



THE REPUBLIC OF UGANDA

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

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OFFICIAL REPORT

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WEDNESDAY, 21ST SEPTEMBER 1994

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MOTION:-

Consideration of the Draft Constitution of the Republic of Uganda [Pg 2256]

**Price Shs. 2,200**

**21st September, 1994.**

*(The Assembly met at 8.30 a.m. in the International Conference Centre, Kampala).*

P R A Y E R S

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

*The Assembly was called to order*

COMMUNICATION FROM THE CHAIR.

**THE DEPUTY CHAIRMAN:** Hon. Delegates, I have one Communication from the Chair to make. We are being informed through the Chairman's office that Mwalimu Julius Nyerere will be calling on the Chairman at 8.45 a.m. Thursday tomorrow and then after that, at 10 O'clock he will be with us here in the Assembly. He will come as an observer. So all Members are called upon, at least tomorrow, to be in time so that by 10 O'clock we are all here otherwise he may enter when actually we are just a handful and there is an Hon. Member who wanted to move that we call upon Mwalimu Julius Nyerere to make a statement. So I call upon that Hon. Member to move.

**MR. OBIGA KANIA (Terego County):** Thank you, madam Chairperson. Madam Chairperson, in view of this information which you have given to us about the visit of the former President of the United Republic of Tanzania and the current Chairman of the South to South Commission, Mwalimu Julius Nyerere tomorrow, I beg to move in accordance with Section 11(2) of the Constituent Assembly Statute 1993, that this Constituent Assembly sitting on the 21st day of September, 1994 do resolve and it is hereby resolved to invite Mwalimu Julius Nyerere to address the Assembly in recognition of his distinguished service to Africa and the world. Madam Chairperson, I beg to move.

**THE DEPUTY CHAIRMAN:** Is there any other contrary view other than the indication already shown that people are agreeing? Okay the Motion is seconded by Hon. Kintu Musoke. So we agree that we request Mwalimu Nyerere to give a word to us and I shall request the Clerk to take that message to the office so that he is alerted.

**MR. ATWOKI (Youth-Northern Region):** Thank you very much, Madam Chairperson. In view of the

fact that there is a general consensus in the House about the Motion moved by Hon. Obiga Kania, I beg to move that you put the question formally. Thank you.

**THE DEPUTY CHAIRMAN:** Okay, I agree but sometimes if there is no "NAY", it was acclamation but now I put the question.

*(Question put and agreed to)*

REPORT FROM THE LEGAL AND DRAFTING COMMITTEE.

**THE DEPUTY CHAIRMAN:** Hon. Delegates, when we adjourned yesterday, Members had shown an interest to look more deeply at the document or the report and this report was accepted as a working document or an agenda to be followed and I want to make one correction that to say that we have adopted this report, that is, we adopted it for debate not approval because those two are separate. We did not approve it but we are saying that we adopt it and use it as a Working Paper, hand in hand with the Draft Constitution we have. So the procedure we are going to adopt is we shall start with Appendix (2) but as we go along, definitely we shall be calling on Appendix (1). For example, if they say (8) is being skipped, we look in the Constitution and see what (8) was and say why it was skipped and when we do that, actually we shall be looking at Appendix (1). So we are using the document concurrently. There is no contradiction if one feels that what has been deleted should be retained. Those will be the amendments that may be made on this proposed work plan which we requested the Committee to work for us. So now I will go to Appendix (2) and propose that Article (7) do stand part of this Constitution.

**MR. ETYANG (Tororo County):** Thank you very much, Madam Chairperson. Madam Chairperson, by adopting as you have just explained, the Report of the Drafting Committee, we did not, I agree with you, endorse the recommendations of the Committee. Madam Chairperson, Article (8) of the Statute imposes on us the obligation of using the Odoki Draft as a Working Document for the Constitution. I would suggest that we do not divert from that but we use the recommendations of the Committee and take them as proposed amendments while we address ourselves on the document that we are enjoined by Article (8) of the Statute to follow.

**THE DEPUTY CHAIRMAN:** Thank you very much. Definitely that is inevitable because you cannot use only this Paper. What we are saying is that we look at what they have proposed and we look at our Constitution, there may even be amendments, there are some amendments which are already proposed. So there is no contradiction.

**MR. AMAMA MBABAZI (Kinkizi County, West):** Thank you, Madam Chairperson. If we use Appendix (2) because Appendix (2) only includes those parts of the Draft that the Drafting Committee proposes to retain but if you look at Appendix (1), it also includes those parts of the Draft, the Articles and Clauses they propose to delete. If we go to Appendix (2) straight, it will assume that we agree to the proposition that some of them be deleted. So maybe the best way is to look at Appendix (1) which handles Articles Clause by Clause and then if we agree, for example, Clause so and so be deleted we go accordingly. By so doing, we will be conforming to what Hon. Etiang has just said.

**THE DEPUTY CHAIRMAN:** Anyway, to me, whatever way we adopt, we shall receive the same thing and according to what I have, the way I have arranged this part is, for example, if we use our Odoki Report, we note that 7(1) and 7(2) are not changed at all except for that words "*The National Council of State*" which will be just an editorial matter. So, according to Appendix (2), you will note that there is a new (8) then we should ask ourselves where has it gone and we note that according to the report in Appendix (1) they are saying that that has been taken care of. So the advantage of using both parts of the report is what is showing you what is remaining, another one is showing what has been deleted and we are using both hand in hand. Now when we come where they have made substantial changes, then I shall call upon the Chairman of the Legal and Drafting Committee to explain why they merged or why they are deleting and then we move. I do not see any contradiction. So actually at the end, we shall actually get that. Otherwise, even if we use okay, Appendix (1), we say Article (7) should be retained. Even in Appendix (2), they are saying it is retained. Then you go to Article (8), it be deleted. Even when you come to Appendix (2) it is not there so you notice it is deleted. So both actually are very coherent.

**MR. KABERUKA (Ndorwa County West):** Thank you very much Madam Chairperson. I think

I agree with those who think that we should use Appendix (1) because Appendix (1) if read together with the Draft Constitution already covers Appendix (2) because in Appendix (1) we are given what action the Legal and Drafting Committee took on each Article and on which Clause. So in order for us not to be confused, Madam Chairperson, I am saying that we follow the idea of using our Draft Constitution and Appendix (1) because Appendix (1) includes Appendix (2). Where there is a difference as you correctly pointed out, we would be guided by the Legal and Drafting Committee as you have already pointed out. Thank you very much Madam Chairperson.

**PROF. KANYEIHAMBA:** Madam Chairperson, I am asking whether the Hon. Member who has just left the Floor is in order. As far as I understand it, Madam Chairperson, the situation is as you proposed it namely that, yesterday this August body decided to adopt the report of the Legal and Drafting committee and it is precisely what you have decided to adopt as an agenda for discussion and eventual approval if they approve it. Having adopted it, that report recommended that we start with Appendix (2). Nobody argued against that and if they did, it was passed. You have this morning said, Madam Chairperson, that we should proceed with putting questions as indicated in Appendix (2) but if people feel that things were left out as indicated in Appendix (1) they can move amendments to improve on what we have already decided. So I am saying, is it in order to continue going backwards when you have already put the question that Clause (7) be part of the Constitution? I think that we should proceed to debate that and then when people think that things have been left out, they can bring it as an amendment rather than continue going backwards. So I was asking whether the Hon. Member is in order to continue taking us back where we left yesterday? The important thing is that this August House, unless we want to go back, passed the Motion that the Report of the Legal and Drafting Committee should be adopted as a working agenda. The point that has always been here is that the Chapter was referred precisely because the original was complicated so the Committee has come up with an agenda which we have adopted. So I propose, Madam Chairperson, that we proceed with your ruling that we go on Appendix (2) and then anybody who has got something to bring back from Appendix (2) can be discussed under the agenda. I thank you, Madam Chairperson

**THE DEPUTY CHAIRMAN:** Thank you very much. Hon. Delegates, please let us be open minded. What we are saying is, whether you use Appendix (2) or Appendix (1), the end will be the same because you use Appendix (2) and you come to 7(2) that is what we are dealing with. Then after that, we shall come to (8) which is in the original Constitution and we look at Appendix (1). What do they say about Article (8), they are telling us it was earlier deleted, so you do waste a lot of time on that one. You go to Article (9) in the original but then it is now Article (8) in Kanyeihamba's report and proceed like that. We shall be more orderly otherwise we waste a lot of time discussing Appendix (a) then move back to Appendix (2) when actually the substance is in Appendix (2). So we proceed please. I propose the question that we take Article (7) as part of this Constitution.

**LT. COL. SSERWANGA LWANGA (NRA Delegate):** Madam Chairperson, I beg to move an amendment to that Article by deleting Article 7(1) and inserting "*The objectives and principles in this Chapter shall guide all organs of State and other bodies and persons in applying or interpreting this Constitution*". Madam Chairperson I beg to move.

**MR. RWOMUSHANA:** Seconded.

**THE DEPUTY CHAIRMAN:** Okay Rwomushana Charles is seconding the Motion that 7(1) be replaced by an amendment as laid out by Hon. Sserwanga Lwanga that instead of the long one he is saying that we have that "*The object and principles in this Chapter shall guide all organs of State and other bodies and persons in applying or interpreting this Constitution.*" So, Hon. Serwanga Lwanga can justify -

**LT. COL. SERWANGA LWANGA:** Madam Chair, the text I am using is Appendix (2) as we have agreed of the report which we adopted yesterday and I am saying that when we are writing these objectives, we should be brief. We should not have a lot of words which are not necessary because when you look on the Judiciary, Parliament, the Executive, these are organs of State. So what I am trying to do is to shorten the objectives and the principle we want to carry is that all organs observe the principles here and all persons should abide by them. Madam Chairperson, if Members bothered to read the report, the big one, in the recommendations of the Commission, the Odoki Commission, the recommendations were also very brief but I think when the Draftsman

went around, they made a lot of unnecessary wordings. So, madam Chairperson, since we are not writing this Constitution only for the lawyers and the Judges and the people connected with the legal system but we are also writing it for the ordinary people, the students and children in schools plus our peasants, let us write something simple which even can be cited in the classrooms. Madam Chairperson, I beg to move and I thank you.

**MR. KIRENGA (Mityana North):** Thank you very much, Madam Chairperson. The point of procedure I would like to bring to your attention is that before we discuss (7) as it is, I have a Clause which should precede that - (*Interruption*)- they are typing the amendment.

**THE DEPUTY CHAIRMAN:** Then that is not procedure because I do not have your amendment. I have all the amendments here I have so far received. You should have waited then you would have moved your amendment on an amendment rather than saying that you are at the point of order because your papers are not here. You should have said that you want clarification or what but it was not a point of order.

**MRS. EGUNYU (Women Delegate - Kumi):** Thank you very much, Madam Chairperson. I seek clarification from the Movers of the Motion as to why they left out the words "*any other law and in taking and implementing any policy decisions...*"? Because the initial Article sought that the objectives and principles in this Chapter were to guide not only in interpreting the Constitution but also in the interpretation and application of any other law and in taking and implementing any policy decisions. I find that this has been excluded in his amendment and I would like clarification and justification for excluding that from the proposal. Thank you, Madam Chairperson

**THE DEPUTY CHAIRMAN:** Thank you. Can I now call upon one of the Movers of the Motion, that is Hon. Mayombo.

**LT. MAYOMBO (NRA Delegate):** Thank you very much, Madam Chairperson. I am one of the Movers of this Motion and one of the reasons why we seek to delete, with the due authority of the Hon. Assembly, the words "*any other law*" is simply because this Assembly has already passed Article (2) of this Constitution. Article 2 is to the effect that

this Constitution is the supreme law and any other law which is inconsistent with this Constitution would be null and void to the extent of its inconsistency. So I beg to move, Madam Chairperson, that once we write these objectives in the Constitution, in legislating, Parliament will have to take into consideration these objectives. Parliament will not make any other law which is inconsistent with this Constitution. That is one. Two, in making policies, policies to be made by the Government will be in accordance with the law. That law will be consistent with the Constitution. I feel that in the spirit of making a precise, articulate, simple and an understandable Constitution, it will be sufficient both in law and practice to end with the words "*interpreting this Constitution*". Thank you Madam Chairperson.

**MR. HASHAKA (Kibaale County):** Thank you, Madam Chairperson. I am seeking clarification from the Movers of the Motion to clarify on the definition of the "State". Madam Chairperson, this word has been used in this Draft and particularly in the Chapter we are dealing with about one hundred and fourteen times and yet it has not been defined as some definitions have been set down in Article 286 of this Draft constitution. Madam Chairperson, I believe that the word "State" is always commonly mistaken by our people to mean the Government yet it is not. Take, for example, if you read Clause say 10 now, Sub-section 3 which reads "*The State shall endeavour to mobilise, organise...*" Article 11, "*the State shall guarantee...*" Clause 12, "*the State shall make reasonable provision...*" What is that "State" that has not been defined?

Secondly, Madam Chairperson, there is a word also which is commonly escorting the word "State", "*Organs of the State*". I wish also to seek clarification and to know what those organs of State are. Some Governments in future may come up with some organs of the State just for the sake of keeping themselves in power, guarding them, the ISO, the ESO - I can mention many. I would like to know or at least to have a definition of those organs of the State that are hidden up somewhere. I think the people really would need some bit of clarification and illustration, a few illustrations of examples of these organs of the State. Thank you, Madam Chairperson.

**MR. AWORI (Samia Bugwe North):** I am seeking guidance from the Chair whether we have already accepted this proposal as Chapter Three in terms of

general principles. Have we accepted it as Chapter Three? Is that the categorisation? We have accepted it as a Working Paper the way I hear from my colleagues at the back but in what category? Chapter Three, has it been accepted as such or what?

**THE DEPUTY CHAIRMAN:** Usually, we start with Articles one by one and we have not agreed that Chapter 3 would stand. Now we are working Article by Article so there is no contradiction otherwise you are getting the cow by the tail. So let us proceed as we had proceeded then by the time we reach the end of this one, if everything is thrown out that will be what it is. Do not compare this one with what we decided earlier on on the issue of the National Council of State. It is Article (1) which preempted the whole thing. These ones are different sections so the two are not comparable. So let us proceed the way we are proceeding and let us not waste time please. Okay, he had requested for clarification, let the Movers clarify before we move to another person. Would the Movers please clarify to Hon. Hashaka what it means the "*Organs of State*" and whatever have you? Hon. Tinyefunza are you clarifying?

**MAJ. GEN. TINYEFUZA (NRA Delegate):** Madam Chair, I wanted you to help me, may be, to direct this to the Legal and Drafting Committee. I would like to know the position on whether it is possible to amend the Chapter itself before we come to Article 7 so that Chapter 3 reads Schedule 5. My fear is that this is a very good Chapter with the objectives of State which are wide enough and in any case are not really enforceable but these are policy statements to direct organs of State. Now, because we are trying to force this into enforceable Articles of the Constitution, we are facing a situation where we are being forced to delete and drop out very vital aspects of the Chapter. Now I think the only way to save this Chapter is to leave it in its original form and transfer it to the Schedule because this is where it will be useful so that it is referred to by any organs which takes up the governance of this country. Therefore, I would like to be clarified whether we cannot, before even we come to 7 and say instead of Chapter 3 it is Schedule 5. I want clarification, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Earlier on, we had said the location and the name will be decided after we have the content and the people. Even if we have this original text in the Odoki Report, we would

actually discuss it, delete a few things and what have you. What I am saying, we cannot adopt or you cannot say we are taking on the proposal wholesale, we deal with it Article by Article, let us always remember that Hon. Delegates.

**MR. MULENGA (D.P. Delegate):** Madam Chairperson, thank you. Madam Chairperson I wanted to respond to the explanation given by Hon. Mayombo with regard to why - the explanation given (*Interruption*).

**AN HON. DELEGATE:** Point of order! Madam Chairperson, is it in order to proceed this way when a fundamental issue has been raised by the previous Member who thought that this matter could be transferred to the Schedule? In adopting the Report of the Committee, does it mean that we are agreed ipso facto that this should be a Chapter? We did not and I think the issue I raised yesterday whether we should not discuss the general issue, I did not raise it as a Motion because I did not receive sufficient support for it on the Floor, it is still vital. What Hon. Tinyefunza said is that we could avoid this debate by all of us agreeing that the previous Chapter 3 could be retained as a whole, as it was, but as an addendum or appendix to the Constitution. I think that is a very reasonable proposal and I think we should revisit this question.

**THE DEPUTY CHAIRMAN:** Thank you very much Hon. Delegate for your information but let us hear from the Chairman of the Legal and Drafting Committee.

**DR. KANYEIHAMBA:** Thank you, Madam Chairperson. Madam Chairperson, I thought that in making the report of the Legal and Drafting Committee, this point was made absolutely clear. We said that our procedure is clear as you have rightly ruled. It is to discuss Clause by Clause or Chapter by Chapter. However, I even gave the information which was conveyed by the Chairman that whether this Chapter should remain where it is or whether it should go into a Schedule as Hon. Tinyefunza is suggesting, it should be a matter which should be postponed until we have finished its contents and our report was that when we have finished its contents, then some debate should take place as to where it should be placed. That really was our report and I thought that Members, in adopting it had appreciated that. Yesterday, Madam Chairperson, I gave the desire of our Chairman to come and address us

on this particular matter and he has special knowledge on this issue. I would beg Delegates to really be patient, let us determine the content of what is here but we never suggested that it should be part of this, we said that that is a matter to be decided later.

**THE DEPUTY CHAIRMAN:** And after all, we still have a very long way, we are discussing Article by Article. Let us look at the content then after that, we shall decide the location, the naming and whatever have you. That has been the policy of this House. So let us proceed. Hon. Hashaka had requested for clarification on the State and Organs and I had called upon the Movers whether they could really amplify on that issue to satisfy Hon. Hashaka.

**AN HON. DELEGATE:** Thank you Madam Chairperson. We have arrived where we are because in the course of the general debate, many sentiments were raised that this Chapter - a lot of questions were raised about this Chapter, whether it should in fact go to the preamble or become a Schedule to the Constitution. Now, we have debates at two levels Madam Chairperson. One to decide on the fate of the Chapter and before we do that, we cannot determine the content.

**THE DEPUTY CHAIRMAN:** I want to remind Hon. Delegates that we have - (*Interruption*)

**AN HON. DELEGATE:** The fate of the content will depend very much on the fate of the Chapter and I think we should determine the fate of the Chapter first and then move to decide on the content.

**MR. KIRUNDA KIVEJINJA (Bugweri county):** Madam Chairperson, thank you very much. I would like to draw your attention to the terms and conditions which were given to the Committee as contained in the first page of their report. One of the terms was to determine the following: (a) Which provisions should be retained (b) Which provisions should be transferred and where; and (c) which provisions should be deleted. There was no other terms of reference. So please, on procedure, let us stick on what we gave the Committee to consider and we go ahead to consider the report as such. Thank you very much.

**THE DEPUTY CHAIRMAN:** Thank you very much. I think Hon. Kivejinja's is my stand. Let us discuss Article by Article, that is what we are mandated in the consideration stage, anything else can come in the reconsideration stage.

**MR. OBIGA KANIA:** Order, Madam Chairperson. There is a Motion moved by Sserwanga Lwanga and company on the Floor and the only thing that can be discussed until that Motion is disposed of is any amendment to that amendment. Is it therefore in order to move a totally different one which is in fact not amending the amendment which is on the Floor that we are discussing? The issue on the chapter is totally a different issue, it has nothing to do with the Motion which has been put on the Floor. We have to dispose of that first.

**THE DEPUTY CHAIRMAN:** Okay, we have Hon. Serwanga Lwanga's Motion and they moved an amendment, then I hear there is somebody who wants to make an amendment on that amendment but I do not have it. Who has an amendment on that amendment? If there is no amendment then we make a decision on Hon. Serwanga Lwanga's amendment. As you work on your amendment, let me look on this side, I think I better start here, he has not talked.

**MR. MULENGA:** Madam Chairperson, you have given me the Floor and I was talking on that Motion. Hon. Hashaka may want his answer given but clarification can be given subsequently while others also contribute. Now that I have the Floor, I wanted to comment on an answer given earlier by Hon. Lt. Mayombo. He explained that the last part of Article 7 Clause (1) was being left out because, according to him, any law that is made after the constitution, any policy will have to follow the Constitution but I think what the Movers have not appreciated is that this is intended to refer to guide - if I may paraphrase, the objects and principles in this Chapter shall guide Parliament or if you want, all those Organs, in applying or interpreting this constitution. So it is intended that the object be referred to not only when making the law in future but also in interpreting it.

Secondly, that it be used as a guide in policy decisions. Now, if we stop as they propose, at the word "Constitution", it will cut out a very important expression, that is to say, in interpreting the law or any other law - it will cut out "*in taking and implementing any policy decisions*". These, I suppose are also to be the object - should apply so that the government, in making decisions, policy decisions, should look at these objectives to know that or rather to avoid departing from them. So Madam Chairperson while I would not want the reduction of the various organs into organs of State subject to the explanation that may be given to Hon.

Hashaka as to what the word "State" means, I would urge the Movers not to drop the rest of the paragraph.

**MR. KAIJUKA (Sheema County, North):** Thank you Madam Chairperson. Madam Chairperson, I want to agree with the Last speaker, Hon. Mulenga, in suggesting that we retain Article 7(1) as it was originally framed in the Draft Constitution - and in the wisdom of the Committee, they retained that Article. It is supposed to be general in nature of National Objectives to guide society as it were. I think we should be able to be clear as we can and we do not lose anything. So I wanted to appeal to Hon. Serwanga Lwanga that much as I definitely personally like summaries in terms of drafting, we lose nothing by retaining this article and I would like to urge my fellow Delegates that we do not lose anything and I was going to agree, again when time comes, with Hon. Tinyefunza that since this whole chapter may not be enforceable in law we may have to debate whether or not it becomes to agree that certainly it should make a nice preamble as it were before going to Chapters. So, Madam Chairperson, I wanted to appeal to the Delegates that we adopt this and move on. *(Interjection)*. No, I am not supporting Hon. Serwanga Lwanga's Motion I wanted to suggest that he drops this so that we can move. Thank you.

**MR. OGWEL LOOTE (Moroto Municipality):** Thank you very much, Madam Chairperson, I would like first of all to oppose the amendment by Hon. Serwanga Lwanga because when you say the State Organs, it leaves the statement so open and so dubious. Any organ or anybody, a military Commission may come up and it becomes a body or organ of that time and so it leaves that gap but I think Madam Chairperson if they could leave the report by the Legal Committee, and I thought we must always be specific, we must be clear so that we tell the people that this is what we want, anything which comes beyond that, they know they will be out of our Constitution. So if they could let us have Article 7 as proposed and recommended by our Legal and Drafting Committee because I think they have really scrutinised and they think that this is worthy so I feel that this leaves us a lot of doubt. Anything can come out there and claim itself an organ of the government. Thank you Madam Chairperson. So I oppose the Motion.

**MR. KAGGWA (Kawempe Division South):** Thank you very much, Madam Chairperson. I would want to oppose the proposed Amendment on the following grounds. One, Hon. Delegates will recall that when we were considering Article One, an issue arose as to what institutions of the State are. I see similar sentiments on the use of the word "State". So I do not want to see a situation where we have to go into defining "State" and the worries expressed. Two, a lot of efforts was made by the Legal and Drafting Committee to reduce this Chapter and synchronize the Draft Constitution. I think in its wisdom, it did a good job. Thirdly, this Chapter, in the way it is put now can not be enforceable, it is merely a guide. I will be very hesitant to go along with this amendment which will bring about unpredictable application by the Judiciary. So, I would rather go ahead and support the original amendment save for deleting the word "National Council of State" which we dealt with. So I beg to move. Thank you.

**MR. KOMAKEC (Aruu County):** Thank you, Madam Chairperson. It is quite clear that the problem, the issues that are raised in the National Objectives and The Principles of the State contain some very useful ideas. *(Interruption)*. Madam Chairman, I was saying that the information contained in this Chapter Three can be very useful and they are generally agreeable but as we notice that we do not want to throw out any idea which is good for the country, we should make sure that it is retained but as it was pointed out, Madam Chairperson, that the retention of some of these ideas will depend on whether we are debating it, whether we are leaving it as a preamble as I was saying - or as an appendix to that Constitution because the position, the location of these ideas are actually important. It will determine the fate of what will be struck out and what not.

Madam Chairperson, I beg to allow me to move an amendment which will save the time as well as the ideas that are contained here by saying that the ideas which are contained in here, that the objectives and the principles contained in Article 7 (1) be transferred to the Appendix of this Constitution.

**THE DEPUTY CHAIRMAN:** With due respect, You see we have a technical problem here. We are discussing Article by Article. Now when you come to transfer, you look at the - you transfer a Chapter. We are saying the principle, so I do not see

how really we can get one sub-article and say we are transferring this one here and what have you. Now, what principle are you talking about? I think again you are just trying to derail us to discuss - earlier on, we said that is not in our terms of reference as far as we gave the Legal and Drafting Committee and we are discussing the Legal Committee's Report. You also note that we cannot amend a Chapter as a whole and say we delete it but you can amend an Article which we are doing and Hon. Mayombo's Motion is on the Floor. So let us not be derailed. Okay, somebody is amending Hon. Sserwanga Lwanga's proposal.

**AN HON. DELEGATE:** Thank you, Madam Chairperson. In light of what You have just told us, I want to propose an amendment that Article 7 (1) be deleted - be transferred to the schedule and become part of Schedule Five. I beg to move, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Hon. Delegates, let us be orderly. I have just said if we are to move - what you are suggesting is not in the terms of reference of the report, that will come later after we have discussed Article by Article which is the mandate of the consideration stage. Why are you trying to run when we have not reached there! Let us finish discussing what is on Floor and we proceed, delete what is being proposed to be deleted, then after that we shall decide the location and we agreed on that one please

**MR. BYARUGABA (Isingiro South):** Madam Chairperson, having heard from Hon. Delegates, I would like to beg your indulgence that you put the question and we move on, we are trying to save time. Thank you very much, Madam Chairperson. I beg to move that the question be put. Thank you.

**THE DEPUTY CHAIRMAN:** It seems there are no more amendments to Hon. Sserwanga Lwanga's Motion so I want to propose that I put the question.

**AN HON. DELEGATE:** Thank you very much, Madam Chairperson. In view of the Motion of Hon. Lt. Col. Sserwanga Lwanga, Hon. Hashaka wanted clarification on the "State Organs" and the "State", nothing has come out of that. We would like to find out what "Organs of the State" are and the "State" as it is proposed by Hon. Sserwanga Lwanga.

**THE DEPUTY CHAIRMAN:** Hon. Nkangi are you answering to that, otherwise I call upon the Movers to clarify. Okay, Hon. Mayanja Nkangi.

**MR. MAYANJA NKANGI (Conservative):** Thank you very much, Madam Chairperson. Now the question raised by Hon. Hashaka is significant. In Article 286, the definitions are given. The word "State" is not defined although "Uganda" is defined and therefore this raises the question in this Article 7 (1), what is the meaning of the expression "all Organs of State" if you remove the word Parliament, Executive, the Judiciary? If you remove them, then you leave the expression "all Organs of State" undetermined because they are not spelt anywhere at all. So the question of interpreting this section in a matter of law, we should leave these words Parliament, Executive, the Judiciary and then you see the meaning will be given to the expression "all Organs" because it can only be interpreted with reference to the similarity of a class, which type of Organs. I am saying that in a matter of law, if you do not include these words, then the other words, the expressions will not have any meaning at all unless you explain also or specify what these organs are. Secondly, having said that, I would still say that let us stop at the word "Constitution" as the Movers are moving because, one, Hon. Mayombo said that you cannot make any law which is inconsistent with the Constitution. I agree with that. Secondly, you cannot make a decision or policy that is ultra vires the Constitution. So in the same way, if you stopped at the Constitution it is sufficient for the meaning to be carried rather than going on et cetera, et cetera.

**THE DEPUTY CHAIRMAN:** But I asked and they said that there was no more amendments. I had put the question but somebody wanted to be clarified and he was clarified so you are just thinking about it now so I put the question now.

*(Question put and negatived)*

**THE DEPUTY CHAIRMAN:** Now, we have to pronounce ourselves on 7(1) whether it stands part of the Constitution. Now I put the question - *(Interruption)* - but I do not have them. Hon. Sserwanga Lwanga had a second part on Article 7(2) - Okay, amendment on (1). You see, we have just rejected Hon. Sserwanga Lwanga's amendment. Now I was proposing the question that 7(1) do stand part of the Draft Constitution. Now, you are saying that there are amendments. *(Interruption)*. Why not?

People should be allowed to amend because the other one has been thrown out there is another amendment.

**MR. CHEBET MAIKUT (Kween county):** Thank you very much, Madam Chairperson. Madam Chairperson, I beg to move an amendment which is really consequential in nature, seeking to delete the words "*The National Council of State*" and secondly, "*all Organs of State*" from Article 7 (1) of the Draft Constitution. Thank you Madam Chairperson.

**THE DEPUTY CHAIRMAN:** I think that one is consequential. It is obvious, that will be an editorial matter but you also say you remove "all organs of State"?

**MR. CHEBET MAIKUT:** Yes.

**THE DEPUTY CHAIRMAN:** Is it seconded? Okay there is a seconder. Hon. Komakec have you withdrawn?

**MR. KOMAKEC (Aruu County):** Madam Chairperson, I would like to second this amendment by Hon. Chebet Maikut because by removing one word, it is removing a very contentious and something which could not be known because we have mentioned the Parliament, Executive, the Judiciary, and I think these are the major organs of state. The others, the unknown one - the Army is part of the Executive - so, Madam Chairman, if you give me time to talk on this Motion I can do it. Why I am seconding it is because it is very significant. It is retaining three of the biggest organs of state, that is Parliament, the Executive which includes the Civil Service, the Army, the Police - but it excludes this other one which is not known, it is a suspect, and I think we should be very clear what it is that we are legalising or we are enshrining in the Constitution. That is why I am seconding it and it is a very significant Motion. Thank you, Madam Chairman.

**MR. KAVUMA (Kyadondo South):** Thank you very much, Madam Chairman. I oppose the Amendment. I think what this provision is seeking to achieve as it stands, is to be as wide as possible. We are sure there is Parliament, there is Judiciary, there is the Legislature, but those are not the only organs of State, and we know that in the day to day management of state affairs, even these others which may be considered as minor organs of state do carry out activities which we want to be guided by these

principles and directives of state policy. So, Madam Chairman, I think it would be dangerous to restrict the application of this Article to only the Legislature, the Executive and the Judiciary. We shall be leaving the ground open for abuse of power and the rest of it, which I do not think is good for our people. I oppose, Madam Chairman.

**MR. AWORI (Samia Bugwe North):** Madam Chairperson, upon your ruling that we deal with Articles, Madam Chairman. I move that first of all we either defer or delete the word "Chapter 3" before we even consider the content. It was your own ruling, Madam Chairman, that we are dealing with Articles.

**THE DEPUTY CHAIRMAN:** Yes, we are dealing with articles in Chapter 3. So, there is no contradiction, your question does not arise. You are as if you are saying that we are dealing with an arm on Awori's body, remove Awori and leave the arm. I think now we have, actually, exhausted this point and I want to put the question.

**MR. AWORI:** Madam Chairman, as much as I appreciate your comment that we cannot deal with the arm of Awori without dealing with Awori, but really -

**THE DEPUTY CHAIRMAN:** Anyway, that was a by-the-way.

**MR. AWORI:** A by-the-way? Okay - off record. But, Madam Chairperson, we are calling it Article 7 and at the same time we are putting on top Chapter 3, it is a matter of nomenclature.

**THE DEPUTY CHAIRMAN:** But that is how we have been dealing. We have been having those chapters, later on, they may be changing. We are saying numbering and all the rest will come later location - those will come later.

**MR. AWORI:** Okay, for us to move fast, I will leave the Floor.

**THE DEPUTY CHAIRMAN:** Now, I think I should propose that I put the question. We have finished with the debate, I think we have really had enough. So I propose that I put the question. Those in favour say aye to the contrary no.

*(Question put and agreed to)*

**THE DEPUTY CHAIRMAN:** Now I put the question, that 7 (1) stands part of this constitution.

*(Question put and agreed to)*

**THE DEPUTY CHAIRMAN:** Now we move to 7 (2). I move to 7 (2).

**MR. BEN WACHA:** Madam, with due respect to the assent of the House that 7 (1) remains part of this constitution. Madam there was an amendment by Chebet Maikut and I would want the House to clarify what the fate of that amendment is.

**THE DEPUTY CHAIRMAN:** We moved and it was rejected.

**MR. WACHA:** Thank you.

**THE DEPUTY CHAIRMAN:** Article 2, I think was removed, actually, it was not really supported and we are just wasting time. We move to 7(2) and I have some Amendments here, can I hear from the proposers.

**LT. COL. SSERWANGA LWANGA (NRA - Delegate):** Madam Chairman, I have another Amendment, but on this one. I think I should be firm and mobilise some support from the House. Madam Chairman, I want to transfer this reporting of the President to Article 104 where the President comes and reports to the Constitution so that we do not mix the President's reporting with the objectives of the country. It would be better since we have already catered for it, and I do not see any politician who is holding a political office like that of a President will miss an opportunity on reporting on these objectives how much he has accomplished for the well being of the people. Madam Chairman, I beg to move.

**MR. MWONDHA:** Seconded.

**MR. OMARA ATUBO (Otuke County):** Madam Chairman, I think on closer perusal of Article 72 and Article 104, you will find that they are not the same, and therefore, Article 72 should not be deleted. Madam Chairman, Article 104 is dealing with a situation where the President, at the beginning of each session of Parliament and the dissolution of Parliament, delivers to Parliament an address on the state of the nation. Madam Chairman, this is strictly on issues of - possibly opening Parliament, that is the beginning of Session and before dissolution of Par-

liament. So the emphasis is on specific functions of the Parliament and the second one the Article 72 is dealing with, President shall report to Parliament and the nation, at least, once a year, all steps taken to ensure - now, the President is reporting to Parliament, I assume by reporting to Parliament he is going to address Parliament, but it is not stated there that he is reporting to Parliament. But also I do hope, Madam Chairman, that in reporting to Parliament, it does not have to coincide with the dissolution.

**MISS. KABIRISI LUBERENGA (Women Delegate - Bushenyi):** Thank you, Madam Chairman. I wish to support the Amendment, the reason being that when I look at 104 and I look at the current 72, what we are actually doing is making it mandatory for the President of the nation to report to the nation, at least, once a year on the objectives and policies which we are setting down in this Chapter. If we leave Article 2 where it is, in my view, we have been saying that some of these things are not enforceable, so the President may or may not report to the nation, if we leave it in 72, while if we take it to 104, we are making it mandatory for him to report to this nation and these objectives are very important for the future of this nation. So, I beg to support the moving of Article 72 to 104. Thank you, Madam Chairman.

**MR. WACHA:** Point of clarification. Madam Chairman, the Legal and Drafting Committee looked at this issue very seriously, and our attention was drawn to Presidential addresses under 104. We also took into account the fact that in our retaining certain clauses and certain articles under Chapter 3, it would be imperative that follow up should be made by the authority on their implementation. We, therefore, found it imperative, Madam, that we should make sure that the President or the State must tell the nation how far the implementation of those articles that we have retained have gone. We are not trying to burden the President by making a series of addresses. All we are trying, to do under Article 72 is to make sure that  
*-(Interruption)-*

**LT. MAYOMBO:** Point of order! Madam Chairman, is it in order for Hon. Ben Wacha, Deputy Chairman of Legal and Drafting Committee, who knows I am also a member of the Legal and Drafting Committee, to hide his argument under a clarification. Is it in order, Madam Chairperson?

**THE DEPUTY CHAIRMAN:** I think you will clear your differences in the corridor. Continue Hon. Wacha.

**MR. WACHA:** Thank you, Madam Chairman. This clarification arose from the previous speaker's contribution. We are not trying under this proposal, Madam, to burden the President. We are not also refusing the fact that the President will make his address in connection with certain aspects of the nation. All we are trying to insist on is that when making his address at whatever level, he must tell the nation how far the objectives have been implemented. Thank you, Madam Chairman.

**DR. KABERUKA (Ndorwa County West):** Thank you, Madam Chairman. Madam Chairman, I wish to support the Motion because we are saying and we have been saying that those articles in this Chapter are non-enforceable, and here if we set ourselves objectives, it is in order that we oblige the authority to report to the nation. Having said that, Madam Chairman, I wish to move an Amendment on that Amendment so that the Article reads: "*The President shall report to Parliament and the nation, at least, once a year, all steps taken and results achieved towards the realisation of the nations policy, objectives and principles.*" I beg to move.

**THE DEPUTY CHAIRMAN:** Hon. Kaberuka, we have not reached there, we have to compete because they are suggesting a complete deletion.

**DR. KABERUKA:** I am amending that very Amendment, Madam Chairman.

**THE DEPUTY CHAIRMAN:** But can you amend a deletion?

**DR. KABERUKA:** I am not deleting but I am agreeing with the Motion, but amending it.

**THE DEPUTY CHAIRMAN:** Can you pass over your Amendment?

**MR. KAVUMA (Kyadondo South):** Thank you very much, Madam Chairman. I think there is a little problem I can see. There are Members who think that the thrust of Hon. Sserwanga's Amendment is to delete and remove responsibility from the President from reporting to Parliament and the nation about how far he has gone in implementing the policies which are enshrined in Chapter 3 and you can hear arguments that, actually, we wanted to put it there in the Legal and Drafting Committee so that there is that duty. What Hon. Sserwanga and others are saying is that, okay, although these provisions are

not justifiable, let the fact of reporting to the nation by the President be a requirement of the Constitution to which you can take him to task. He must tell us how far he has gone in implementing these policies. So, we are giving it more force than the current positioning as under 72. Madam Chairperson, here, he will have an obligation to come to Parliament and give account of what he has been doing. Secondly, Madam Chairman, there is also fear that this may be once. Hon. Atubo was talking about it, but Madam Chairman, in 104(2) the President, under an arrangement with the Speaker may, from time to time again address the nation and Parliament. So, that fear also does not arise.

Madam Chairman, I wanted to make this clarification, the Amendment is made in a very good faith and it is intended to fortify provision of requiring the President to account to the nation in a more forceful manner. I thank you, Madam Chairman.

**MR. MUSUMBA:** Point of procedure. Thank you very much, Madam Chairman. On a matter of procedure, may I suggest that we first determine the status or fate of the placement of (2) before we go to the substantive Amendments in 72? That way it will assist us to determine how we make the Amendments within 72 to suit the particular location. Madam Chairperson, in view of that, may I suggest that You put the question relating to 72 and its placement from which we shall then determine the nature of Amendments to suit the new status we will have given it.

**DR. NAKYANZI (Ntenjeru South):** Thank you very much, Madam Chairman. I would like to support the Amendment, the original Amendment and not Dr. Kaberuka's Amendment. Why I am supporting transferring this clause to Article 104, we have already said that it is possible that these objectives and principles will not be enforceable whereas when it goes under Article 104, it makes it enforceable, almost mandatory that the President addresses the nation and tell it of what it has so far achieved on the objectives, and therefore, I would like strongly to support that I would really like to advise the Hon. Dr. Kaberuka to withhold his Amendment so that when we come to Article 104, then he can move it, if we accept the Amendment on the Floor. Thank you, Madam Chairperson.

**MR. TIBAMANYA (Kashara County):** Thank you very much, Madam Chairman. I would like to draw the attention of the House to the fact that earlier

on, under article 77 and 78, we did transfer a function, something that had been put as a function but was, actually, a power and we transferred it to the right place where the powers were provided for. It is what we are doing here, because a President giving an address is not an objective it is not a national objective, it is a duty imposed on him, and the right place is 104 and not under Chapter 3. So, I support the Motion very strongly.

**MR. KISAMBA MUGERWA (Bamunanika County):** Thank you, Madam Chairman. Before we transfer or not transfer this, it is important to realise that under normal Parliamentary procedure and essentially under pluralism, once there is a party, the parties have to make a manifesto and you have to make a manifesto drawing it from the general principles, the objectives and directive principles of the state, which is now under Chapter 3, and that is the programme for that party. In case it goes to power, the President is required to address the nation along those lines on which he was elected, in which he went to power. Now, if you transfer this clause 7(2), it talks about these general principles from which he must have picked his programme. Now, if you transfer it under 104, you are making it mandatory for something for which he was not elected. It is important that it is left optional for him to address himself. If we agree that we need general principles as a chapter, then you cannot make it mandatory on which one was not elected. If you want to make it mandatory, then how is he going to address himself about these general objectives? So, my view is that it is important we distinguish that there it is mandatory under 104 on which the President has to address the nation on a programme for which he had presented and is elected. And this clause (2) is just about these National Objectives and Directives which, generally you cannot make mandatory for the President to address, because you cannot force him.

**MR. KIRUNDA KIVEJINJA (Bugweri County):** Thank you, Madam Chairman. I just stand to oppose the Amendment on the ground that for the first time, we are setting out in a Constitution, national objectives on which political formations, political programmes, should emerge *(Interjections)* Yes, I was just emphasising that for the time we are having a pool where all political formations and political programmes of anybody who has ideas how he wants this country governed should be derived, and these are the general objectives, then, as Kisamba tried to explain, from here anybody who may want

to form a party, these will be the beginning, and it will not be, therefore, necessary for the party to quote the whole of the national objectives that it is going to implement. They may just pick one aspect and say, during my term of office I am only going to emphasise this. Now, as the Chief Executive is both responsible for his personal programme for which he sells to the country for him to be elected, he is also responsible for ensuring that the objectives as were laid for the whole country, some of which were not even included in his manifesto, are put in place. So, he must report differently, he is responsible both to ensure the national objectives and personally responsible for the programmes which he has set to the people that in my term of office, for example, I am going to concentrate on primary education. So, we should not confuse the two.

**MISS NABAFU (Women Delegate - Mbale):**

Thank you, Madam Chairman. I would like to support the Motion on the grounds that most of the *Wanainchi* are looking at these objectives as their aspirations, their expectations. For a long time they have been looking for something that they can use as a weigh balance for any government, for any performance of any politician, and it is high time we included this particular Article in the duties and schedule of a President, so that whatever President and whatever party he is coming from, he must be aware that the people are expecting him to perform according to these objectives. I would like to oppose the Member, Hon. Kivejinja who said that it is not possible to make the President to report to Parliament, all steps taken to ensure the realisation of policy, objectives and principles of this Chapter. It is not saying all policy objectives, if you pick some of them, well and fair, but he must report to the *Wanainchi*, to the whole nation, at least, once a year or even in mid session of the Parliament to ensure that he has made a realisation of some of these objectives. It is going to be obligatory and mandatory and it will help the *Wanainchi* to realise that they did not waste their vote and he has not wasted their time. Therefore, if we say policy objectives, we are not saying all of them, he can pick some of them, it is up to him to put them in his manifesto. So, I think we had better transfer this under 104 and make sure that it is part of the duties of the President. Thank you, Madam Chairman.

**MRS. ATIM OGWAL (Lira Municipality):**  
Thank you Madam Chairperson. I think we have taken so much time debating this Amendment be-

cause possibly we have not quite understood the purpose why this Chapter is there. The way I have understood it is that this Chapter is supposed to summarise all other chapters in the Constitution. It is supposed to give broad guidelines as to what the government is expected to do or the people are expected to do. Madam Chairman, I think the Legal and Drafting Committee has really done a good job, they have simplified the work for us, they have been able to transfer those aspects of this chapter which want it to be legally binding, legally enforceable, and they have left out the statement which should just be a general statement of guidelines. So, Madam Chairperson, I stand to oppose the Amendment and I would like the statement to appear in Chapter 3, because under Article 104, there is already a provision which is enforceable. So, Madam Chairperson I stand to oppose the Amendment.

**BRIG. MUHWEZI (NRA - Delegate):** Thank you very much, Madam Chairperson. I would like to oppose the Motion. Madam Chairperson, I do agree with the proposition that this Chapter is intended to guide all the other aspects of the Constitution, and if you remove the provision whereby the President is required by the Constitution to report on how far he has gone with the implementation of the provisions of this Chapter, then you dilute the content of the whole Chapter, and since this Chapter will be interpreted, the requirement that the President should report to the state and to Parliament is a very, very important element of the whole Chapter. Secondly, I do not agree that this Chapter is not enforceable by law, because this ground, for instance, taking of steps to realise the objectives and principles of this Chapter could be a good ground upon which the President could be impeached. So, I propose that this clause 2 of article 7 should stand, and if we come to the second part hoping that this Motion will be defeated, I will propose that the Amendment be made to say that when the President is addressing the nation, quoting the other article, he should inform the government and the people and Parliament how far he has gone with the realisation of these objectives. Thank you very much.

**MR. TUMWIINE (Youth - Western Region):**  
Thank you, Madam Chairman. If you look at the two clauses, they are quite different because in the first one, this is talking of the President addressing the nation as far as the objectives and national policies are concerned. It should not be confused with this other one in 104 which is asking the President to

address the nation on any other matters. I, therefore, oppose the Amendment in a sense that if we are providing for the Chapter 3, then we should not run away from compelling the implementation of Chapter 3 being put in place. That is why I would suggest that those who are moving the Amendment to carry the responsibility into article 104 should see that it is important to provide for this Chapter 3 and put it into the Constitution. Thank you very much.

**MR. WAGIRA (Kibuku County):** Thank you very much, Madam Chairman. Madam, we believe and we know very well that Chapter 3 is meant to spell out the aspirations and wishes of the people of Uganda, and in this Chapter, this particular clause should - I strongly feel that this particular clause should remain there. What the clause is actually doing is to give the President the Agenda of that day, that if you are coming to address Parliament on this particular occasion, we will expect you to tell us how far you have gone in realising the policy objectives outlined in Chapter 3 of our Constitution. It should not be confused with article 104 because there, he is supposed to address Parliament on the state of the nation. So, it is very possible that if we do not spell out expressly like that, the President may come and address the nation on different matters and he eludes, he just avoids saying anything about the policy, how far he has gone ahead to implement the policy and directive principles of national policy. So, Madam Chairman, I still maintain and I strongly beg the Members to throw out the Amendment and we retain the clause as it is. Thank you.

**DR ODUR (Dokolo County):** Thank you very much, Madam Chairman. Madam Chairman, we seem to be mixing things up. As far as I can see, article 7(2) is requiring an annual report on the President. He can make other reports like it is stated in 104, but at least, every year, we now can expect an annual report as we have put it in clause 2. So, if we do not retain clause 2, it means that Uganda will continue not to have an annual report which we are simply providing for in this Chapter. So, there is no comparison in those two types of reports. I beg to oppose the Amendment. Thank you, Madam Chairman.

**MR. OGOLA (West Budama County):** Thank you, Madam Chairman. I do stand to oppose the Amendment for two very simple reasons: one, article 104 usually deals with state opening of Parliament, it usually is an explanation of the kind of legal or

Parliamentary activities foreseen during that year. Government is trying to tell the country what kind of laws it wants to be enacted or revised that year. Mostly it is a legal matter. Now, this question of annual address to the nation is a factor of the accountability of government, which is a new thing here, and it is intended to separate it from where government used to forge it by opening Parliament the President makes statement and he can make statements on certain issues selective to him. But under this 7 (2), it is obligatory now for him to give the full accountability as to what extent government has gone to realise the objectives in the chapter, and it is for those reasons, Madam Chairman, that I stand to oppose the Amendment, Madam. Thank you very much.

**MR. MULENGA:** Point of clarification. Thank you, Madam Chairman. It seems to that there is a confusion as to what the effect of this Amendment is - my understanding is that clause 2 of article 7 should be transferred, not merged, with 104 so that it would become a clause 3 of 104, and therefore, those who argue that by accepting this Amendment we are either marginalising or removing that responsibility, I think that is misleading there words used - okay, perhaps it should not have been 'delete and transfer' it would have been 'transfer clause 2 of article 7 to 104' and I would like to use this opportunity to emphasize that really if you are looking at the drawing of the Constitution, and you are looking for where the President is obliged to do certain matters like addressing and reporting to the nation, you should find it in one article. It does not in any way dilute that obligation, on the contrary we are almost sure that it will be remembered because the President will always have to look at article 104 instead of looking for another obligation under a chapter that is headed Principles and Objectives of the nation. So, Madam Chairman, I thought that it is important that we understand, and I hope the mover has agreed that the idea is to transfer the clause as it is and put it under 104.

**DR. KABAYO (Kassanda South):** Madam Chairman, I oppose the proposed Amendment to transfer this clause to article 104, because I believe, Madam, we should be mindful of the spirit and intention of Chapter 3. In Chapter 3, we have agreed to list the National Objectives and Principles of State Policy. Article 7(2) concerns the principle of requiring the President to report to Parliament on all steps taken and results achieved by the government towards

realisation of national policy and its objectives. Chapter 3 is a kind of manifesto which - its contents can be repeated elsewhere in the Constitution. Chapter 3 will contain clauses which may be repeated elsewhere, there are guidelines but it is important that we concentrate on some areas where we think we should have national guidelines, and I think this aspect is a very important one that should set laws elsewhere in the Constitution. Thank you very much.

**MRS. LAGADA (Women Delegate - Apac):** Thank you very much, Madam Chairperson. Madam Chairperson, like many other speakers who have spoken before me, I stand to support the Motion to transfer this article to section 104, and I am going ahead to say, Madam, that I think we have had the merits and demerits of transferring the article or leaving it where it is. I am, therefore, begging you, Madam, that we have talked about this article enough, could you please put the question (*Applause*).

**THE DEPUTY CHAIRMAN:** Okay, let us have only one.

**MR. NSAMBU (Makindye West):** Thank you, Madam Chairman. I would like to give the Members an example of what is being sought to be done. When we are drafting legal documents - take a small company with a limited liability, you will find the memorandum part of it is separate from the articles of association. The memorandum spells out the objectives of the company, it does not set out methods of implementing the objectives. So, what these draftsmen are doing, they are trying to shift the

method of working to its right place, the idea behind is to show that, actually, the document was legally drawn, it was not a lay man's drawing. Wherever you put it, one can meet it and read it, but the objectives always are separate from the implementation. That is why you find the directors are not put in the memorandum part of the company. Here we are giving only the objective, but how the President will implement, that is a separate specialisation, and that is why you will find that the draftsmen are making this application shift this article 2 to 104 where it is suited. It is just a technicality but not something we need to waste time on. Thank you very much, Madam Chairman.

**THE DEPUTY CHAIRMAN:** I think we have really had enough discussion on this issue and now I suggest that I put the question on Hon. Sserwanga-Lwanga and other Members whether to transfer 7(2) to Article 104.

*(Question put)*

**THE DEPUTY CHAIRMAN:** Hon. Delegates, it is not usually very healthy to waste a lot of time, but because everybody was shouting so much, I think we better count ourselves. Let us go in the lobby and clear this problem because it is a very important issue - (*Interjections*) okay, let me try to put the question again.

*(Question put and consensus not reached)*

**THE DEPUTY CHAIRMAN:** I think let us go for a division. I cannot make a decision. I know you want to save time, but let us do a clean job.

*(The Assembly went into Division)*

## NAYS

1	AKECH OKULLU BETTY (MRS)	WOMEN - GULU
2	ATAMVAKU ZUBAIRI	ARUA MUNICIPALITY
3	ATARE AJAO JAMES	KILAK COUNTY
4	ATIM OGWAL CECILIA (MRS.)	LIRA MUNICIPALITY
5	BAGARUKAYO MAISOTIGALYA JANET (MRS)	WOMEN - NTUNGAMO
6	BAGENA ANTHONY M.S.	BUFUMBIRA COUNTY EAST
7	BAGEYA GEORGE PARTRICK	KIGULU COUNTY NORTH
8	BAGUMA ISOKE MATIA	BUYANJA COUNTY
9	BALYEJUSA VICTORIA SEKITOLEKO	BUTEMBE COUNTY
10	BAMWENDA TOTEREBUKA BONEFACE	BUYAGA COUNTY
11	BANTARIZA FRANCIS	BUHWEJU COUNTY

22	BASALIZA HENRY ARAALI	FORT PORTAL MUNICIPALITY
13	BASOGA NSAJU	BUSIKI COUNTY
14	BATANYENDE GAITANO (REV FATHER)	PRESIDENTIAL NOMINEE
15	BIKORWENDA IDA RUBALE	WOMEN - BUNDIBUGYO
16	BWAMBALE-BIIRA LOYCE	WOMEN - KASESE
17	BYANYIMA WINNIE KARAGWA (ENG.)	MBARARA MUNICIPALITY
18	BYARUGABA BAKUNDA ALEX	ISINGIRO SOUTH
19	CHEPSIKOR MUHAMMAD	YOUTH-EASTERN REGION
20	DIDI AGARD CYRIL	MOYO WEST COUNTY
21	EJOKU SAMUEL	NGORA COUNTY
22	ERESU ELYANU JOHN	KABERAMAIDO COUNTY
23	HASHAKA JACKSON	KIBALE COUNTY
24	JAMWA TEZIRA	WOMEN - TORORO
25	KABAYO JOHN PATRICK	KASSANDA SOUTH
26	KALIKWANI IRENE (MISS)	WOMEN - KAMULI
27	KAMANDA BATARINGAYA COS (DR.)	BWAMBA COUNTY
28	KAMURON PETER	KONGASIS COUNTY
29	KANYEIHAMBA GEORGE	RUBANDA COUNTY EAST
30	KANYIKE ANTHONY WILLIAM HENRY	BUIKWE COUNTY WEST
31	KASANGAKI PANTALEO KAAHWA	BURULICOUNTY
32	KASUJJA AZIZ (MR.)	PRESIDENTIAL NOMINEE
33	KAZIBWE SPECIOZA WANDIRA (HON)	KIGULU COUNTY SOUTH
34	KIMERA NDIKABONA RASHID AMAN	BUNYA SOUTH
35	KINYATA STANLEY GEORGE (DR.)	KINKIZI COUNTY EAST
36	KIRAAHWA MONICA	WOMEN - MASINDI
37	KIRENGA EMMANUEL	MITYANA COUNTY NORTH
38	KIRUNDA-KIVEJINJA ALLY MUWABE	BUGWERI COUNTY
39	KISAMBA-MUGERWA WILBERFORCE	BAMUNANIKACOUNTY
40	KIWAGAMA WILLIAM WILBERFORCE	BUNYA WEST
41	KIWANUKA SAM	BUSIRO COUNTY NORTH
42	LOKERIS SAMSON	DODOTH COUNTY
43	LUBEGA-WAGWA SWAYIBU	BUTAMBALA COUNTY
44	LUBOWA MOSES PAUL	BUDIOPE COUNTY
45	LUBULWA MIGADDE UMAR	KATIKAMU SOUTH
46	LUKUMU FRED	BULIISA COUNTY
47	MAGEZI DAUDI SUUBI (DR.)	JINJA MUNICIPALITY EAST
48	MASALU MUSENE WILSON	MANJIA COUNTY
49	MASIKA GEORGE JAFETH	MBALE MUNICIPALITY
50	MASIKO WINFRED	WOMEN - RUKUNGIRI
51	MATEMBE MIRIA R. K.(MRS)	WOMEN - MBARARA
52	MATEKE PHILEMON	BUFUMBIRA SOUTH
53	MATOVU BYATIKE DAVID	ENTEBBE MUNICIPALITY
54	MAVENJINA AKUMU CATHERINE (MRS)	WOMEN - NEBBI
55	MAZIMA ELIPHAZ	NUDIPU
56	MBURA-MUHINDO JEROME	BUSONGORA SOUTH
57	MIYINGO KEZIMBIRA LAWRENCE	BUKOTO MID-WEST
58	MUGISHA MUNTU (MAJ.GEN.)	NRA DELEGATE
59	MUGYENYI POSIANO R. (DR.)	ISINGIRO NORTH
60	MUHWEZI JIMMY KATUGUGU (BRIG.)	NRA DELEGATE
61	MUKASA MURULI WILSON	NAKASONGOLA COUNTY
62	MUKIIBI BENIGNA (MRS)	WOMEN - KIBAALE
63	MUKWAYA BALUNZI JANAT (Mrs.)	MUKONO COUNTY SOUTH
64	MUSANA SOPHY (DR.)	BUIKWE COUNTY NORTH

65	MUSEKURA NDARUHUTSE B. THADDEUS (DR.)	BUFUMBIRA NORTH
66	MWAKA DAVID	NWOYA COUNTY
67	MWESIGYE RUHINDI HOPE (MRS)	WOMEN - KABALE
68	MWONDHA FAITH (MRS)	WOMEN - JINJA
69	ODUR DICK	DOKOLO COUNTY
70	OGWEL LOOTE SAMMY	MOROTO MUNICIPALITY
71	OJOK B'LEO	KIOGA COUNTY
72	OKALEBO HENSLEY EPHRAHIM	BUKEDEA COUNTY
73	OKANYA JAMES	BUTEBO COUNTY
74	OKORIMOE JANET (MRS)	WOMEN - KOTIDO
75	OKULA O. CHARLES	SOROTI COUNTY
76	OKWONGA-LATIGO ONESIMO	OMORO COUNTY
77	OLEGA ASHRAF	ARINGA COUNTY
78	O'LET CHARLES CHRISTOPHER	ERUTE COUNTY SOUTH
79	OMARA ATUBO DANIEL	OTUKE COUNTY
80	OMEDA HEBRON O'MAX	SERERE COUNTY
81	OMOLO PETER	SOROTI MUNICIPALITY
82	ONDOGA AMAZA (MAJ.)	NRA DELEGATE
83	ONETI-BATIA SAMUEL A.B.	MARACHA COUNTY
84	ORYEM AKABO ALICE	WOMEN - KITGUM
85	OTAFIIRE KAHINDA (COL.)	RUHINDA COUNTY
86	OWINY-DOLLO CHIGAMOY ALFONSE	AGAGO COUNTY
87	OWOR WALLIAM CHARLES	ASWA COUNTY
88	PINTO MANUEL XAVERIO	KAKUUTO COUNTY
89	RAINER KAFIRE JULLIET	WOMEN - PALLISA
90	RINGWEGI SAM FIESTER SURF	PADYERE COUNTY
91	RWOMUSHANA CHARLES	RUJUMBURA COUNTY
92	SEBI DATA HAROUN	KOBOKO COUNTY
93	TIRUSASIRA KATONGOLE DIFASI	BUGABULA NORTH
94	TUMUKUNDE HENRY	RUBABO COUNTY
95	TUMWINE POLLY KATAHWI	YOUTH WESTERN REGION
96	WACHA BEN	OYAM COUNTY NORTH
97	WAGIRA MOSES P.	KIBUKU COUNTY
98	WAMBEDE SETH MASSA	BUNGOKHO NORTH
99	WAMULONGO WAHIBI ALUPAKUSADI	BUNYA EAST
100	ZZIWA GEORGE WILLIAM	KAWEMPE DIVISION NORTH

## AYES

1	ABALIWANO ALBERT BREWER	BUGABULA SOUTH
2	ABU WINOTIYA DOMINICA (MRS)	WOMEN - MOYO
3	ADIMOLA ANDREW BENEDICTO	GULU MUNICIPAL COUNCIL
4	ADYEBO G. COSMAS	KWANIA COUNTY
5	AJIGA ABDUL	OBONGI COUNTY
6	AKELLO GRACE (MS)	PRESIDENTIAL NOMINEE
7	ALI MOSES (BRIG.)	EAST MOYO
8	APUUN LONGOLI PATRICK	BOKORA COUNTY
9	ARONDA NYAKAIRIMA (MAJ.)	NRA DELEGATE
10	ATWOKI AMBROSE	YOUTH - NORTHERN REGION
11	AWORI AGGREY SIRYORI	SAMIA BUGWE NORTH
12	BATEGANYA MUKUVE DICK	BUKOOLI CENTRAL
13	BIDANDI SSALI JABERI	NAKAWA DIVISION
14	BWAMBALE WALEMBA IVAN	BUKONZO COUNTY EAST

15	BYARUHANGA M. FABIUS (DR.)	KITAGWENDA COUNTY
16	CHANGO MACHYO	SAMIA BUGWE SOUTH
17	CHEBET MAIKUT	KWEEN COUNTY
18	CHEBROT S. CHEMEIKO (DR.)	TINGEY COUNTY
19	DHUGIRA ESTHER OPOTI	OKORO COUNTY
20	EGUNYU ASEMO FIONA LUCY (MRS)	WOMEN - KUMI
21	ELYAU MIKE JUVENTINE	KALAKICOUNTY
22	ENGOLA SAM (MR.)	PRESIDENTIAL NOMINEE
23	ETUKU-ONYOK DAVID	MOROTO COUNTY
24	GUMA FRANK (LT. COL.)	BUKANGA COUNTY
25	GUMISIRIZA GUMA DAVID (LT.)	IBANDA NORTH
26	JURUA ALEX	VURRA COUNTY
27	KABERUKA WILLIAM	NDORWA COUNTY WEST
28	KABIRISI LUBERENGA HOPE	WOMEN - BUSHENYI
29	KABUGO MESUSERA	NAKASEKE COUNTY
30	KABWEGYERE TARSIS BAZANA	IGARA COUNTY WEST
31	KAGGWA SSOZI K. MEDI	KAWEMPE DIVISION SOUTH
32	KAGIMU KIWANUKA	BUKOMANSIMBI COUNTY
33	KAJUKA RICHARD HENRY	SHEEMA COUNTY NORTH
34	KAJARA ASTON PETERSON	MWENGE COUNTY SOUTH
35	KAJUBI SENTEZA WILLIAM	KYADONDO NORTH
36	KALEMA RHODA NSIBIRWA	KIBOGA COUNTY EAST
37	KARUSOKE CONSTANTINE	INTOROKO COUNTY
38	KASOLE BWERERE LWANGA EDWARD	BUWEKULA COUNTY
39	KATENTA-APULI STEPHEN	CONSERVATIVE
40	KATEREGGA LIVINGSTONE	NAKIFUMA COUNTY
41	KATUMBA ROBINSON MATHEW	KIBOGA COUNTY WEST
42	KAVUMA STEPHEN B. K.	KYADONDO SOUTH
43	KAWANGA JOHN BAPTIST	MASAKA MUNICIPALITY
44	KAWOOYA ANIFA	WOMEN - MASAKA
45	KAYIZZI ASANASIO	KASSANDA NORTH
46	KIBIRANGO GYAGENDA (MAJ.)	NRA DELEGATE
47	KIGAYE-BILLYAWO ERIYA PAUL	BUDAKA COUNTY
48	KIIZA-BESIGYE (LT.COL.)	NRA DELEGATE
49	KIMERA VINCENT	BUKOTO EAST
50	KINTU MUSOKE	KALUNGU EAST
51	KITARIKO K. ROBERT	DEMOCRATIC PARTY
52	KIYONGA FRANCIS ADAMSON	UPE COUNTY
53	KOMAKEC LEANDER	ARUU COUNTY
54	KULE MURANGA KIGHOMA JOSEPH	BUSONGORA NORTH
55	KWERONDA RUHEMBA	KAJARA COUNTY
56	KYALIGONZA MATAYO (BRIG.)	BUHAGUZI COUNTY
57	LAGADA AMONGI BEATRICE (MRS)	WOMEN - APAC
58	LANGOYA TIMONY	LAMWO COUNTY
59	LOROT JOHN	PIAN COUNTY
60	LULE WASSWA	RUBAGA DIVISION NORTH
61	LUMALA DFOGRATIUS NKALUBO	KALUNGU WEST
62	LUTALO KAMYA JAMIL	NTENJERU NORTH
63	MALIRO GASTON JOHN R.	MWENGE COUNTY NORTH
64	MAYOMBO NOBLE (LT.)	NRA DELEGATE
65	MUKWAYA ABBEY HAFEZ	BUSIRO COUNTY EAST
66	MULASSANYI DAVID JOHN	RUBANDA COUNTY WEST
67	MULENGA N. JOSEPH	DEMOCRATIC PARTY

68	MULONGO SIMON	BUBULO COUNTY EAST
69	MUSOBYA LUBEGA GODFREY	KAGOMA COUNTY
70	MUTAGAMBA LUBEGA MARY	WOMEN - RAKAI
71	MUYIISA JOHN CHRIZESTOM	BUJUMBA COUNTY
72	MWEBESA FRANCIS (MR.)	PRESIDENTIAL NOMINEE
73	MWESIGWA RUKUTANA MUGASHA	RUSHENYI COUNTY
74	MWONDHA PATRICK JOHN	BUKOOLI COUNTY NORTH
75	NABAFU JENIFER ROBBINA (MISS)	WOMEN - MBALF
76	NABURRI LORIKA WILLIAM	CWEKWII (KADAM)
77	NAKYANZI MARIA VERONICA (DR.)	NTENJERU SOUTH
78	NANKABIRWA SENTAMU RUTH (MISS)	WOMEN - KIBOGA
79	NDEGE JOHN JOSHUA	LUUKA COUNTY
80	NGOBI MATHIAS (MR.)	PRESIDENTIAL NOMINEE
81	NJUBA KALEGA SAMUEL (HON.)	KYADONDO EAST
82	NSIBAMBI APOLLO (PROF.)	PRESIDENTIAL NOMINEE
83	NSUBUGA NSAMBU YUSUFU	MAKINDYE DIVISION WEST
84	NYEKO JACK H. PEN-MOGI (DR.)	PRESIDENTIAL NOMINEE
85	OBIGA KANIA RIO	TEREGO COUNTY
86	OBONYO JABWOR CLEMENT HENRY	LABWOR COUNTY
87	OCHYENGH DAN MICHAEL	KAPELEBYONG COUNTY
88	OKENY TIBERIO ATWOMA	CHUA COUNTY
89	RWABITA DEO K.	IBANDA SOUTH
90	SABIITI JACK	RUKIGA COUNTY
91	SEBALU KENNEDY MIKE	YOUTH-CENTRAL REGION
92	SEMAJEJE HIGIRO	LWEMİYAGA COUNTY
93	SEMPA VICTORIA ESTHER (MRS.)	WOMEN - LUWERO
94	SERUWU-BAKOJA BEATRICE	WOMEN - MPIGI
95	SSEKANDI EDWARD	BUKOTO CENTRAL
96	SSEMAKULA NAKABUGO KIGGUNDU	WOMEN - MUBENDE
97	SSEMOGERERE KAWANGA PAUL	BUSIRO COUNTY SOUTH
98	SSENTONGO THOEPISTA	NOTU
99	SSERWANGA-LWANGA (LT COL.)	NRA DELEGATE
100	TIBAMANYA URBAN K.	KASHARI COUNTY
101	TIGWEZIRE JOHN KASAJA	BUNYANGABU COUNTY
102	ZZIWA NANTONGO MARGARET (MRS)	WOMEN - KAMPALA

## ABSENTION

## 1 ADOKO NEKYON

**THE DEPUTY CHAIRMAN:** Can we settle down and get our results? Hon. Delegates, we are operating under rule 27 and the Movers of the Motion are expected - their Motion to be carried if they received a two-thirds majority, and our results are that we were 202 delegates who voted, there was one abstention. Those who were not in favour were 100 and those who were in favour were 102. But, you see, there is a very narrow gap, but they did not carry it as a two-thirds majority. So, it will need to be carried if we get the two-thirds majority. Therefore, usually it is after - let me say after a week, we consult and -

## MARUZI COUNTY

that is what the rules say. So, we will have to revisit this issue at an appropriate time, after a week. So, that is what it is.

**PROF. KANYEIHAMBA (Rubanda East):** Madam Chairman, thank you very much for indicating the strength of the "Nos" and "Ayes". This is a matter where the votes are very, very close, nevertheless, it is not a matter which really should divide this Assembly. So, I was appealing to the Movers of this Motion with their supporters, that in light of these figures, could they not consider with-

drawing this Motion so that we are saved the necessity of having even to adjourn, to consider a second vote or even to divide on a referendum. Madam Chairman, I know this is not in our rules, but I am appealing to the Movers to consider withdrawing this Motion. Nevertheless, it is not a matter which really, should divide this Assembly. So, I was appealing to the movers of this motion with their supporters, that in light of these figures, could they not consider withdrawing this motion so that we are saved the necessity of having to even adjourn to consider a second vote or even to divide on a referendum. Chairperson, I know this is not in our rules, but I am appealing to the movers to consider withdrawing this motion. I thank you, Madam.

**MR. KAVUMA:(Kyadondo South):** Thank you very much. I am a co-mover of this amendment, but I have got the impression Madam Chairperson, that some consultation will help us to come to a final decision on this. And I think it is prudent that we allow the rules to take their course so that we revisit the matter and decide one way or the other. These are the rules we agreed upon and I think we should stick to them.

**COL.OTAFIIRE (Ruhinda County):** Madam Chairperson, although I did not vote for the Motion, but I think common sense dictates that, since the movers of the motion have defeated us on the Floor, we better give them opportunity to persuade more people to vote to their way. Because there is no way we can ask them to withdraw it, when we are in minority. Madam Chairperson, I think it is very prudent that we should give them an opportunity to convince more people to support their motion. Thank you, very much.

**MRS. MUKWAYA (Mukono South):** Madam Chairperson, with all due respects to the results. I want to waive the rules that, although we go to an adjournment, we consult within working procedure. We continue with other articles, while we consult amongst ourselves. Because I really feel uncomfortable going away for seven days on such a particular issue. Let us consult within the House for a week and continue with the debate. Thank you, Madam Chairperson.

**MR. OMARA ATUBO:** Thank you Madam Chairperson. The motion of Lt. Col. Serwanga Lwanga and his Colleagues, seeks to transfer article 72 to article 104. Technically, one could call it an

amendment. I do not know whether, I could call it an amendment. But Madam Chairperson, this is now a matter of political prudence for this House, and for the movers of the Motion, bearing in mind the sentiments expressed by Hon. Kanyeihamba. To me, whether article 72 remains where it is, or transferred to 104, is not a matter of national importance, neither is it a contentious issue. I would have supposed, Madam Chairperson that, in your own good judgement, you would have at the initial stage have resolved this issue, which ever way it went to me did not matter. But to the fact that we have gone now to division to the lobby, and for the people to hear that we have not obtained consensus, that we have got to consult for a week, where 72 should be, and that again we have got to spend another one hour. Madam Chairperson, in my own conscience, I feel that, if I were one of the movers of this motion, I would simply have taken the advice of professor Kanyeihamba. But if they are insisting, I would urge colleagues here, to give their votes, to support the Motion, so that we move ahead. Because to me, it is not important where it is. So, that we can the necessitate two thirds and we move ahead. So, I ask those who are against the Motion, to support it, if it means that we are going to have it to get the two thirds majority or the other way round, whichever it is. Thank you, Madam Chairperson.

**MR. BIDANDISSALI(Nakawa):** Madam Chairman, I want to move a motion under rule 43 (1). To suspend the provisions under rule 27 (3), so that the second vote will be taken after seven days as it is provided. But this House continues normally with other business. I would like to move, Madam Chairman.

**THE DEPUTY CHAIRMAN:** Is the motion seconded?

**MR. BIDANDISSALI:** May I go ahead, Madam Chairman?

**THE DEPUTY CHAIRMAN:** There was an order.

**MAJ.GEN.TINYEFUZA:** Madam Chairperson, that procedure as outlined in our rules is actually derived from the Parent Statute of the Constituent Assembly Statute of 1993, which was amended. And therefore, there is no way you can contravene the provisions of the Statute, even if we were to amend the rules. The Statute is very clear on this.

once you divide on a lobby and something is not carried by two thirds of the majority, we have got to break off for a week and come and vote. That is the statute. I did not make it, I can read it for you, Madam Chairperson. The following provision shall apply to what we referred to in paragraph (f) sub-section (3). That is what we are talking about. After the first vote on the Motion, a period of at least one week of recess shall elapse for a second vote is taken. This is the Constituent Assembly Amendment Statute 1994. Madam Chairperson, that is the legal position. So, either the motion is withdrawn by the movers or we go on. The statute is very clear.

**MR. BINDANDI SSALI:** Can I go ahead Madam Chairman?

**THE DEPUTY CHAIRMAN:** Let us hear from - I will come to you.

**MR. BIDANDI SSALI:** Madam Chairperson, I am holding in my hand, a booklet entitled Rules of Procedure of the Constituent Assembly of the Republic of Uganda, as we adopted them. And one such a rule, is 27 and also rule 43 which provides for the suspension. Now, me I think that, we are not in anyway fundamentally contravening the provisions of the statute if we abide by voting again after seven days, that the only element involved is for us to continue with other business during this period. And the same spirit that the Hon. Member is talking about, is the one I can really appeal to him to also put in place that since the matter is not a fundamental matter, and since we are all conscious of the responsibility we have here, viz-a-vis the time left, and given that, unfortunately we have been forced to reach this particular stage on this matter. What now lies before us is to find out the best approach, to get out of the riddle. And I think personally, Madam Chairman, that, this would be the best instead of asking the Members to withdraw, when the Members were slightly more than those who were saying no. We are trying to find out a way out.

**THE DEPUTY CHAIRMAN:** I can see the two movers Hon. Mayombo and Hon. Serwanga Lwanga. Let us hear from the movers.

**LT. COL. SERWANGA LWANGA:** Madam Chair, me when I brought this amendment, I thought it was just a simple amendment, just to transfer where the thing fits. But I think the thing was misunderstood that we want to dilute or what. But

we in fact wanted to concentrate and I would request the Members of this House, that where we put this thing, either here or there, is immaterial. Secondly, provided it is there, now that the majority is on my side, I would request the other people to join us because they also want it to be retained (*Applause*).

**LT. MAYOMBO:** Thank you very much, Madam Chairperson. While I know that, a lot of things are on trial now, what democracy, and the time of the Assembly, and the operations of our rules. In public interest, I withdraw the motion.

**THE DEPUTY CHAIRMAN:** Thank you, very much. Point of order

**PROF. NABUDERE:(Budadiri West):** The Member cannot withdraw the motion. Under what rule is the motion being withdrawn, under what rule? There cannot be a withdrawal of a motion which has been passed. And we have argued ourselves into a bind. We have to follow rule 27 paragraph 3, which says that: "*after the first vote of the action, a period of at least one week of recess shall elapse before the second vote is taken*". (B), says: "*During the recess, the delegates may consult with other delegates and with voters in their respective electoral areas, or as the case may be, with the persons or bodies who or which elected or appointed them on the subject matter of the motion*". That is what the law is. There is no way one can withdraw a voted upon Motion.

**MR. OMARA ATUBO:** Thank you, Madam Chairperson. I think if you look at rule 48, subrule 15, the argument of Hon. Nabudere would not arise. Because it says, an amendment or a new article maybe withdrawn at the request of the mover by the leave of the assembly, before the question is fully put or if there is no amendment. So, Madam Chairperson, I think that, we can go round that, by interpreting it to mean that -

**THE DEPUTY CHAIRMAN:** Can you please - Order, order! You are making noise. Let Hon. Omara Atubo make his point. Please can you make your point, Hon. Omara Atubo?

**MR. OMARA ATUBO:** Madam Chairperson, I seem to believe that, the amendment is the property of the movers. And that, at any time, although the rule specifically - first of all the rule does not forbid the withdrawal anyway. Whatever law, the law does

not forbid, it is in the ordinary legal prudence, it is allowed by Law. So, in this case, the law does not forbid any withdrawal of the amendment. So, I do not see any reason why the movers of the motion cannot withdraw their motion. Unless somebody is so happy to go on recess for a week, I do not know if that is the case, and others think that we can go have a happy weekend, that is a different case. But as far as I am concerned, there is no rule which forbids the withdrawal of the Motion and the movers by simple logic and interpretation of the rule, can withdraw their motion. This is my view, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Thank you.

**MR. MULENGA (Democratic Party):** Thank you, Madam Chairperson. I'm inclined to agree with Hon. Atubo, for this reason. That is rule 48 sub Rule 8. *"An amendment to an article which a delegate wishes to propose may be removed and seconded at any time after the question has been proposed by the Chairman and before it has been improved by the Chairman, at the conclusion of the debate, upon the article"*. The point about the position we are giving now, is that, by rule to go on to recess in seven day's time, the Chairman will have to put the question again. And now, it is being withdrawn before the question is put again. Therefore, if it is withdrawn, we do not have to go to recess.

**PROF. KANYEIIHAMBA:** Thank you, Madam Chairperson, I would very much like to concur with Hon. Omara Atubo, and Hon. Mulenga that no decision has been made on this amendment. The decision would be made, in seven day's time, when we put the question again. Therefore, it is still in the hands of the movers, it is undecided. Since the movers have said, they are withdrawing the amendment, because we have not made any decision on it yet, I think that we should put the question again in light of the mover's desire to withdraw it, and then the House, will then clearly make a decision on this one. Therefore, Madam Chairperson, I would like to concur with Hon. Mulenga, that since the movers have withdrawn it, the question should be put again and the matter is finally decided. I thank you.

**THE DEPUTY CHAIRMAN:** Hon. delegates, motions have been advanced, and Members have withdrawn their motion. Now, in that light, the motion was not yet in my hands, it was in with the movers. Because I had not yet put the question. So, I accept the request by the movers that they withdraw their motion. Now, Hon. Delegates, our time - it is going to 2.00 O'clock, and I propose that we adjourn until tomorrow.

*(The assembly rose at 5.30 p.m. and adjourned until Thursday 22nd, at 8.00 a.m.)*