original formulation to the one now being proposed.

**THE DEPUTY CHAIRMAN:** Hon. Masika, just one minute - You are supposed to be party to this formulation?

**MR. MASIKA:** Thank you Madam Chairperson. I was not a party to this particular formulation. I have been consulted on my portion just before we commenced the sitting and not this particular one. I do not know what went on before that!

**THE DEPUTY CHAIRMAN:** So, is your Motion still on the Floor? Because I do not have it.

**MR. MASIKA:** Yes, mine - I have already discussed with the Chairman of the Select Committee my portion of this particular Clause and I hope he will raise it, if he does not, I will raise it myself. But it does not deal with this particular sub-clause.

**DR. KABERUKA:** Thank you Madame Chairperson. It is true that Hon. Masika is not a party to this

formulation because his does not concern this aspect and his, I will have to bring it to the attention of the Assembly after we have discussed this one; but this is a result of the concern of those who expressed their reservation on the original formulation because some were of the view that it was too restrictive, the time was too short. Others had similar opinion. So, we came up with this formulation which takes care of the time frame and also smoothens out the problems which we had in the original.

**MR. ELYAU (Kalaki County)** Thank you. Madame Chairperson, in connection with the Chairman's emphasis that the financial year preceding, the Auditor General should, after seeing irregularities in the accounts audited and any other matter according to him or her, should be brought to Parliament's attention quickly. I wanted to find out from him - because normally, when the Auditor General gets problems with a certain Ministry, sometimes before they bring the matter to Parliament, they give time to these people to clear these queries. I want to know whether he is aware that there are certain queries which are even cleared before the matter is brought to Parliament later on. Which one does he mean? The final touches of the balance sheet or even between the time of the Auditor clearing the accounts Ministry by Ministry. Can I be clarified?

**DR. KABERUKA:** Thank you Madame Chairperson. The worries of the Hon. Member are taken care of by a detailed law which is referred to as The Public Finance Act, which goes into details specifying what procedures are taken. His worries are taken care of there.

**THE DEPUTY CHAIRMAN:** Hon. Kassajja.

**MR. KASAJJA (Bulamogi County):** Madame Chairperson, my biggest worry in this new Amendment is still on the import of the time frame that was originally included in the first Amendment of this Committee. I think when we were being explained to yesterday, we were told that one of the reasons why they included the time frame of six months was at least to make the Auditor aware of the need of accountability to the nation of the financial expenditure of the budget of the preceding year so that something - a collective action is taken on any irregularity which has been identified in the expenditure of the preceding year. So, Madame Chairperson, now when we say in this new Amendment that he reports annually, you see, it does not actually give

that import of the Auditor acting immediately. That irregularity is found because he can even report one day to the end of the following year of the budget. That is to say, if he is reporting on 1993/94 Budget, now if he reports at the end or one day to the end of the 1994/95, then there are also other matters in 1994/95 which could have been maybe identified. So, you can see that now here, dealing with matters in 1993/94 and 1994/95, there is no urgency. So, Madame Chairperson, I think yesterday, we thought that they were either going to increase the period from maybe six months to maybe eight months or nine months so that at least we have some time within that financial year in which the irregularities can be addressed. So, that is my biggest problem and I will find it very difficult actually to support this Amendment.

**MR. SABIITI (Rukiga County):** Thank you Madame Chairperson. I wonder whether Hon. Kasajja, given his background in this particular area, has read the Finance Act. If he has, then I am sure he should not be raising these questions. Because if you look at Page 2985 of the Finance Act, the duties and functions of the Auditor General are clearly spelt out and if you go further and look at Article 27, the period is even clearly specified and further, the Treasury and Accounting Officers under the same Article, are even given guidelines how actually to present their report. Now, I think what the Chairman of the committee has presented here is enough. What is our role, I think as this Assembly, is to give general guidelines and then Parliament surely should move and give the details and the detail is already given in the Finance Act, if they are to do Amendments, I think that should be the work of Parliament. Thank you Madam Chairperson.

**MR. WACHA (Oyam North):** Madam, I agree with Hon. Sabiiti that our duty here is to give general guidelines and details of legislation should be left to Parliament. It is in this respect, Madame, that I find it very difficult to accept the second half of this Amendment. The second half is everything which appears and behind or after the word "preceding". If I may quote - "*and shall, in the report, draw attention to any irregularities to the accounts audited and to any other matter which, in his or her opinion, ought to be brought to the notice of Parliament*". Madame Chairperson, my understanding of an audit is that an audit is carried out to find out whether or not there are irregularities in the accounts. The report would, therefore, of necessity

indicate such matters. I think, therefore, it is superfluous and completely unnecessary for these wordings to be contained in the Amendment and to be proposed to be contained in the Constitution.

Madame, I am backed in this thinking by the provisions of the '67 Constitution under Article 99 which states among other things, that the Public Accounts of Uganda shall be audited and reported on by the Auditor General without going into details of what that report should be. I think this portion of the Amendment is unnecessary Madame Chairman.

**MR. BIDANDISSALI (Nakawa Division):** Madame Chairperson, I was also trying to oppose the view advanced by Hon. Kasajja here because when we were discussing yesterday, one of the reasons why it was referred back was the fact that various opinions were expressed - rather reservations about the specification of time - four months, six months and so on. Many Members thought it was unwise and reasons were given. So, in my view, this particular formulation by the Committee takes care of these fears. It allows for the law to specify within what number of months - two or three - within which a Body has got to submit the accounts to the Auditor General but indirectly also, it gives the Auditor General the eight months or nine months or seven months which Hon. Kassajja is talking about. So, in as far as that is concerned, I think the Committee did a good job. As far as the issue raised by Hon. Ben Wacha is concerned, my own view is that I intend to agree with him although I am not an Auditor myself and would say we do not need to necessarily draft what was in the other Constitution but rather take this particular Amendment and stop somewhere. We could say the Auditor General shall submit to Parliament annual Report of the audited accounts by him or her under Clause (2) of this Article for the Financial Year immediately preceding and we stop there.

**MR. AMAMA MBABAZI (Kikinzi West):** I entirely agree with the points raised by Hon. Ben Wacha and Hon. Bidandi Ssali and I just want to oppose the reformulation of this Amendment to capture the sentiments they expressed and I propose that if the Chairman does not object, that it be rewritten to read as follows: "*The Auditor General shall, each year, submit to Parliament audited accounts for the immediately preceding Financial year.*"

**THE DEPUTY CHAIRMAN:** So, Hon. Amama Mbabazi is saying that he is agreeing with the sentiments of the others but would like the reformulation to read - "*The Auditor General shall, each year, submit to Parliament audited accounts for the* - (Interruption)

Yes, Hon. Guma.

**LT. COL. GUMA (Bukanga County):** Thank you very much, Madame Chairperson. I would like to advise the Hon. Delegate that in accounts, we do not give vague time. When it is one month, it is one month. The way he has put it, it will create a lot of ambiguity as to when the Auditor General should submit the report. We should be precise and say this is it and the Financial Act does not even allow what he is suggesting. Thanks very much Madame Chairperson.

**MR. NDEGE (Luuka County):** I think Hon. Sabiti brought this very clearly that the Finance Act spells out when ministries have to report to the Auditor General, when the Auditor General has to report to Parliament and so on and so forth. We cannot put all these in the Constitution and I quite agree with Ben Wacha. We had made a good and concise way in which we should put it in the Draft Constitution. I do not think we should be derailed again and go back to the same arguments. So, I beg that we pronounce ourselves on the Motion brought by Hon. Mbabazi.

**THE DEPUTY CHAIRMAN:** Okay, I agree but we have to be clear of what we are pronouncing ourselves on. That is what we are still trying to discover.

**MR. KAGGWA (Kawempe South):** Thank you, Madame Chairperson. I would like to give this information under the Public Finance Act, Section 28 - it says: "*On Receipt of the accounts prescribed by the Section of the Act, the Auditor General shall...*" - and b) is the relevant one - "*within a period of 9 months after the end of the Financial year to which the accounts relate or such long periods as the National Assembly may by resolution appoint in respect of any Financial Year, satisfy in respect of...*" and it goes on. So, this is to allay the fears of Hon. Guma that it is well taken care of in the subsidiary legislation to the Constitution. Thank you.

**PROF. NABUDEERE (Budadiri West):** Madame Chairman, I would go along with the Amend-

ment of Hon. Mbabazi but in order to make sense, reference has to be made somewhere to Clause (2). Otherwise, as it is, it would just be hanging in the air.

**THE DEPUTY CHAIRMAN:** Can we have it again?

**PROF. NABUDEERE:** That reference will have to be made to the Amendment by Hon. Mbabazi to Clause (2) because otherwise, just talking of audited accounts does not make sense. Audited accounts of what? It only makes sense if we make reference to Clause (2) because that is where the whole issue is discussed and the Chairman of the Committee had actually made reference to that Clause in his formulation.

**THE DEPUTY CHAIRMAN:** Actually, Hon. Ben Wacha was proposing that we take the Article as it is but we stop at the word Article in the formulation, line 3. Am I right Hon. Ben Wacha?

**MR. WACHA:** You are right in a sense except that I would want us to stop at the word "preceding" and we cancel everything which appears thereafter.

**THE DEPUTY CHAIRMAN:** He is saying that it reads like this: "*The Auditor General shall submit to Parliament annually, a report on the accounts audited by him or her under Clause (2) of this Article for the Financial Year immediately preceding*".

**MR. WANENDEYA (Budadiri East):** Thank you, Madame Chairperson. Hon. Ben Wacha's formulation, in my opinion, does not go very far and therefore, I would beg him, if you give me permission, Madame Chairperson, to give you and the Hon. Delegates my formulation which would take care of everybody because I have carefully thought about it and analysed it carefully in terms of professional understanding. Madame Chairperson, if the formulation would be as follows and I would ask Members to bear with me, "*The Auditor General shall submit to Parliament an audited report of accounts referred to under Clause (2) of this Article for the Financial Year immediately preceding and shall in the report, draw attention to irregularities in the accounts which ought to be highlighted to Parliament.*" And that is the way it would take care of everybody and that would be complete.

**THE DEPUTY CHAIRMAN:** Yes, but with due respect Hon. Wanendeya, that is just a matter of playing with words. It makes no difference with what is existing. So, can we go back to Hon. Ben Wacha's proposal. Hon. Odur.

**DR. ODUR (Dokolo County):** Thank you very much, Madame Chairperson. There is no need for us to waste any more time. I would like to second the proposal by Hon. Ben Wacha and I think it is quite clear, precise and we should go ahead and vote on it. Thank you.

**THE DEPUTY CHAIRMAN:** Okay, Hon. Odur is also concurring with Hon. Ben Wacha that we adapt the formulation as it is but we stop at the word "preceding".

*(Question put and agreed to)*

**THE DEPUTY CHAIRMAN:** So, that means now that forms and takes care of Clause (3). Originally, we were saying that we will have (a), (b), (c) but I can only see that we are having only that one but also have something here circulated. I do not know whether Hon. Kaberuka you are aware of it? It is by Hon. Bateganya and Ssemakula Hawa.

**DR. KABERUKA:** Thank you, Madame Chairperson. I have just received the Amendment by Hon. Bateganya but before I react to it, I want to bring to attention Hon. Masika's concern which he expressed yesterday and just before we started, he brought his Amendment which he proposes to read that: "*Parliament shall, within six months of the submission of the report referred to under sub-Clause - the one which we have just passed - debate and consider the said report and take any appropriate action.*"

Madame Chairperson, my reaction is that, we should not be, and I think we are not in position to direct Parliament as to how Parliament should proceed. My view is that we are dealing with the Auditor General and this one which intends to give directive to Parliament as to how it should proceed should be left out. If the Assembly thinks that it is in its wisdom that we have to have it, I would hesitate myself to support it under the Auditor General.

**THE DEPUTY CHAIRMAN:** Incidentally, that is what Hon. Masika has proposed. Is it seconded? Who is seconding it? Okay, Nabudeere has seconded it. So, may I have the formulation this way please.

**DR. KABERUKA:** I think he should formulate it and send it to you but I would think that it is appropriate under the legislature, not under Auditor General.

**MR. SABIITI.** Thank you, Madame Chairperson. Again, this very idea - sort of new idea is again well entrenched in the Finance Act. If you look at Clause 28 (2), the Minister for Finance is empowered to lay down - I mean within 14 days up to the first sitting of National Assembly. After the receipt of the report mentioned in Section 1. i.e. this Act, cause the same to be laid before the National Assembly and if the Minister makes the fault in so laying the report, the Auditor General shall submit the same to the Speaker. So, you can see again the whole idea is well entrenched in the Act and I do not see why we should again bother ourselves putting it in the Constitution.

**PROF. NABUDEERE (Budadiri West):** Point of Clarification! If that be the case, the point which has just been raised, how come then that we have a pile up of about six years of the Auditor General's reports before the NRC? I remember last year, a statement was issued by the Chairman of the Public Accounts Committee of NRC to the effect that they were not going to discuss any more of these reports or submit anything more to the Parliament unless the backlog of this work had been discussed. The essence of the Amendment by Hon. Masika is to require Parliament to discuss the reports in a specific time frame. The Chairman of the Committee is not objecting to this but is merely querying where it should be placed - whether under legislature or under the Auditor General's section. In my view, the issue here is to give effect to the Auditor General's report and therefore, it would be appropriately placed under the Auditor General's section. So, I think the essence of the Amendment here is to require Parliament to sit and make decisions on these reports because if they have to give effect with recommendations of the Auditor General, it does not make sense to do it after six years when some of the people referred to in the reports have died or no longer exist. That is why the recommendation that this should be done within a specific time frame is essential.

**THE DEPUTY CHAIRMAN:** Clarification from Hon. Wanundeya.

**MR. WANUNDEYA:** Thank you very much, Madame Chairperson. It is not Parliament that usually sits on these reports but it is rather the

connivance of whoever is involved, maybe the Clerk, the Speaker and all those who have been corrupted so that the reports do not come up before Parliament. In this connection, I would also mention, Madame Chairman, that our government spent money for the Mulondo report and the Hon. Member is here but it was never brought to the attention of Parliament because it had so much corruption in that report which I read myself and the Auditor General, who is here - Hon. Ruzindana is very well aware. So it would be a good thing to make sure that these reports are laid before Parliament and discussed and this would be the best way of getting these public monies to be known by the General Public who pay taxes. I thank you Madame Chairperson.

**MR. MASIKA (Mbale Municipality):** Thank you, Madame Chairperson. I would be the last person to clutter the Constitution with matters that should be in Parliamentary Acts. However, as Hon. Nabudeere has said, it has become quite clear that the Parliament is not debating Auditor General's reports. It is quite obvious that we in Uganda are not very good at managing public funds. We complain of people having embezzled them but when reports are made, they are not debated. The purpose of this Amendment, Madame Chairperson, is not merely to add another phrase to the Constitution. I am aware that the Finance Act makes similar provisions but they have been neglected. It is, therefore, important that the Constitution specifically draws the attention of Parliament to this negligency. I would like, therefore, to persuade Hon. Delegates to realise what is happening to our management of public funds and encourage the Parliament to debate the reports of the Auditor General and that they should do so in specified time. That is the purpose Madame Chairperson, of giving the Parliament six months after the Auditor General has reported, to debate the report not to leave it undebated for years and even annoy the Chairman of the Public Accounts Committee to threaten not to deal with this exercise of looking at this and making reports which are never debated. The Finance Act is a subsidiary legislation as far as the Constitution is concerned and I do not like referred to it when it has not been applied. May I, therefore, Madame Chairperson, persuade delegates to consider seriously and accept this Amendment.

**THE DEPUTY CHAIRMAN:** By the way, I do not have your formulation.

**MR. MASIKA:** I gave one yesterday to you and it was only to make it shorter. I will write it as it is.

**THE DEPUTY CHAIRMAN:** I passed it on to the Clerk assuming you were going to liaise with her.

**MR. ELYAU (Kalaki County):** Thank you, Chairperson. First of all, I wanted to draw attention of this House that it is not totally true that the Parliament had not attempted. When the Public Accounts Committee - which is a Committee of Parliament - examines the accounts, it is part of Parliament which has already done some work. What is really a problem is that the government leader of Business did not bother to bring these things into business immediately but the Public Accounts Committee has already done a lot of exercise by examining these books, making queries and even some anomalies were corrected. Now, it is wrong to say that Parliament never did anything. I happened to be one of those in Public Accounts Committee. We did our best, we brought the report, tabled it there, now it is a matter of the leader of government business to put the matter for debate or information to Parliament. That is what is remaining but otherwise, we have already done and we are continuing to do it.

**THE DEPUTY CHAIRMAN:** Hon. Masika, the Member is saying that the Public Accounts Committee is part of Parliament. I do not think it otherwise.

**MR. MASIKA:** Obviously, it is part of Parliament but the obvious is not done. That is merely preliminary work to the Auditor General's report and the real report should go to the Floor for debate.

**DR. NGOBI (Presidential Nominee):** Thank you very much, Madame Chairman. I would like to support the view that something has got to be done about timing. When we debated this matter, members were concerned with lack of action and of course, at the back of their concern, there is also what has been happening, that is, a lot of public funds has been lost either through negligence or through corruption. So, it is not right to say that everything would be handled by the Finance Bill. I would also not agree, Madame Chairperson, with the view that the Public Accounts Committee by itself is the same as Parliament. You must have a resolution. If there is a resolution by Public Accounts Committee, that resolution cannot be construed as a resolution of Parliament. So, therefore, it is right that whatever we do, we must bring to notice this defect which has been appearing and we should not sweep it under the chair

so right details will be there. They have always been there. I think the question of timing requiring action to be taken by resolution of Parliament within a specified time is very important. It will help us to reduce mismanagement of Public funds. Thank you.

**MR. KABUGO (Nakaseke County):** Thank you, Madame Chairperson. What I wanted is to inform the Hon. Speaker who was holding the Floor that Public Accounts Committee is part of Parliament and it is composed of Members of Parliament who were elected and selected because of their knowledge of the accounts and whatever they do, is reported to Parliament.

**DR. BYARUHANGA (Kitagwenda County):** Point of Clarification! Thank you, Madame Chairperson. I wanted to clarify the status of the Public Accounts Committee. When we examine the accounts and make our reports, we usually immediately pass on the report to the Prime Minister. The Prime Minister may or may not use our report. The Prime Minister at that stage may or may not implement the advice we have given to government concerning the Public Accounts. But if and when our report has been debated and has been adapted by Parliament, it becomes an order to government to implement the decisions of the Public Accounts Committee and therefore, Mr. Chairman, the debate on the report of the Public Accounts Committee by Parliament is very necessary.

**THE DEPUTY CHAIRMAN:** So, what do you say about Hon. Masika's Motion?

**DR. BYARUHANGA:** Madame Chairperson, I am therefore, very happy with Hon. Masika's Motion.

**MR. BIDANDI SSALI:** Madame Chairperson, first of all, I wanted to say that I support the Amendment and to give one of the aspects of it that one of the considerations one has got to take into account in Constitution making is the experience that a country has just gone through or is going through and if we have already found that by Parliament taking even a year before considering the report - the Auditor General's report, they are not being unconstitutional and yet this has been a disadvantage to the country. I think the Constitution now we are making should state that it will be unconstitutional, if Parliament does not consider this report within a specified time. So, I would like to support the Amendment and propose that the question be put.

**MR. RWOMUSHANA (Bujumbura County):** Madame Chairperson, in many of the Articles we have passed in this Draft Constitution, we have given immense work to Parliament and definitely, the Parliament will have quite a lot of work. We will not want to leave it with any breathing space or any excuse to say that this one should be the last on our priorities of debating the report from the Auditor General. Let it be mandatory. We are selling our message to the next Parliament that please, when it comes into force, it should debate the Auditor General's report. I, therefore, overwhelmingly and with all my energies, support the Amendment moved by Hon. Masika. Thank you.

**THE DEPUTY CHAIRMAN:** Let me read Hon. Masika's Motion. It reads as follows: "*Parliament shall within six months of the submission of the report referred to in sub Clause (a) of this Clause, debate and consider the said report and take any appropriate action*"

*(Question put and agreed to)*

**THE DEPUTY CHAIRMAN:** So, that means that becomes (b). Now, there is a (c) being proposed by Hon. Bateganya. Hon. Kaberuka, do you have the formulation?

**MR. KABERUKA:** Madame Chairperson, I have the formulation which reads that "*Subject to Article 189, Clause (3), sub Clause (b) and based on his findings, the Auditor General shall, within three months, prosecute those responsible for financial irregularities*". My reaction Madame Chairperson, I do not know whether it is within the Auditor General's power to prosecute but if you are going to mandate him, that is up to this Assembly.

**MR. KAIJUKA:** Madame Chairperson, I am a bit bothered about that proposal because I thought delegates did take pain to recognise that because of the weaknesses we have, so many reports have not been submitted to Parliament and Hon. Masika raised a relevant Motion which has been embraced by the House to the effect that it will be a Constitutional duty of Parliament to make sure that these reports are submitted and debated. Now, that of course, presupposed that government will henceforth try and put in place machinery to make sure that these delays that we have experienced in the past are resolved including manning the Auditor General's department and remunerating them and so on. Now,

the suggestion being proposed by Hon. Kaberuka is that, beyond submission of this report to Parliament, you are not saying "you prepare these reports and submit them to Parliament and government for action", it is saying, "go and prosecute, take on the legal function in addition" and I would hesitate to recommend that in addition to the role that the Auditor General should be playing, we then load him with added responsibility of having to go to court and prosecute. That is, I think, unnecessary. I think we should confine ourselves to the clause already passed. The one that Hon. Masika did propose and was embraced by the House.

**MR. BATEGANYA (Bukooli Central):** Thank you very much Madame Chairperson. Before we moved this Motion, we were prompted by a lot of issues that have been happening with public funds. With this Motion, we want to strengthen the position of the Auditor General from being a toothless bull dog to an active watch dog of people's money.

In this country, we have seen millions, sometimes billions misappropriated. When issues are debated, they end there, no action is taken. We feel that if the Auditor General can prosecute - and I would like to get the meaning of prosecute from Oxford Dictionary, which says - "Prosecute is to take legal action against the offender" - in that particular instance, it would enable the Auditor General to be the initiator of action against those who are occasioned with malpractice - the financial misappropriation. I would like to give you the example of now, the famous 2.2 billion in Ministry of Agriculture. I am sure if this is ever debated or action will ever be taken, the one million which went missing with the diplomat also will never be recovered, that is if we ever debate the report at all. No action might be taken in the usual way with the usual administrative machinery in place. But I feel if the Auditor General is strengthened enough, as we did in the case of the Uganda Human Rights Commission to initiate proceedings against people who embezzle our funds, it would benefit the nation, instead of just being confined to a post mortem role. In any case, post mortem are not just done for the sake of it, they are done with a view to preventing similar maladies from occurring and whenever they occur, to get remedies for them.

So, in this particular instance, I feel that the country as a whole would benefit from the office of the Auditor General, if he or she could initiate some action against embezzlers and those who misappro-

priate our funds instead of leaving him to an advisory role and the people of say, Bukooli, will be very grateful if he can recover anything. Being mere peasants who do not expect even to embezzle anybody's money, they are grossly wronged when they earn their money the hard way by tilling and growing maize from year to year. I think they would benefit if the Auditor General could take some action against people who take our millions and walk away free. With those few remarks, Madame Chairperson, I beg to support and move this Motion. Thank you very much.

**THE DEPUTY CHAIRMAN:** Before I come to anybody, let me also get the benefit of Hon. Bateganya's explanation. Do you imply that after the Auditor General has submitted the report to Parliament, Parliament shall return the report to him so that he prosecutes? *(Applause)* - Otherwise, we are moving towards - I am not a lawyer but I just want the wisdom of the Member.

**MR. BATEGANYA:** Madame Chairperson, what I am trying to say is that - After submitting the report to Parliament and - as we have passed in (b) above, the Auditor General, based on his own findings - because I have even included it there that, "*Subject to 3(b) and based on his own findings, the Auditor General shall within three months prosecute those responsible for the financial irregularities.*"

**THE DEPUTY CHAIRMAN:** Yes, it is the findings he is submitting to Parliament? Then what other findings are you referring to?

**MR. BATEGANYA:** Basing himself on the findings contained in his report, would proceed to prosecute whoever is responsible for the misappropriation.

**MR. MALIRO (Mwenge North):** Thank you Madame Chairperson. I do not support giving the Auditor General the power to prosecute for the following reasons: Before they make a report to government or to Parliament, they first issue out an audit query to the person concerned. If for example they have investigated the accounts of our embassy - say in Saudi Arabia, they will issue an audit query to the Minister or Permanent Secretary, Ministry of Foreign Affairs to say please explain the situation or recover the sums which we cannot find they have been expended properly. So, that is, they have already taken the necessary administrative action

and they have shown the Permanent Secretary of the Ministry concerned that some of his officers or he himself has not accounted for certain funds. So, once they have made a report to Parliament, it is now for Parliament to take a resolution and then the appropriate government machinery - in this case it is the Directorate of Public Prosecutions and the Police - to take up the matter and prosecute. So, I think we should leave the other proper government or departments their proper roles also to play and leave the audit commission to deal with the investigations. Once they are submitted, I would like to say - let us leave at that. The only reason why we would want Parliament to take an action is because the Commission will have expended their time and public funds to produce that report. So, something should be done to ensure effort that has been worthwhile. That is all. Otherwise, I think we should leave to the Police and the DPP to prosecute. Thank you.

**THE DEPUTY CHAIRMAN:** I think we have done enough. People have got the different views. Now I want to put the question on Hon. Bateganya's proposal.

*(Question put and negatived)*

**THE DEPUTY CHAIRMAN:** So, in that case, we can pronounce ourselves on Article 189 because we did not finish it just because of that Article (3). Now, it is out of the way. We have taken care of Hon. Masika's inclusion. So, now I put the question. That Article 189 as amended do stand part of this Constitution.

*(Question put and agreed to)*

**THE DEPUTY CHAIRMAN:** Can we proceed to Article 190. Hon. Kaberuka.

**DR. KABERUKA:** Thank you, Madame Chairperson. Having established the office of the Auditor General, one other concern that the Commission had which arises from the submission of the people was that the Auditor General's office is saddled with unqualified staff who are transferred at their will because they belong to Public Service. So, we thought that we should establish a board similar to that one of Revenue Authority which should have the mandate of recruiting and dismissing staff under the Auditor General and in which case, since they will be concerned with the Auditor General's Office, they will be careful to recruit the right well qualified staff

for the office and also dismiss those who do not perform. And therefore, my committee Madam Chairperson, recommends that we introduce an article 190 which establishes the Audit Service Board and also points out its functions and so we propose that clause (1) of article 190 reads that: *"There shall be an Audit Service Board which shall consist of (a) the chairman and five other members appointed by the President with the approval of Parliament, (b) the Auditor General.* Those are the only two sub-clauses: (a) the chairman and five other members appointed by the President with the approval of Parliament, (b) the Auditor General. I beg to move Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Are you saying that that last line should be deleted? Where does (c) come from? (c) of clause one be deleted?

**DR. KABERUKA:** Madam chairperson, this is a report from the working document and if we went to appendix three on page 26, you will see that there are only two sub-clauses as I have read. From the bottom of page 26, 191 there are two sub-clauses only.

**THE DEPUTY CHAIRMAN:** Because I had assumed that this was an extract out of the report.

**DR. KABERUKA:** Yes please! From the working document, we had three sub-clauses and one of them we deleted.

**THE DEPUTY CHAIRMAN:** Okay, so I want you to draw the attention to the Members who may not have the original report that clause one and so forth should not be there. So that is the proposal by the committee. So can we consider that one first.

**MR. MUSANA:** Thank you Madam Chairperson. I am finding a problem with supporting this new provision because Madam Chairperson, in the first instance, we have provided for the independence of the Auditor General and we have said and deliberated at length that this independence was necessary because of the nature of the job which the Auditor General had to do and that is why we discouraged the Uganda Audit Commission. Now to come up again with creating a Ugandan problem with supporting this new provision because, Madam Chairperson, in the first instance we have provided for the independence of the Auditor General and we have deliberated at length that this independence was necessary be-

cause of the nature of the job which the Auditor General will have to do and that is why we discouraged the Uganda Audit Commission. Now to come up again with creating a Uganda Audit Board, to me there is no difference because we are trying to bring back what we have already done away with. Secondly, we must note that ours is a poor country - a developing country with limited resources. Now, I want to warn Hon. Delegates of the danger of creating too many Boards which will drain the resources of this country in view of the poor nature of our country. I feel, Madam Chairperson, that the Public Service Authority or Commission could really do these functions of appointing Members under the Auditor General's department. So, in these circumstances, therefore, I am obliged to oppose the inclusion of this new provision. I thank you, Madam Chairperson.

**MR. KOMAKEC:** Thank you very much, Madam Chairperson. I think this proposal is absolutely unnecessary. It is cumbersome. We are trying to come up with an institution whose existence is not really very justifiable. The role that is being played which I suppose we are giving to this Service Commission, I think, can be performed much more efficiently than by the Public Service Commission. I quite agree with the previous Speaker when he says that we should not encumber this country with so many Boards, I think we are liable to have too many. The work that is assigned to this particular Service Commission does not justify the existence of a new Board. In actual fact, we are likely to compromise the independence and the efficiency of the Auditor General's Office. So, with this one, I think that it is a case that we can do away with without much loss. In fact we save more time, we save money and also inefficiency. So, for that reason, I am not convinced by the reason given for the Service Commission. Thank you.

**MR. KWERONDA RUHEMBA:** Thank you very much, Madam Chairperson. I would like to oppose this proposed Amendment that there should be a Board. This Board would be justified if we knew the number of people that the Auditor General may employ. Is the Auditor General going to employ for instance, as many people as are going to be employed in Bank of Uganda or Uganda Commercial Bank? Is he, for instance, going to employ as many people or less than those employed by the Inspector of Government? Would it make sense, for instance, Madam Chairperson, for the Inspector of Government also

to have a Board? Madam Chairperson, I think we would be doing injustice to public Funds if we had to appoint a Board that is going to appoint something like 30 or 40 people. When this 30 or 40 or 50 people, whatever the number, could be taken care of by the Public Service Commission. So, I oppose this on two grounds that they will be taking money in terms of salaries for nothing because the people to be appointed are very few. Secondly, it would be a precedence for other Institutions like the Inspectorate of Government to have Boards also. With those few words, Madam Chairperson, I would like to oppose the formation of the Board.

**MR. RUZINDANA:** Point of Information! Madam Chairperson, the Office of the Inspector General of Government has an appointments Board of its own and the Speaker seemed to imply that there was not any, actually there is. Thank you.

**MR. KOMAKEC:** Madam Chairperson, with that information, it goes to strengthen my point that either you give the Auditor General powers to appoint the people he is going to work with or you leave the job to the Public Service Commission instead of creating the separate Board to carry

**MR. GEORGE ZZIWA:** Madam Chairperson, I just wanted to give information to Members that an Auditor has not got to get a special qualification. An Auditor is just a specialization of an Accountant and as such, the Public Service is full of Accountants who can swop work between accountancy and auditing and if all the Accountants, Madam Chairperson, are being handled by the Public Service Commission, creating a specialized Board to look at Auditors, I think is unnecessary. Thank you very much.

**MR. BEN WACHA:** Point of Information! I would like to inform Members that we have passed under Article 189 (1) - an office in the public office: *There shall be an Auditor General who shall be appointed by the President with the approval of Parliament and whose office shall be a public office.* Public office, Madam, under the interpretation Article 286, means an office in the Public Service. An office in the Public Service to me, means an office which is catered for under the Public Service. It would be ridiculous for us having established an office catered for under the Public Service Commission, again to formulate an Audit Service Board.

**MR. DICK NYAI:** Madam Chairperson, I find some of these formulations frivolous because I do not imagine that the membership of the Auditor General's Office will be in excess of 300 people. The rest are just Audit Clerks who are transferable, and I am not so sure of the cost effectiveness of keeping six people on the Board, earning possibly the rate of Shs.2 million per month - the new rates are very attractive. Madam Chairperson, unless for the purposes of patronage, I find the Audit Service Board completely irrelevant. I beg to oppose.

**DR. BYARUHANGA:** Thank you, Madam Chairperson. This Audit Board which the Committee 3 is suggesting to us has also for very many years been suggested by the office of the Auditor General to Government. Their main reason has been that due to the poor salaries and remuneration in the main stream Public Service, the Auditor General's Office finds itself unable to attract and retain competent people in its service. Because the Auditors are poorly paid, they find themselves enticed to take bribes from the Accountants, that is bribes to make them silent about their findings. So, it was the view of the Auditor General that if they had their own service, then it would be possible for Government to give them some special attention as far as remuneration is concerned. Because when they are still in the mainstream Public Service and transferable to any other Department because as we have been told, they are actually Accountants, it will be very difficult for Government to give them special attention. But the problem probably we may have with the present formulation is about membership.

We could have a very small Board since we know that the number is going to be small. Hon. Members the number is no longer going to be small because of these districts which we have made sort of independent because now each District Executive Secretary is an accounting officer. So, there is need really for Auditors to inspect and look at the accounts of about 100 Departments that we get money for in NRC. That is why Madam Chairperson, I am inclined to think that we should give them some service Board so as to have some form of independence from the mainstream Public Service. But the Service Board need not be exactly what we have here; the Chairman, the five Members and the Auditor General and so forth. We could make it smaller but let it be there as to offer these people some sort of autonomy from the mainstream Public Service. That is why even under the Constitution produced by the Auditor General

of Government, we gave the Inspector General of Government a service Board because they wanted him to employ people of special capability and therefore, be able even to give them better remuneration than we have in the mainstream Public Service. Thank you.

**THE CHAIRPERSON:** But could you also address Hon. Wacha's fear that how would you reconcile the independence of the Auditor General and the Board. Do you not think that even the Board can exact due influence on the Auditor General?

**DR. BYARUHANGA:** The Board, Madam Chairperson, is just for appointing staff. They virtually have no influence on the Auditor General apart from assisting him in recruiting staff. Otherwise they have no powers of influencing his work. If we had a Commission, then that is when we would have had confusion. But now that we have the Board, the Board is so only for appointment.

**THE DEPUTY CHAIRMAN:** Then what would be the problem? Hon. Ruhemba was saying that the Public Service Commission can do that. What is the problem with that?

**MR. CHEBET MAIKUT:** Madam Chairperson, the information I would like to give to the Hon. Member, Mr. Byaruhanga, holding the Floor is that currently the staff of the Ministry of Justice, for example, the State Attorney in that category, are recruited by the Public Service Commission and yet their remuneration is quite high, as I speak now, relative to all other civil servants. So, in the same tone, it can be argued that the Public Service Commission or Public Service Authority can recruit the staff of the Auditor General and give them the kind of terms and conditions of service that are inherent of that nature of work so as to make it attractive to have the best brains. Thank you very much.

**MR. AWORI AGGREY:** Madam Chairperson, to me, I do not see the reason why that Board should be there. Even if it means sending so many people to the districts, the number is still small. I think right now, here in the Headquarters, the number of Auditor General's Office Staff is small. So, therefore, if we want a Board in every Ministry, why do we not have in some of these Ministries which are too big. Me, I believe Public Service can still do this job as long as the Auditor General makes a Report that he wants so many people, and then the posts will be advertised and then Public Service can hold the

interviews and send the right people. So, I do not see the reason why we are trying to create a Board which is just going to be a waste of time and money. Much as we know this country is still poor, I believe Madam Chairperson, Public Service can recruit the Staff where needed. Thank you very much.

**MR. BAGEYA:** Madam Chairperson, I would like to support the establishment of this Service Board. I want us to address ourselves to one thing, that the way it is put here, it would be likely the Board will have little work to do. But I want Delegates to know that in addition to just appointing the Board, it will also promote, suspend, dismiss the officers. So, there is justification for having a service board. I would also like Delegates to refrain from deducing arguments which perhaps the Committee had already deliberated on, time and again. So, I think there is a justification for having a service board for this specialized institution so that apart from doing appointing only, there is enough work load for it to exist. Thank you.

**DR. HIGIRO:** Thank you, Madam Chairperson. I am speaking to support establishment of this Service Board. Some people are worried about expenses. But Madam Chairperson, these people when they get allowances when they sit, they are not just going to be having salaries regularly. They only come or they are called for the purpose. But Madam Chairperson, let us see, we have all day emphasized the special importance of the Auditor General's Department. We have said that that is really specialized. Their work is so important to this country and that the value of good auditing is so important. So, getting good people to work this Auditor General's Department is a very important position. Now, this Service Board is going actually to sit down and decide on attractive terms of work specialized for this job. Now, it might be a small Board, I do not mind, but still we need people who will be looking after the Auditor General's workers and also monitoring them. There will be cases of those who will fail, those who need to be promoted, and there must be a body which feels that it is a body specialized. So for that reason, Madam Chairperson, it is not just money that matters but really what we want to get out of it. Thank you.

**MR. OGWEL LOOTESAMMY:** Madam Chairperson, I stand to support the position given by the Committee. I think they had had also enough consultation from the Auditor General Experts and they thought it wise that this Board be established.

Currently, there is an outcry in this country about embezzlement of Funds and we feel if this Board is established, it creates a lot of effectiveness and efficiency, even creating and finding out some resolutions and how should the Auditor work and how should it be effective so that the objectives made down for its function are achieved very effectively. Some of us have worked in Public Service. We know very well that Public Service handles a large body in this country. It handles so many things and already, people are complaining that sometimes, it is not effective in its dealings in giving services. So, with this small Board, it will make the work of the Auditor General more efficient apart from recruiting and others. But I think, in the matters that the Auditor General requires, it can be advised and it can be given ideas how to make the work of the Auditor General very effective. I support the provision of this Service Board. Thank you very much.

**DR. ODUR:** Thank you, Madam Chairperson. I think there is a bit of misunderstanding regarding the nature of the Board being created. I would like to refer Members first to Page 14 to the functions given to the Board. There are only two and all of them dealing with appointment of staff and determining the conditions of service of those staff. But in the Odoki Report, it was evident that many Ugandans expressed great disappointment in the management of public Funds of Uganda. That is why they had proposed to have an Audit Commission.

Now, we found it a bit highly placed to have a Commission of that nature. So, we came up with the idea of having an Auditor General but to strengthen the staff working under the Auditor General, it was found necessary to have a small Board, it is not a full time Board. It is a small Board that will be called upon from time to time to give service as far as appointment of staff are concerned so that the outcry about delays in auditing, exposing embezzlement, all these problems we are having would be reduced. It was thought that having efficient staff who are not necessarily interfered with by the Public Service or the Executive through the Ministry of Finance would be able to give enough independence to the Auditor General so that he could discharge the duties given to him effectively. I want also to remind ourselves that we have given another function to the Auditor General, that is what we call Value for Money Audit which would involve examining the various contracts which are publicly funded. Now, this is a very big assignment and as you remember, most of the

problems we have had have even caused outcry from funding countries that give us finance to the extent that some countries requested that unless certain accounts were made right and available for their inspection, no further funds would be released. So, I would like to appeal to Members that the sort of Board we are talking about is going to be a small Board and it is not going to be a draining Board but a Board that would empower the Auditor General's Office to discharge his responsibilities effectively. Thank you, Madam Chairperson.

**PROF. KAJUBI SENTENZA:** Madam Chairperson, I would like to inform the House that Committee One in discussing Chapter 12, has made very elaborate arrangements to ensure the independence of the civil service by setting up various organs like the Public Service Authority which will be able to appoint officers to the Public Service including the office of the Auditor General. I would not like to begin discussing now because it is going to come after this chapter. But I would like to propose that now the Question be put.

**MR. SAKWA:** Thank you, Madam Chairperson. I stand to oppose the Amendment on the ground that first of all, we are beginning to confuse Public Offices with the Parastatals and Boards. I do not see how - unless we go back and see why we should labour to contradict ourselves by setting up a Board to look after a Public Office. Secondly, Madam Chairperson, if we want to treat the Auditor General's Office as a specialized office requiring remuneration, I think the Public Service and Government has the power to do so. To set up a Board to look after an area with specialized earnings is a very good source of nepotism. Eventually, it will kill efficiency. What will happen is that people on that Board will begin recruiting people not because they are efficient, but to the contrary because they have a connection with them and I think we already have running examples in the country. I do not have to mention. So, I would like to oppose the Motion and propose that we leave the staffing of the Auditor General's Office to Public Service and Government may take the necessary measures *-(Interruption)*.

**MR. KYALIGONZA:** Point of information! Thank you Madam Chairperson. I am strengthening his point in the form of information. On Clause 5 of the Recommendation of the Committee, Clause 4 is saying that "In exercising its functions, the Auditor General shall not be under the direction or control of

any personal authority." I am wondering how we would compromise and reconcile the authorities of the two. Because if we have the Board which is going bog down its functions, are we also going to amend this Clause which we have already passed?

**MR. SAKWA:** Thank you, Hon. Kyaigonga, for that strengthening point of information.

**MR. OBUA-OTUA:** Madam Chairperson, I think there is a Motion on the Floor, let the question be put - and it was seconded. Is it in order for us to continue debating?

**THE DEPUTY CHAIRMAN:** I think the Chair sometime has liberty to do so, if the Member was asking for information, clarification and sometimes that information is useful to us so that we reach a complete consensus when all people are satisfied.

**MR. SAKWA:** Madam Chairperson, finally the purpose for setting up this Board is purely to recruit people and set their terms and conditions of service and yet Members have been arguing it will reinforce and improve on the efficiency of the Auditor General's Office. I do not see how a mere recruiting of people will ensure that they work efficiently. The corruption which people are talking about is not a question of recruiting authority. It is a question of remuneration and integrity of the people working in any organisation. So, I do not see the purpose of this Board. It will create confusion and I think we should leave this Body to be purely a Public Service Office. Thank you, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** I put the question and the question is rotating on Article 190 whether it should stand part of this Constitution.

*(Question put and negatived)*

**MR. KABERUKA:** Thank you, Madam Chairperson. First of all Article 191 deals with the accountability and we propose that Clause (1) of 191 reads that "*The Permanent Secretary in charge of the Ministry or Department, shall be accountable to Parliament for the Funds in that Ministry or Department, but where the Minister authorizes any expenditure, he or she shall be accountable for that expenditure.*" I beg to move.

**MR. SABIITI:** Madam Chairperson, by implication, when I read this Amendment, it appears the

Committee is assigning the duty of accounting officer to two people, the Minister and the Permanent Secretary. Now, I would like the Chairman first to explain this before I venture to disintegrate the whole amendment.

**DR. KABERUKA:** Madam Chairperson, first of all, I must point out that the original Clause sought to establish the Permanent Secretary and the Minister as accounting Officers. Now my Committee first of all was in a dilemma because we cannot have two accounting officers in the same place. But it was also impressed upon us that sometimes Ministers do force Permanent Secretaries to give them money or to give money to certain people and so here we sought to cater for that by the section where we say that if an accounting officer is overwhelmed by the might of his Minister in which case then he himself should be accountable for that. But of course we did point out that normally, under the normal procedures, when the Minister so directs, an accounting officer is supposed to demand the directive in writing and therefore, proceeds to abide by the order of the senior. So, here, we tried to cater for the aspect because it was the view of the majority that the Ministers do misuse the Funds and here we are saying that if he does that in writing, he should be accountable to that expenditure. I beg to move.

**MR. MASIKA:** Madam Chairperson, further clarification I seek from the Chairman. I would like to know how the Minister finds some Funds in his Ministry to authorise to be spent if all the public Funds are run according to the Budget. How does the Minister come in? If Ministers have been using their weight to get money, should we really constitutionalise that?

**DR. KABERUKA:** Madam Chairperson, I think first of all, before I answer that question, I want to draw the attention of the Hon. Member to Clause (1) of Article 191 on Page 84. On that Page, we are told that the Minister and the Permanent Secretary in charge of a Government Ministry or Department shall be jointly and severally accountable. That is the original formulation. But as I have pointed out, those of us who are knowledgeable with what goes on, is that you cannot have two accounting officers in one Department or Ministry. Secondly, as I have already pointed out that in the Report, the outcry was that Ministers do force their accounting officers to spend money contrary to set out rules and because of that, this is why we formulated it in the way I have read it.

**MR. BIDANDI SSALI:** Madam Chairperson, I beg to move an Amendment to the proposal from the Committee to read as follows: "*The Permanent Secretary in charge of the Ministry or Department shall be accountable to Parliament for the Funds in that Ministry or Department*". I beg to move.

**PROF. NABUDERE:** Seconded.

**MR. BINDANDI SSALI:** Madam Chairperson, I listened very well to the arguments brought by the Chairman for the inclusion of the Minister and it amounted to a submission by the Committee that okay, a Minister can misuse or can order the expenditure as he wishes, but he will be accountable to Parliament. I am seeing a possibility of so many decisions being taken on the assumption that the Minister will account when time comes. When time comes, he actually feels that the money will have been spent all the same. That is if the Minister is still alive or still in the Ministry. Therefore, I would feel very strongly and also with a little bit of my own experience in this particular office of the Minister for some time, that for goodness sake, let us not constitutionalise a Minister to order spending of money instead of leaving it to the Permanent Secretary to spend it in accordance with the Budget. If the Minister wants something to be spent on, he is part and parcel of the formulation of the Ministry Budget. So, he will have to bring his requirements in a formulation of the Budget. I think I beg to request Members to be very serious on this and restrain the misuse of Funds on the part of an irresponsible Minister in this particular respect. Thank you.

**DR. MUGYENYI:** Madam Chairperson, I come to support the Motion as amended by Hon. Bidandi Ssali on the understanding that according to the Chairman of the Committee's explanation, he is understanding that this has been an anomaly and he is asking us to constitutionalise the anomaly and therefore making it legal for a Minister to authorise expenditures in the Ministry. A Minister is not a civil servant and therefore, if you allow him to, once in a while, authorise the expenditure, I think we shall be going in a mess. What we can do is to look for a Clause that will stop the Minister from misbehaving, if he has been misbehaving, rather than constitutionalising the mistake. It is just like saying, very many public officers have been corrupt and to cure that, let us constitutionalise the corruption so that everything becomes fine. So, I think the Amendment is quite fine. Let the Permanent Secretary be

accountable and therefore be the one to authorise expenditures and then we can look for the Clause specifically to stop the Minister from tampering with Ministry Funds. These Ministers are politicians and it will be very difficult to control them when they have misused Funds. May be, by the time the Auditor General comes to audit the Ministry, the man may have fallen out with the President, may be he has already been sacked or he has already gone in exile. So, where do you get this man to account for the money? So, I strongly support the Motion by Bidandi Ssali. I thank you.

**MR. KAIJUKA:** Point of Clarification! Madam Chairperson, I am really seeking clarification from Hon. Bidandi Ssali because on the face of it, I think I sincerely support the proposal. But I want clarification from your own personal experience to help us as Delegates. Particularly those Ministries that tend to have ministry responsibilities to perform. Those who have big budgets. I have in mind like Works, Local Government and so on. Where you as a Minister, as a Chief Executive in management of that Ministry, where you have an accounting officer and, for example, should you have a flood that sweeps off the bridge, as we did recently between Masaka and Mbarara, and that item is not in the Budget - for the sake of argument - and an accounting officer for the sake of interpretation, says, this has never been budgeted for but you have a political responsibility to attend to a responsibility like that. I want you to tell me if you are a Minister and you direct that that be done. Because I thought that was the context with which Hon. Kaberuka was trying to explain to the House that in those cases, indeed Ministers may, in the position where they must put in writing whatever they find economically imperative to be done.

Secondly, I seek clarification so that I can embrace your proposal. If you are a Minister and you have an accounting officer, supposing you are in a position where even an accounting officer is not even by default deliberately frustrating a programme and you may have to come in to force him. But that is easier done if it is within the Budget. Thank you.

**MR. BIDANDI SSALI:** Madam Chairperson, my Colleague knows very well if the situation arose and the bridge is swept away or something like that, the first point of contact is the Permanent Secretary himself. "Do we have a provision?" The

Permanent Secretary says, "No". The second point of call is the Prime Minister who could call in the Minister for Finance and if between the three nothing can be done, then the matter is referred to Cabinet and a special resolution is taken to provide Funds where they were not available. In other words, this is a mere disaster situation. Now, on the issue of the Permanent Secretary frustrating or accounting officer frustrating, my Colleague also knows that you cannot work with a Permanent Secretary who frustrates projects. We have access to the person who appoints. Therefore, if I have a Permanent Secretary who is frustrating, I will discuss with him and if he continues to do that, I have my next point of call, the Prime Minister and the President. So, I do not envisage the situation where I am the judge of a Permanent Secretary who is frustrating the projects and instead of taking measures either to remove him or to have him disciplined, instead to say I instruct this amount of money to be spent, I think it will be completely wrong in the administration of Government in this particular case. *(Applause)*

**MR. HASHAKA:** Madam Chairperson, I wish to seek clarification from the explanation made by Hon. Bidandi Ssali that if a Permanent Secretary is frustrating Government Projects as per paying Government Projects, he would seek the appointing authority either to remove or transfer such a Permanent Secretary. May I seek clarification if he vehemently refuses the Minister's directives of spending for his own benefit, would this Permanent Secretary also be referred to the appointing authority to be sacked?

**MR. BIDANDI SSALI:** Madam Chairperson, that is the very reason why I am moving this Amendment so that even in the case where the Minister is the beneficiary, he has no such authority to do that. The Permanent Secretary can refuse.

**MR. RUHEMBA:** Thank you, Madam Chairperson. I agree with Hon. Bidandi Ssali's Amendment that there should be one accounting officer. But I have a complaint to make in respect of the original Amendment by Hon. Kaberuka and his team in that they sort of distorted Article (1) 191, by merging Clauses (1) and (2) because these two are carrying different spirits. What Article 191 (1) was saying was that the Minister and his Permanent Secretary are collectively responsible to Parliament. In other words, if they should misdirect Funds as per the Budget and they put them to a different use, they are

accountable to Parliament. Then Article 191 (2) is saying that should the Minister force somebody in that Ministry to spend money not per the Budget, he should be responsible and accountable and that he should be charged even when he has left the office. Now, those two were carrying different meanings but well intentioned. Now, when they merged the two Clauses - *(Interruption)*

**DR. KABERUKA:** Madam Chairperson, I want to inform the Speaker that my Committee did not merge the two. If he cared to read over leaf, Clause (2) is precisely part two of 191. We just reorganised part one of 191, and then part two of 191 as contained in Clause (2). So, I think the Hon. Member has not read our Report. I am sorry.

**THE DEPUTY CHAIRMAN:** I was trying to be polite to see whether any Member could detect a deficiency as of now but in vain and we were discussing an important issue and we may continue discussing but not pronounce ourselves. So, let us wait for next week to pronounce ourselves. So, could I suggest that either we go or we continue debating but we are not going to pronounce ourselves.

**PROF. KAJUBI:** Madam Chairperson, is it in order for the House to continue in session when there is no quorum?

**MR. MIGADE:** Thank you, Madam Chairperson. I am wondering whether it was in order for the Chair to see the deficiency in quorum. I thought this could have come from the Floor. Thank you.

**THE DEPUTY CHAIRMAN:** Yes. But if the Floor is blind, sometimes the eyes of the Chair are opened. We are less than 70.

**MR. BAGEYA:** Madam Chairperson, with that observation I propose that the House be adjourned.

**THE CHAIRPERSON:** Okay it is proposed that the Assembly be adjourned. So I adjourn the Assembly until Monday, the 16th of January at 2.30 p.m. Thank you.

*(The Assembly rose and adjourned until 16th January, 1995 at 2.30 p.m)*