



THE REPUBLIC OF UGANDA

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

---

**OFFICIAL REPORT**

---

**CONTENTS**

THURSDAY, 25TH AUGUST 1994

---

**MOTION:-**

Communication From the Chair

[Pg 1660]

Consideration of the Draft Constitution of the Republic of Uganda

[Pg 1660]

---

Thursday 25th August, 1994.

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

### PRAYERS

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

*The Assembly was called to order*

### COMMUNICATION FROM THE CHAIR

**THE DEPUTY CHAIRMAN:** Hon. delegates, the Chairman cannot be with us because he is not feeling well. We are now entering a very critical point as far as our deliberations are concerned and that is the consideration stage when you are supposed to consider the draft constitution chapter by chapter, article by article, clause by clause. I beg Hon. Members to hand in amendments in accordance with rule 14 in good time to enable us move quickly. Thank you very much.

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

CHAPTER ONE: The Constitution.

Article 1. The sovereignty of the people.

**THE DEPUTY CHAIRMAN:** Hon. delegates, I propose the question that Chapter -

**AN HON. DELEGATE:** Madam Chairman, we are not hearing very well because, I think, the Clerk of the Council is very low in his voice. We would like him to be very clear because under Chapter one, we have quite certain matters to raise. I would like to hear where we have reached.

**THE DEPUTY CHAIRMAN:** Actually, I was still continuing. I said that we are discussing Chapter One, Article 1, *Sovereignty of the people*. I think that the Clerk has set that one out. I am putting the question that, Article 1, *Sovereignty of the people* do stand part of the draft constitution. Point of procedure.

**MR. CHEBET MAIKUT (Kween County):** Thank you very much, Madam Chairperson. Madam Chairman, you have rightly been referring to Rule 14 of our Rules of Procedure which clearly stipulates

that a notice of a motion to move an amendment should be in writing, and should be given not later than three days before the sitting. In respect of that Madam Chairperson and in view of the fact that we only began our sitting yesterday, is it now possible to move a Motion of amendment when we only began yesterday and this is the second day?

**MR. KIRENGA:** Point of information. Madam Chairperson, this is a problem we are all facing but it can be solved by Rule 43 which allows the Chairman to suspend the operation of rules or the majority of the delegates, or Rule 15 which allows sub rule 1 and 2. We can proceed under those, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Rule 15, '*Amendment without notice*'. An amendment to an article may, with the leave of the Chairman, be proposed without notice if it is relevant to the article under consideration in the Assembly or in the committee of the Assembly. But also it says that, '*Any amendment moved on an article and seconded in the Assembly without notice, shall be required to be in writing and delivered to the Clerk*'. It is only in Rule 16 where we have Motions without notice. That, *the following Motions may be moved without notice: any Motion for adjournment of the Assembly; and any Motion for adjournment of a debate.*

My interpretation is that even in Rule 15 we have to adhere to sub section (2) which requires the Article being seconded to be in writing and delivered to the Clerk.

**MR. NABUDERE:** Point of information. Madam Chairperson, I think that even rule 15 sub rule 2 can be suspended so that those who wish to move amendments can do so because it is unfair to expect that after we passed this Program, we will have the three days required to give the notice, and that is one reason why I wanted adjournment.

**THE DEPUTY CHAIRMAN:** Subject to the statute, any of these rules may be suspended with the consent of the chairman or majority of the delegates present. Okay now when we refer to rule 43 (1) that, '*subject to the statute any of these rules may be suspended with the consent of the chairman or the majority of the delegates present*'. As we ponder on that one, I also need to indicate that some people have already sent in their Motions. I do not know whether

the Clerk distributed this but I have quite a number in my file.

**MR. BIDANDI SSALI:** For the sake of avoiding so many hours being lost in points of information, clarification and so on, I do hope that what am going to initiate will help us, because as you said if Motions of amendments have already been handed in as we move on each Member will have to indicate his area of amendment. Consequently, I beg to move that Article 1 of Chapter 1 which covers sovereignty of the people do stand part of the constitution.

**THE DEPUTY CHAIRMAN:** We had not completed the earlier problem on the Floor. Let us complete that one then we come back to your Motion.

**DR. KANYEIHAMBA:** Thank you. Madam Chairperson. Obviously this is the first time that we are testing the workings of our rules and problems are bound to arise. I have no doubt, Madam Chairperson whatsoever, that people are ready to make amendments on this Clause. In order to save time, my suggestion would be, that we only listen to contributions, oral contributions on this Clause, and give time to proposers that amendments on this particular clause should be in, shall we say by Friday, and then on Monday we consider those amendments. That would help us to proceed without any worries like, 'my amendment is not in' or 'I am thinking of an amendment'. Moreover, if people can contribute now verbally on this Clause on this part, then we shall be enabled to judge the amendments when they come. I would suggest that we consider the Clause verbally now, people should debate it, and then we allow amendments to come in over the weekend and we discuss them on Monday. I beg to move.

*(Motion seconded)*

**THE DEPUTY CHAIRMAN:** The Motion is that, we generally discuss these articles pending people pushing in their amendments. But I had also said that, there are some amendments which are already with us.

**HON. DELEGATES:** They are not with us.

**MR. KIRENGA:** Madam Chairperson. Since we were empowered to suspend the operations of the rules under rule 15 and 43, I suggest that those who have amendments which are ready can put them in,

because it would be useless to debate when there is an amendment coming, we debate something which should be amended. So we proceed with the amendment.

**MR. KOMAKEC:** Thank you very much, Madam Chairperson. There is a proposal of a Motion moved by Hon. Kanyeihamba, and I would like to stick on that Motion.

**THE DEPUTY CHAIRMAN:** Okay, if the Motion is seconded, then we will have to put the question.

**HON. DELEGATES:** No.

**THE DEPUTY CHAIRMAN:** I can see another order, but then we have to clear the first order-  
*(Interruption)-*

**MR. BIDANDI SSALI:** Madam Chairperson, if the Motion has been moved by Hon. Kanyeihamba, I think some Members who are opposed to it should give some reasons instead of a direct saying that those in favour or those who are not in favour. Because Hon. Kanyeihamba is talking of discussing generally, and we have spent more than a month discussing these issues generally. We are now talking about, according to the agenda, item 3.21 Article (1) sovereignty of the people. That is where we should start, anybody who has already had an amendment handed in, should now come in to say I would like to amend because he has already presented the amendment. Otherwise we will keep on talking and talking and talking, talking generally when already the agenda says we start on Article 1 and we cannot simply say we adjourn because we anticipate some people to have amendments when others have already given in amendments. If you thought you had an amendment and you did not hand it in earlier that is very - Madam Chairperson, it may appear as if I am not serious but I am very serious to say that we start on Article 1, sovereignty of the people, so that anybody who has an amendment already handed in, we do it; anybody who has amendment today, can use the other law, and we move on. Otherwise we will talk generally, generally - For how long? *(Applause)*

**THE DEPUTY CHAIRMAN:** Okay, let us consult Hon. Atubo who is the Chairman of the Rules Committee.

**MR. ATUBO OMARA:** Madam Chairperson, we are now at a consideration stage and the rules governing these are very clear in rules 48 on wards. But my remarks are meant to assist us in the sense that, we are not from heaven and all that perfect and so on. We are starting to enter this consideration stage, and it is a new approach we are having and we may not be all that experienced but, we have somehow got to start and therefore, the proposal of Hon. Kanyeihamba apart from the fact that it is a general discussion, but if we look at his proposal and that of Bidandi Ssali, they are really saying, let us have a start off. But this start-off may not be something to give us a take-off. As we take off, there are Members who may not have had time to get these rules, and the rules are mere maiden they are not masters. We are supposed to use them for purposes of how best we can guide our life. They are not meant to be strictly masters of us even where they are supposed to have been unworkable. So, my proposal is this, Madam Chairperson, that if you look at rule 15, it can take care of those Members who have something very useful and fundamental to contribute but they have not done it in writing. The purpose of rule 15 is, amendment without notice. It says, *an amendment to any article may with the leave of the chairman, be proposed without notice if it is relevant to the article under consideration in the Assembly or in a committee of the Assembly.* But more importantly *Any amendment moved to an article and seconded in the Assembly without notice shall be required to be in writing and delivered to the Clerk.* What sub rule 2 is saying is that, after you have made your general remarks on the amendment, you will then reduce your comments into a proper amendment then have it delivered to the Clerk and the necessary technical committee or the legal draft will look at it. So, that governs us. For those who are really trying to have general remarks; it is not just a question of general remarks. Come, even if you have do not have any amendment in writing, that amendment will later be written and then submitted to the necessary committee. So, I think that with proposals from Hon. Bidandi Ssali and Hon. Kanyeihamba we can actually start-off. But bearing in mind that, Madam Chairperson, rule 48 gives this responsibility to the Clerk and to yourself on the manner of calling the article and that the Motion does not come from the Floor as such as Hon. Bidandi Ssali was trying to do. It comes from the Clerk and then from yourself. I think tomorrow will give us an opportunity of trying to learn of how to go on with the consideration stage. Thank you, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Thank you Hon. Omara Atubo. Let me hear from hon. Pinto.

**MR. PINTO:** Point of information. Madam Chairperson, I am in the agreement - I would like to talk in the same spirit that Hon. Omara Atubo speaks but we must emphasize that we have a clear direction of operation. If we are at consideration stage, we cannot talk generally, we have to talk specifically on the article. And if you look at our rules of procedure, rule number 43 item 3, *at the consideration stage the Assembly shall not discuss the principles of the draft constitution, but only its details.* Now you have heard some Members raise points of order, and when they are given a chance to speak, because there is no clear direction in this regard, they then use that opportunity to say, I want to second the Motion. You cannot use point of order to second the Motion. I believe we must follow these rules of procedure. Since we did not have three days of notice before, Madam Chairperson, you agreed that there are some Members who have amendments, let us start with those amendments which have been received in time where members can contribute within those amendments even give their own ideas. But I believe that we must stick to the rules of procedure so that we have a clear direction. Thank you.

**PROF. NSIBAMBI:** Point of information. The problem as we have discerned is that there are people who may have failed to file their notices in time. But I would like to inform them that, according to rule 49 there are also provisions for reconsideration stage. So, I would recommend that let us follow the rules strictly, but in case there are people who have been taken by surprise, they will have a chance of reconsideration under rule 49. In any case, Hon. delegates, just in case there are a few who were caught by surprise, there is rule 49 which will enable them at the reconsideration stage to file those amendments.

**MR. TIBAMANYA:** Thank you very much, Madam Chairperson. My interpretation of rule 15 (2), is that the writing must be delivered to the Clerk and not to be circulated to Members. So, if the writing is already with the clerk then that is in order and we can proceed. And in case someone has not written out, he can even do it now and pass it on to the Clerk to enable us to proceed. There is no rule which says here that circulation is a must. Thank you.

**MR. KIRENGA:** Thank you very much, Madam Chairperson. I was speaking and I had not finished

my point that, there are two points we are considering here. One, is the need to have the amendment in writing and deliver it to the Clerk before it is presented. Number two, I also pointed out that it is the responsibility of amending without written notice if rule 43 is applied. We can apply that rule and be enabled to amend verbally without putting the amendments in writing for today. Because of the urgency of the matter we do not have enough time, so that we have two scenarios whereby we can debate those amendments which are already in writing and delivered to the Clerk and secondly we can debate those amendments which are brought in verbally by using rule 43, suspending the need for the amendment to be in writing. Thank you very much, Madam Chairperson.

**MR. KISAMBA MUGERWA:** Thank you, Madam chairperson. We are discussing as if there must be an amendment on each article. We have been informed that there are some amendments which have been already filed. Unfortunately, our rules of procedure do not provide that the amendments should be circulated, however, I wish to propose that, in future it may be very difficult to discuss an amendment which has not been circulated. Amendments should be circulated. I would like to suggest that we move and if there is an amendment then once a question has put whoever has an amendment proposes it per article or clause - may be they are already filed with the Clerk since there is no requirement that they should be circulated. But in future they should be circulated. Now we are discussing Article (1), and we assume there are no amendments until the question has been put. In case there are amendments, why don't you put the question and we see if there is an amendment. If there is an amendment then it will be moved and seconded - we shall discuss it and the mover will be required to put it in writing if it is seconded. I would wish that we go in serious business.

**MR. BAGEYA:** Thank you, Madam Chairperson. Madam Chairperson, you have already informed us that you have some amendments, and since we do not have amendments on Article 1, I believe some of the amendments are in total agreement with some of us. I would therefore, suggest, that we go ahead and get to know what those amendments are on that particular article and we proceed rather than waiting for other articles since we have a provision of rule number 15 (1) to guide us. I see no reason why we should waste any more time and do not just proceed

with those amendments which have already been submitted. Thank you, Madam Chairperson.

**DR. KANYEIHAMBA:** Thank you, Madam Chairperson for giving me this opportunity. Taking into account the contributions of those delegate Members who have spoken, I think that it is very important that we proceed at once so that those who have any amendments, on any specific proposal here in the draft constitution can indicate that they have an amendment to make. If they do, then we can hold over that article and follow the procedures that have already been suggested so that the amendments can be submitted to the clerk, either today or tomorrow. That being the case, if there are no people indicating any amendments on any proposal then it passes, you put it Madam Chairperson and it passes as part of the constitution. That way we shall waste no more time. So, I am modifying my proposal by saying that we consider Clause 1 immediately, then you put the question on every proposed Clause, if there are people who indicate that they have amendments to make, then we give them that opportunity because we are only beginning, then they can submit their amendments. When I said the discussion on these articles I meant specific and detailed discussions on each and every proposal in the Clause. I did not mean a general. Madam Chairperson. That is the point I want to clarify. I thank you.

**MR. RWOMUSHANA:** Madam Chairperson, now to save time. I would like to provide this information that we have seen quite a number of Motions being circulated, and apparently I have one here which has been circulated by a Member. I would beg that if it needs changing these rules we change them using rule 43 and we take-off and begin debating these Motions that have been put forward. Thanks.

**MRS. EGUNYU:** Point of information. Madam Chairperson, I was a member of the ad hoc committee on rules, and when we were debating, it was agreed that the amendments without notices would be moved on the Floor and be debated. It was felt that, at consideration stage some delegates would notice something which needed to be amended straight away and would have had no opportunity to put in writing. So, rule 15 was intended to provide for amendments without notice but after the debate in the House, you would make that amendment in writing and submit it to the Clerk for record purposes and to circulate in case someone needed to bring it up at the reconsideration stage.

Rule 15 is quite clear. We can make amendments without notice, if this is relevant to the article in discussion. That is what we understood in the rules committee at that time.

**THE DEPUTY CHAIRMAN:** Thank you very much. I think we really have really taken enough time. My observation is that Members agree that we go by rule 15 and then we have people who have already indicated changes or amendments in the articles and are present. Earlier on I had put the question before the Member raised the issue. I propose that I reiterate and I put the question on Clause 1 of article 1 Chapter 1 and we proceed-  
(Interruption)-

**MR. MULENGA:** Point of clarification. There are two questions. There is putting a question and there is proposing a question. Now is it in order to put the question before the question is proposed? I am trying to remind the chair that these rules have been put, they have even been summarised. We have just got 9 sheets here. So, I am trying to remind the chair that you first propose the question then after the debate if any, that is when you put a question proposed.

**THE DEPUTY CHAIRMAN:** I thought we have been discussing and Members have given their views, anyway. Okay. I propose that we put the question on Article 1, Clause 1 of Chapter 1.

**MR. ABUMAYANJA:** Thank you, Madam Chairperson. You say that the Chair should propose that Article 1 of Chapter 1 do stand part of the constitution of the draft and then a debate would be invited on that proposal or proposition, then at the end of the debate, the Chair will put the question and it will be adopted by whatever manner provided for in the rules or in the statute.

**THE DEPUTY CHAIRMAN:** Thank you very much. That is where I was moving to when somebody raised a point of order. Members, let us not confuse each other, because as I was going to put the question, somebody raised a point of order, and I had to adhere to the point of order. So now, I put the question - (Interjection)- I propose that, article 1 of chapter 1 do stand part of the draft constitution..

**MRS. MATEMBE:** Thank you, Madam Chairperson. I wish to draw the attention of the Members to yesterday's resolution which, with your permission, it was 3.5 on the report, and it says that the legal

and drafting committee, may from time to time prepare and circulate to Members guidelines on issues being debated at the consideration and reconsideration stage. Madam Chairperson, in our legal and drafting committee, we had an opportunity to look at these chapters and articles in detail as we prepared for this stage and we wrote things down which we submitted to our chairman - I am made to understand that the chairman was able to bring this information to the Business committee as a result of which this resolution came. And Madam Chairperson, in this committee we had already got some guidelines on Clauses 1 to 3 which if they were circulated, Members would be in a better position to discuss and pass these articles. I am really wondering as to whether these rules would not have been circulated to enable Members even in the moving of their Motions, amendments, to really do a very good job. Because, Madam Chairperson, although we know we are mindful of time, we are coming to a very serious stage where when we want to pass something, we feel we are sure we have done a good job. So, I have a set of rules/guidelines which were made by the legal and drafting committee.

**THE DEPUTY CHAIRMAN:** Hon. Matembe, there was some information here.

**MRS. MATEMBE:** No, Madam Chairperson, I am not really derailing the meeting, but it is so crucial that these rules - 'The chairman, where are you?' The chairman of legal and drafting committee surely brought these rules to your attention, they would have helped us here.

**MR. WAGIRA:** Point of order. Madam Chairperson, is it in order for us to keep engaging reversed gears when people are eagerly waiting for the constitution. I thought you had put the question whether article 1 of chapter 1 stand part of the Constitution, and you had proposed the question whether article 1 of chapter 1 of the draft constitution do stand as part of the rules and I had put up my hand to put an amendment which is already with the Clerk. Thank you.

**THE DEPUTY CHAIRMAN:** Thank you very much, but also Hon. Matembe's information was very useful. Members should consult the papers they have. I think now we proceed.

**MR. WAGIRA:** Madam Chairperson, my purpose is to beg to move that the words through the

democratic institutions of the state as they appear in Article I of Chapter 1 of the Draft Constitution, be deleted from that article.

**THE DEPUTY CHAIRMAN:** It is seconded. Since it is seconded, then the Hon. who has presented it can elaborate on it.

**MR. WAGIRA:** Thank you for that wise guidance. Madam Chairperson, it was with reluctance that I rose to propose this amendment yet I have the reasons to do so. As I said the article reads, *'All power belongs to the people who shall exercise their sovereignty, through the democratic institutions of the state in accordance with this constitution'*. The amendment which I seek to put in place, is that this article does read and I quote, *'that all power belongs to the people who shall exercise their sovereignty in accordance with this constitution'*. By seeking to amend that provision, I had a number of questions which were on my mind. If we are talking of democratic institutions of the state, what are these? Are we talking about political, are we talking about courts of law or the Parliament? And which particularly democratic institutions of state? I also pause to ask myself the question which I wish to share with fellow delegates: in whose interests will these democratic institutions of state work? If we take an instance, that if the agitators of our Independence were to wait and channel their grievances through democratic institutions of the colonial state then, I have reasonable cause to believe that even up to now we would still be panting under the colonial yoke. The provision, Madam Chairperson, seems to undermine the masses by qualifying the manner in and through which they should exercise that sovereignty, and yet we know the masses to be the subject and objects of any government. The history of this country has shown demonstrable urge on the part of the so called democratic institutions to act a barrier to the sovereignty of the people, especially, to the so-called democratic institutions see their interests endangered thus. Resistance of a referendum to determine the course of political future of this country is a clear manifestation of this. One wonders really if it can be possible for the people to exercise their sovereignty a matter that is prejudicial to multi-party democracy, if the multi-party parliament or form of government is the one in place at that time. Many individuals have, on being sent into the so-called democratic institutions usurped the sovereignty of the people by tempering these particular democratic institutions to suit their selfish interests. How do we

expect people to exercise their sovereignty through such institutions wherein the broad masses have cleverly been out-manoeuvred and sidelined in that way. Can't we leave room for our people to exercise their sovereignty through other democratic institutions, why should they be those of the state?

Some say, that this kind of amendment would sound anarchical or may create anarchy but there is a provision that takes care of this that people have to exercise that sovereignty in accordance with the constitution. How do you expect a woman or a disabled to exercise sovereignty through for example, parties? What is their number in there? Religious institutions are an area where people can exercise sovereignty. Madam Chairperson, similar scenario where people have sidelined can be sighted here. Was it Possible for the people Uganda in 1966-67 to exercise their sovereignty as to the type of constitution they wanted when indeed the democratic institution of the state, the parliament of then had been partly coerced and partly manipulated into adopting a constitution for and on behalf of all Ugandans? Similar scenario can be detected in the extension of NRM in 1989 through the NRC. Through the same body decisions having a greater bearing on the public, have been reached away from the ears and eyes of the public who are actually the ultimate authority under so-called closed sessions. You could sight an instance of PERD here, and as we talk now, there are attempts at curving cut a political deal may be to transform CA into an interim Parliament. Where will sovereignty of people be, if such a situation occurs?

The tendency to sideline the masses by the Politicians soon after being elected is not a new phenomenon here. Even here you can see some delegates (not all) presenting very researched and well rehearsed papers in the name of their electorates when indeed the reality on the ground is far different. So, to say, there has been a tendency on the part of the elected representatives of the people to change their language as soon as they cross the bridge and thus begin talking in a dialect that is quite different from their constituents'. Putting in total disregard what Bevan, a one time Deputy Leader of Britain's Labour party said of the people's representatives that, *'A people's representative is the one who will act in a given situation in much the same way as those he represents would act in the same situation. In short, he must be of their kind. Election is only complete if the elected person speaks with the authentic*

*accent of those who rejected him. That does not mean he should be provincial nor that he speaks in local vernacular. It does in essence mean that he should share their values that is to be in touch with their realities*'. One may think the argument far fetched, but have you ever paused to ask yourself what the cause of this contradiction could be! The contradiction is, a county delegate stands up and states unequivocally that my people are for multi-party democracy; only to be contradicted by district woman delegate that all people in the district in question want the movement for the next 20 years. The explanation is simple: one of them has changed the accent on crossing the Red Sea! Ironically, some of these are Moslems who well conceive the message of Jibril and the drunkard. By way of illustration this Hadith talks of Jibril, God's messenger, meeting a drunkard on his (Jibril's) way to meet the drunkard tells Jibril that when you reach heaven tell God that the drunkard has sent you warm greetings. Jubril refused to deliver this message for the that he could not dare talk to God about a message from a drunkard but God blamed him. He said, 'You are a messenger, you have no right to inquire into the merits of that message. Much as it was from a drunkard you should have delivered that message and as exactly as it was. The situation becomes more pathetic in multi-party democracy. What is the relationship between the MP and his constituents? Is he a servant, is he a trustee or an independent nationalist? More often than not in multi-party democracy, the MP after being voted, becomes a party mobilizer and in that sense sees his work as mobilizing by blackmail if necessary to convert for the ruling party and also to suppress the hard liners of the opposition. How will the latter exercise their sovereignty and yet they are the majority if you take the fact that votes of the losers combined outnumber those of the winner.

Madam Chairperson. I would like to say that this revolution which we are making here of returning power to the people, should actually be genuine revolution which Cornforth describes thus: "Every revolution has been an act of liberation as it has attained emancipation of society from one form of class operation. But in every one of these revolutions, one form of operation has been thrown off, only to be replaced by another. The energy of the masses has been devoted to destroying the oppression of the old system but the new system which replaced the old was build under the direction of the new exploiters who invariably made it their

business to impose new forms of oppression on the people. In the socialist revolution, (the one I would like to see in Uganda) on the other hand, the masses not only destroy the old system, they are themselves the builders of the new. This proposed amendment is directed at achieving this goal, that this constitution does make the people the direct builders of the new instead of doing that through democratic institutions which on attainment of victory are monopolized by elitist politicians to the exclusion of masses. I believe a number of you have heard masses being side lined-*(interruption)-*

**AN, HON. DELEGATE:** Point of order. Madam Chairperson, although the rules do allow a speaker to speak for 15 minutes, at the sometime the rules say that we should speak on the details of the article under discussion, but not to make general comments as we are now hearing from our Colleague. Although, Madam Chairperson, I do support his amendment, nevertheless - is it in order, Madam Chairperson, for the current speaker to make general remarks when he should address the particular amendment he has made under this particular article?

**THE DEPUTY CHAIRMAN:** I think he is in order because he was giving reasons and when you are reasoning-*(Applause)-* but at the same the bell rung. So, I hope you are through, Hon. Member.

**MR WAGIRA:** Thank you very much, Madam Chairperson. I was defending the reasons of my wanting my people to exercise their sovereignty directly. And I was about to say as I now say, today we have questions which demand the answer from the people themselves and not democratic institutions. For example, there is a question now: Are people (Ugandans) tired of peace and stability? Who can better answer that question than the Ugandans themselves? There is also a question on the economic plane, this question was Paused by Dr. Bois to the newly independent African states many years ago, and he said this: "*Hear then my brothers, will you for temporary advantage, for automobiles, refrigerators Paris gowns spend your income on paying interests on borrowed funds or will you sacrifice your present comfort and the chance to shine before your neighbours in order to educate your children, develop such industry as best serves the great mass of your people, and make your country strong, in ability, self support and self defence*". This is a question that should be addressed by the people-*(Interruption)*

**THE DEPUTY CHAIRMAN:** Information, are you taking it?

**MR. WAGIRA:** No. I am well informed by my people of Kibuku.

**THE DEPUTY CHAIRMAN:** But please wind up. I think Members have already taken note of your proposal.

**MR. WAGIRA:** As I wind up, Madam Chairman, I would like to say that this amendment be bought by this house, with the view to giving people their power. This is a democratic institution, but you can see already some people resisting a referendum to contact Ugandans on what kind of governance they would like in the future. If we are going to dedicate such authority to democratic institutions how will our people participate, how will they realize their sovereignty? If we are going to make this sovereignty meaningful to our people, we should therefore, create room for them to answer most of the key decisions. As one Member said that, *'I fought to return power to the people and now it is they to decide what to do with it'*. If we are going to give meaning to this kind of assertion which was made by Hon. Kirunda Kivejinja, it is imperative that we give people this power to make their own decision. If the amendment be carried I plead to the House that we do give our people their power to exercise their sovereignty directly and I beg to move that the words, *'through the democratic institutions of the state'* be deleted from Article 1 of Chapter 1 of the Draft Constitution. Thank you, Madam Chairperson.

**MR. KARUHANGA:** Thank you, Madam Chairperson. I wish to wish to support the proposed amendment of Article 1. *(Applause)* Madam Chairperson, the reasons which I am going to use may be slightly different from the reasons given by the Mover, but all the same agree that these words should be deleted. Once we say that all power and the word is on *'all'* *'all power belongs to the people'*, now why have we limited it to through the democratic institutions? What has happened to the people? What about if they all want the referendum, what about when they want to hold an election. This statement, through the democratic institutions of the state, would limit this power. Secondly, what are these democratic institutions of the state? They are vague, they are not clear. Unless you spell them out, then we will not know what they are. We should not write in this constitution, Hon. delegates, Madam Chairperson, a statement which is not clear. Any-

thing which opens this constitution's situations of vagueness can be used very well by lawyers and I am one, and they can disturb this constitution, and it can always remain in court. Anything will become or will not become a democratic institution of the state. The words through the democratic institutions of the state are vague; they are not clear; they are not specific.

Another reason why I want to support this is to reduce the wording in the article. We should not put words in the article for the sake of it. Excessive length may also affect adversely the height dignity of the constitutional document. This length may discourage ordinary citizens and school children from getting familiar with the constitutional text but more particularly, it is vague; it is open ended. It tends to become dangerous in the end. I do not know who is going to turn up in Parliament and create a democratic institution of the state which you know very well that that institution is not democratic. I can ask you something, Hon. Delegates, about the House of Lords. Is it a democratic institution of the state? Of course it is, but it can also be said that it is not because the people who go to that institution in the House of Lords are not elected Members. They are sons of former Lords, they happen to occupy that office by virtue of their birth. Some of them are appointed after they are retired from Parliament - House of Commons. Therefore, in my view-*(Interruption)*-

**MR. WANENDEYA:** Point of order. Thank you very much, Madam Chairperson. Is it in order for my brother Elly Karuhanga to mislead this august House in the sense that the House of Lords was created by the people of Britain under the Magna Carta, and therefore, it is their power of the ensuring checks and balancing their rules and governance of their country, as the way of achieving democratic institutions. And therefore, that is the way Britain is governed quite well I would say, right from the time of Magna Carta. So, is it therefore, in order from the Hon. Karuhanga to say that it is not democratic because it is a way of ensuring checks and balances. I thank you.

**THE DEPUTY CHAIRMAN:** Actually that is a point of information you are giving Hon. Karuhanga; it is not a point of order.

**MR. KARUHANGA:** Thank you, Madam Chairperson. I think that, that really was a point of information. But I would like to say that Hon. Wanendeya's point on Magna Carta of 1215, is not

correct. In fact the Magna charta was a war fighting the House of Lords, it was fighting that mentality. *(Applause)*- It was trying to give the power to the people. Any way be that as it may, I want to summarize my position on this-*(Interruption)*-

**MR. SSEKWEYAMA WAGABA:** Point of clarification. Thank you very much, Madam Chairperson. I would like to be persuaded by Hon. Karuhanga by clarifying this point. In the first place my impression had been at first that by referring to these democratic institutions, it would mean the democratic institutions that we are ourselves going to establish here through this constitution. And secondly, I would want him to clarify how else other than through these democratic institutions that we would have established by ourselves would these people express themselves and therefore, exercise their sovereignty. Are we going to leave it open handed for other people to come and appeal to people's sentiments to resort to undemocratic -I mean to undemocratic/unconstitutional means? Who will mobilize them? I would like these clarifications before may be I could support him that respect also.

**MR. KARUHANGA:** Madam Chairperson. I would like to assist Hon. delegate Ssekweyama that his fears are unfounded because in fact the thing is not closed, the power belongs to the people. The constitution is going to create institutions, indeed. In fact the statement says at the end, *'in accordance with the Constitution'*. So, it means that what we discuss is also taken care of by this very wording if we delight *'through the democratic institutions of the state.'* What we create will be specific and clear but if we leave this one on it will mean that somebody else, later, can come and create his own and those we are not very sure about and, therefore, we have a duty to make sure that we strictly define what we want to do and even in accordance with the constitution. If somebody wants to create a change he can still amend the constitution and create these institutions but he has to go through that method by creating an amendment of the constitution without creating them in general and, with that Madam Chairperson. I thank you.

**MR. MALIRO (Mwenge - County North):** Thank you Madam Chairperson. I wish to support the amendment the phrase that *'through democratic institutions of the state'* be deleted and I have the following reasons. Madam Chairperson, the sovereignty of the people can be exercised in many other

non-governmental organisations which are not controlled by the State including the Trade Unions. For example, if there was something wrong and the people wanted to recover their sovereignty through peaceful demonstrations or use of the press or other means, then this very statement would restrict them because those would not be the democratic institutions of the state. The other reason is that restricting the exercise of sovereignty to the state institutions can be very dangerous since the state could manipulate the so called democratic institutions of the state, therefore, making the people fail to realise their sovereignty. Another simple reason that is even under this same draft constitution is that, that statement contradicts Clause 4, paragraph (b) which empowers Citizens to do all in their power to restore this Constitution for example and then these powers which the people are entitled to use may not necessarily be done through the democratic institutions. Therefore, Madam Chairperson, I think this phrase should be deleted. I thank you.

**MR. SAM NJUBA (Kyadondo East):** Madam Chairperson, I wish to associate myself with the Mover of this amendment for basically two reasons and one of them has been said that the phrase tends to reduce the power of the people or restrict it. Then you talk about sovereignty you mean the supreme power which should not be subject to any restrictions. Once you start imposing restrictions then it is no longer sovereign. Secondly, there will be many atrocities committed in the name of democracy and so we must be very careful of what we put here and if you do restrict and insist on this situation, you are going to restrict and encourage or promote those who violate or abuse our institutions. But more importantly is the unfortunate fact that this Constitution has no interpretation clauses at least. I do not see one and the absence of defining democratic institutions or a definition of this phrase renders it very dangerous to retain it in the Constitution. So, I propose that it be deleted and I support the amendment.

**MR. OGOLA (West Budama South):** Thank you very much, Madam Chairperson. I do wish to support the amendment as proposed by Hon. Wagira but not entirely for the reasons he has expounded. My reason for supporting the amendment is because it is my conviction, Madam Chairperson, that actually the entire Chapter I should actually be deleted. And I did mention, Madam Chairperson, when I gave my statement in the general debate on the 12th of July and I said - *(Interruption)*

**MR. ABUK. MAYANJA:** Point of order. Madam Chairperson, is the Hon. Delegate on the Floor in order to introduce a new Motion which is that the whole thing be deleted. Can he debate that new Motion when we are debating the amendment moved by Hon. Wagira?

**THE DEPUTY CHAIRMAN:** Hon. Ogola, I think that one is a major item which should come through. Let us first of all iron out Hon. Wagira's proposal.

**MR. OGOLA:** Madam Chairperson. I think I said - *(Interruption)*

**THE DEPUTY CHAIRMAN:** Can you concentrate on the Article being discussed?

**MR. OGOLA:** Yes, Madam Chairperson. I had not moved any amendment at all. I was in fact giving support to the amendment by Hon. Wagira but I was saying that I was happy to support this because initially when I spoke earlier I had expressed serious reservations not only about that Article but about all the Articles in Chapter 1 and I had said that actually this Article is a serious pretence. Pretence that somehow the people sitting in this House and about to adopt and promulgate a new Constitution would, from now on, become saints and cease to conspire to acquire power by force. And I had said that, because of this we were being idle and naive in carrying ourselves along that path of serious mistakes. If you read the entire Article, Madam, and the entire Chapter, my worries are that it is an attempt to cover the old tracks of actions which were conducted by some people sitting here, by breaking the law, by destroying institutions of the state, by destroying democratic institutions of the state, in order to acquire power and having acquired power, now they want this Assembly to justify their actions and to say that, "what you did was very good and now from now on no one else should do it". And yet, Madam, that very hope is idle and I am saying that the democratic institutions that they are talking about here are the very ones that are the first to be violated whenever a Constitution is violated. Therefore, I am simply saying, let us be human beings; let us know that we have weaknesses but to pretend that we do not have them and to try to entrench that hope, that hope that we will not have actions which violate the democratic principles that the people support is, in my opinion, idle and that is all that I am saying. I am not yet moving but if I had a way, I would have moved that the entire Article be rejected

**MR. WANENDEYA: (Budadiri East):** Point of procedure. Madam Chairperson, I would request that the Chair takes into account those who support the Motion and those that do not support the Motion so that we get people speaking from both sides and that would be, in my opinion, one of the ways of going about it. I thank you, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** With due respect, I do not know who is supporting. I select at random.

**MR. MULINDWA BIRIMUMASO (Bukoto West):** Madam Chairperson, I am strongly opposing this Motion. The Mover of the amendment seems to be suggesting that we should not have means whereby the people can exercise their sovereignty. The Article talks about democratic institutions. I do not think that we should have anarchy because if we do not have democratic institutions, how do we exercise our powers as the people? So, Madam Chairperson, I would urge Members to agree that the best way people can exercise their powers is through democratic means and our purpose here is to establish these democratic institutions - *(Interruption)*.

**Lt. COL. SERWANGA LWANGA (NRA Delegate):** Clarification.

**THE DEPUTY CHAIRMAN:** I am sorry, it was Hon. Besigye here.

**LT. COL. KIIZA BESIGYE:** Thank you, Madam Chairperson, I am seeking for clarification on this point having heard the Mover and the point difference raised by Hon. Mulindwa Birimumaso. To me the contention on the question of democratic institutions of state is because the democratic institutions of state are not defined anywhere in the Constitution. I think if there was in the interpretation or anywhere in the constitution where democratic institutions of state, what the democratic institutions of state means or are, I do not think that the Mover would have been concerned. I think the concern as I understood it seems to be whether democratic institutions of state could not be used to mean other things other than what we may believe them to be.

**MR. MULINDWA BIRIMUMASO:** I am going to clarify I think. Madam Chairperson, I think two wrongs do not make one right. We all agree that if democratic institutions had been defined it would okay instead of erasing the whole thing out. I think

I would assume that when we talk about democratic institutions we are capable of going ahead to define them because we say we delete the whole thing, it seems we are leaving all the powers to be exercised in any way even anarchism inclusive. So, I would go with the one who wanted clarification if he proposes that we define these democratic institutions.

**MR. TIBAMANYA (Kashari County):** Information. I am giving information to the Hon. Member on the Floor in that he should have no fear because the power will be exercised in accordance with this Constitution. In fact the words *"through democratic institutions of state"* are superfluous because you have a Constitution which will define those organs. So, once you have, *in accordance with this Constitution*, it is enough and there is no need to fear anything at all. Thank you.

**MR. MULINDWA BIRIMUMASO:** Madam Chairperson, I would still not insist but say that probably it would read that all powers belong to the people who shall exercise their sovereignty through democratic institutions in accordance with this Constitution. We should erase the word *"State"* but we should leave the words *"democratic institutions"*. Thank you.

**THE DEPUTY CHAIRMAN:** Okay, let us first dispose of the earlier one then we shall handle the second amendment because now they are two.

**MR. KOMAKEC:** Procedure. Madam Chairman, the amendment to the amendment should actually be disposed of first. So, I should suggest that as a matter of normal procedure we normally follow, indeed, that we should consider disposing of the amendment of striking out of *"state"* which I do support.

**THE DEPUTY CHAIRMAN:** Actually, let us refresh ourselves including myself. Rule 48 (10) *"When two or more amendments are proposed on the same Article, the Chairman shall call upon the Movers in the order in which their amendment relates to the text of the Article."* Then also in our Rules of procedure we have again Rule 48 (11) *"The amendment which is in the opinion of the Chairman depart furthest the text under discussion shall be debated and disposed of"*. So, the first one departs furthest. We have to dispose that one first because it includes the whole clause, this one includes only one word. That is my interpretation.

**MR. TUMWINE (Youth - Western Region):** Point of order. Is it in order, Madam Chairperson, to bring in an idea in form of a proposed amendment which has not been proposed and to cause us to discuss it? Because, as far as I am concerned, Hon. Mulindwa Birimumaso was suggesting, he never moved an amendment.

**THE DEPUTY CHAIRMAN:** That is another interpretation, that he did not move.

**MR. KIRUNDA KIVEJINJA (Bugweri county):** Madam Chairman, I am trying to find out from you whether it is in order for Members to move another motion while they are contributing to a Motion on the Floor. And then that Motion which is moved while somebody is contributing takes precedence over other amendments which have been supplied to the Chair for consideration?

**THE DEPUTY CHAIRMAN:** I think there is a misinterpretation of the Rules and as I had said Rule 48 spells it out very well. There is a provision. But Hon. Birimumaso, I think you had not really given, you were just debating like Hon. Ogola did.

**MR. ABU MAYANJA (Busujju county):** Madam Chairperson, point of order. The issue we are debating, the question which you have proposed is the amendment moved by Delegate Wagira. We should debate that amendment and dispose of it one way or the other. It is not proper, it is not competent when we are debating that, well somebody to move another amendment. That is why I objected to the amendment moved by Hon. Ogola and if we go on like this, especially when the new amendments have not been proposed or moved in accordance with the Rules, that is to say, they are not in writing - they do not conform with Rule 15, there had been no suspension under Rule 43 - we are going to be absolutely derailed.

**THE DEPUTY CHAIRMAN:** Thank you very much. Now let us continue debating Hon. Wagira's clause.

**MR. KINTUMUSOKE (Kalungu East):** Madam Chairperson, I would like to seek clarification from the original Mover of the Motion whether I understood him correctly. His question is with the quarrel of limiting the power - the sovereignty of people to the institutions of state. I would like to know whether he would be able to accept a modification of his

amendment so that instead of moving the entire 'democratic institutions' we only remove the word 'state' and that will cater for his interests.

**THE DEPUTY CHAIRMAN:** I think Hon. Wagira has a right to respond to that because he is the one who moved the Motion.

**MR. WAGIRA (Kibuku County):** Thank you, Madam Chairperson. I reject entirely that proposed amendment because in my submission I did labour very many factors which call for the erasing of the entire thing. Somebody was saying it could be anarchical because people will use anarchical ways of exercising their sovereignty. I said they can do that in accordance with the Constitution. I also did qualify it by saying that if we talk of exercising their sovereignty only through democratic institutions or civic organisations which will be created in this constitution through which people can still exercise their rights and I was also pointing out how democratic institutions have been abused in the history of this country to the extent that they have tended to sideline the masses. Thank you.

**MR. BEN WACHA (Oyam North):** Procedure Madam. You looked at me and pointed at me. I thought I was going to speak next.

**MR. BIDANDISSALI (Nakawa):** Madam Chairperson, I beg to move that the question be put. - *(Interruption)*.

**THE DEPUTY CHAIRMAN:** Hon. Bidandi Ssali has moved that the question be put. It is a Motion. Is it seconded? *(Interruption)*.

**CAPT. BABU:** Point of procedure. Madam Chairman, I would like to propose that you put a question to us on Hon. Bidandi Ssali's proposal and we answer and after that you then put another question after we have given you our views on this Motion. Can you put the question please on his Motion?

**MR. OMARA ATUBO (Otuke County):** Madam Chairperson, I would like to draw your attention to Rule 4.8 (7) which says that 'when all Delegates who wish to speak on it have spoken, the Chairman shall put the question for a decision by the Assembly'. Madam Chairperson, I would not like this rule misused. If you look at Rule 4.8 (4) which says people are going to be given fifteen minutes I would also call upon the indulgence of Members that especially

when you support a Motion that a good number are doing, the amendment may not take as long as we would wish to do because if all Members are to speak for fifteen minutes on one amendment like the one of Hon. Wagira, I do not know how long we shall take. But it is also prudent, Madam Chairperson, that those who wish to speak especially those who are against the Motion rather than those who are in favour of the Motion, those who are against it, because if you support it really I do not see what is there but those who are against it, for some fundamental reasons, may, Madam Chairperson, wish to put the question. This does not mean that - may not be interpreted to mean that - we are going to give everybody time but I would like to draw your attention to this rule while we begin picking up our consideration stage. Thank you, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Thank you very much. I had earlier on picked Hon Ntabgoba.

**MRS. NTABGOBA (Kisoro - Women):** Thank you Madam Chairperson. I would like to support the amendment but I am requesting to know the procedure if I want to amend his amendment or to narrow it a bit. Madam Chairperson, since this is going to be the first Article in our Constitution, I have a belief it will guide us throughout the whole Constitution. So, I was proposing to narrow it a bit by saying 'all power belongs to the people...' and stop there.

**PROF. NSIBAMBI:** Seconded.

**THE DEPUTY CHAIRMAN:** The problem is that we have not disposed of Hon. Wagira's amendment but I can see counter modifications and I had told you on Rule 10 and Rule 11. So, why do you not dispose of his first - *(Interruption)*.

**MR. MALINGA (Usuk County):** Point of order. Madam Chairperson, is it in order for us to proceed when Hon. Bidandi Ssali, an Hon. Member for Nakawa, had moved that the question be put and under Rule 21 of our Rules of Procedure that the question must first be put and disposed of immediately after it has been moved and seconded. We should first vote for the question that the Question be put.

**THE DEPUTY CHAIRMAN:** Okay. I think we agree that we put the question. I put the question on Hon. Bidandi Ssali's Motion.

**MRS. MATEMBE (Women - Mbarara):** Thank you, Madam Chair. Madam Chair these rules must be read together. If you remember the Rule alluded to by Hon. Omara Atubo, this very one which has been brought to your attention must be read subject to the other one, it cannot be read alone. Now, Madam Chair, in accordance to what Hon. Omara Atubo said, we have listened to the people in favour of that Motion. If we have those who oppose it giving their views so that then you can balance and then put the question when everybody is satisfied that they have talked for their side then it should be good. I would invite Hon. Delegates really because of time, to ease up the debate and we move forward.

**THE DEPUTY CHAIRMAN:** Hon. Bidandi Ssali, are you withdrawing your Motion?

**MR. BIDANDI SSALI:** Madam Chairman, I am not withdrawing because we had arguments for the Motion and arguments against the Motion and given that this is the first Article and the time we have got to do this document, people should be serious. This is not a contentious matter, this is an academic matter. Having heard the arguments for and against, let us dispose of the amendment and may be we receive another amendment on the same Article and we have a go ahead. Let us be serious on what we are doing.

**MR. MUSHEMEZA (Sheema South):** Procedure. The procedure that can take us forward is for the Chair to put the question that the question be put on Bidandi Ssali's Motion. Once we have agree that the question be put and in that question we agree to continue with the debate, we shall continue. Once we decide otherwise then the question will be put again that the debate ends. So, it is now the Chair to put the question on Bidandi's motion, that is what can take us forward.

**MR. NYAI (Ayivu County):** Madam Chairperson, you made a brilliant ruling that in considering and before putting the question, the amendments on the Floor, *'the Assembly shall start from the amendment which departs furthest'* and in that case. Madam Chairperson, I would suggest that you put the question on the amendment moved by Hon. Ntabgoba, because it simplifies - *(Interruption)* - She did, I supported it.

**THE DEPUTY CHAIRMAN:** I think that one is misleading us even further. Hon. Bidandi Ssali

moved that we put a question. Whether Hon. Bidandi Ssali's Motion is taken or it is not, now, I put the question.

*(Question put and agreed to).*

**DR. KIIZA BESIGYE:** Point of order. Madam Chairperson, I think that this House has been rather misguided by the contribution from the Hon. Abu Mayanja that an amendment cannot be moved to an amendment. I think it is perfectly in order that an amendment can be moved to an amendment and once that happens, that amendment to the amendment must be disposed of before the original amendment can be made. This is spelt out by Rule 48 (13), *'when every amendment to an amendment has been disposed of, the Chairman shall either again propose the question upon the original amendment or shall propose the question upon the original amendment as amended'*. I think it was perfectly in order for Hon. Mulindwa Birimumaso to move an amendment to the amendment of Hon. Wagira. It was seconded and I think that, that amendment should be disposed of first before the question is put on the original amendment by Hon. Wagira.

**THE DEPUTY CHAIRMAN:** Honourables, cool down. Ring the bells. Honourables, can you also look at Rule 10. *'When two or more amendments are proposed on the same Article, the Chairman shall call upon the Movers in the order in which their amendments relate to the rest of the Article'*.

**MR. MULINDWA BIRIMUMASO:** Excuse me, Madam Chairman. I would like to clarify on the proposed amendment to the amendment I had made. *(Interruption)*.

**THE DEPUTY CHAIRMAN:** But we are moving backwards.

**MR. MULINDWA BIRIMUMASO:** Madam Chairperson, I did not move an amendment.

**THE DEPUTY CHAIRMAN:** Let us agree. You first listen. We have already made a decision. Now, if we have that one out of the way then the other Members can propose an amendment to it and we move in order. Procedurally, we have already made a decision. I think I should put the question so that Wagira's Motion is out so that anybody who wants to amend Wagira's Motion can put the amendment on what has been amended.

**AN HON. DELEGATE:** Yes, that is what you should do.

**THE DEPUTY CHAIRMAN:** That is what we should do rather than mixing up issues. Hon. Members, please if you are patient, listen. You will understand what I am saying. One, let us iron out Hon. Wagira's proposal. Then after that anybody is free to amend what he has amended and we move in a logical manner until we reach where we want to go rather than mix up issues. Otherwise, we will never, never get off. Everybody, therefore, is going to bring a Motion.

So, I now put the question that Article 1 of the Draft Constitution as amended by Hon. Wagira's Motion remain part of the Constitution.

*(Question put and agreed to).*

**MR. KIRUNDA KIVEJINJA:** Thank you very much, Madam Chairman. I would like to move that Article 1 of the Draft Constitution the amended by deleting the word "state" and inserting in place the word "people" to read as follows: *-(Interruption)*. Okay, I beg to move that Article 1 of the Draft Constitution as amended reads as follows "All powers belong to the people who shall exercise their sovereignty through the democratic institutions of the people in accordance with this Constitution".

**THE DEPUTY CHAIRMAN:** Is that Motion seconded?

**AN HON. DELEGATE:** Seconded.

**THE DEPUTY CHAIRMAN:** If the Motion is seconded then the Member can talk for it. The Motion was moved and it was seconded and I am asking the Mover to - *(Interruption)*.

**MR. ABU MAYANJA:** Madam Chairman, order. There is a rule here which I now cannot see but which says that you can not move an amendment which is contrary or contradicts an amendment or something which has been passed. Now, we have just passed Hon. Wagira's amendment, how can somebody move an amendment which contradicts that amendment which we have just passed? It is Rule 48.17, Madam Chairman, which says "No amendment shall be made which is inconsistent with an Article already agreed upon by the Assembly". Now we

have agreed that this Article 1 be amended as proposed by Hon. Wagira and that is now a decision unless it goes to a reconsideration stage.

**THE DEPUTY CHAIRMAN:** No I think Hon. Abu Mayanja, with due respects, we are saying that when we are dealing with our amendment, we agree with our amendment then we shall proceed until we come to where we should end. Okay, let us look at 48.17. *No amendment shall be made which is inconsistent with any Article already agreed upon by the Assembly or any decision already come to by the Assembly and the Chairman may at any time during the discussion of a proposed amendment withdraw it from the consideration of the Assembly if in his or her opinion the discussion has shown that the amendment contravenes the provisions of this sub rule*.

**MR. KISAMBA MUGERWA:** Clarification. Madam Chairperson, there is no inconsistency in what has been moved. What brought problems was that we were talking about democratic institutions of the state. And by nature, the state institutions cannot be democratic if the interpretation goes that these are the Army, the Police, Judiciary, Civil Service and what have you. Now we are talking about democratic institutions of the people.

**MR. SAM KUTESA:** Thank you very much, Madam Chairperson. The problem we are going through is not so much the substance of what we want to amend but we have gone through a lot of procedural. I think mishap, and since the substance does not differ too much and there does not seem to be a lot of differences, I would like to invite you, Madam Chairperson, if you could make use of Rule 48.12. Rule 48.12 says that *where two or more proposed amendments to any Article seek to attain the same objective but in different ways or in the wording of the amendment differs, sponsors if the amendment may be required by the Chairman, I believe in this case the Chairperson, to discuss their amendments and consolidate these or agree on a compromise amendment that will be acceptable to the sponsors*. I would like to invite you, Madam Chairperson, to take advantage of this in view of what we have gone through and no doubt we are going through a learning process. I would suggest that you avail yourself to the use of the provisions of Rule 48.12 so that we iron out this because the substance of what we are going for seems to be the wording where you will remove "state": where you

stop and the substance is really materially different but we want a compromise worked out by the sponsors of the respective Motions. Thank you.

**MR. OBUA OTOA (Erute County North):** Madam Chairperson, I think we are getting bogged down wasting time on a matter which has already been voted upon. Is it in order for us to revisit something which this Assembly has already decided upon?

**THE DEPUTY CHAIRMAN:** Rule 48.17 allows that *"No amendment shall be made which is inconsistent with any Article already agreed upon by the Assembly or any decision already come to by the Assembly and the Chairman may at any time during the discussion of a proposed amendment withdraw it from the consideration of the Assembly if in his or her opinion the discussion has shown that the amendment contravenes the provisions of this sub rule"*. If we go by that one then Sub Rule 12 can help us out by saying that, *"When two or more proposed amendments to any Article seek to attain the same objective but in different ways or the wording of the amendment differs, sponsors of the amendments may be required by the Chairman to discuss their amendments and consolidate them or agree on a compromise amendment that will be acceptable to the sponsors"*. Now with that in mind can we adopt that model and call upon the sponsors to get together and reach a compromise? *(Interruption)*. Order, order.

**DR. MAGEZI:** Thank you, Madam Chairman. Given that Article, under the consideration stage, I am on 48.17 which we are citing that, *"No amendment shall be made which is inconsistent with an Article already agreed upon..."*, Madam Chairperson - *(Interruption)*.

**THE DEPUTY CHAIRMAN:** You should continue to read the whole article.

**DR. MAGEZI:** I want to stop there because my contention is that we have not agreed on any Article yet. What we have agreed on is an amendment to an Article and that Article 1 could have as many as ten amendments and, therefore, is it in order for us to be misled that actually we already have passed Article 1 when we have not? Whereby in fact what you had suggested before was in order that now we can take another amendment on that article? When all the amendments are finished you will put the question

for Article 1 of the Constitution to be passed by this August House.

**THE DEPUTY CHAIRMAN:** Thank, you very much for that clarification but also Article 12 helps us out to waste less time. We have had *-(Interruption)*.

**MR. ABU MAYANJA:** Madam Chairman, Hon. Magezi read this rule and stopped half way. Rule 48.17 says *"no amendment shall be made which is inconsistent with any Article already agreed upon by the Assembly or any decision already come to by the Assembly"*. Now the submission is that this Assembly, by the question which you put on Hon. Wagira's amendment removed the words *"through the democratic institutions of the state"*. That is what has been agreed upon. Now, when you bring them back you are surely inconsistent with the decision already taken by the Assembly.

**MRS. SEKITOLEKO:** Thank you, Madam Chairperson. Whereas I agree partly with Hon. Abu Mayanja, I wish to disagree with him in just one detail. You have only put one question. You asked those who supported what Hon. Wagira wanted to say AYE or NAY, you have not put a question to us as to whether that Article as amended do stand part of the Constitution. So, until you have put the last question and we have committed ourselves we still have our door open and I would like to appeal that we listen to those other people who want to make amendments. This is the beginning, let us not begin on a wrong foot. Thank you very much, Madam Chairperson.

**MR. ADYEBO:** Madam Chairperson, with due respect to the Chair and to the Hon. Delegates here assembled, I note with a lot of concern that since 9.00 O'clock this morning we have not moved a foot. I would propose that to adhere to what has brought us here we have to consider the time limit left. Now, I have Madam Chairperson noted that despite the fact that the majority of the Hon. Members have come with zeal to participate, it appears to me we are not ready. I would propose that we adjourn so that Members go back to the rules and come probably this afternoon with more seriousness. We have spent three hours without moving and if this is the method of work, I am afraid, we are wasting time. I would indulge Hon. Members to accept that we adjourn until afternoon when we come back here to proceed expeditiously. I thank you, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Is that Motion seconded?

**HON. DELEGATES:** No.

**MR. OMARA ATUBO:** Order. Madam Chairperson, first of all you had given me an opportunity soon after Hon. Sekitoleko so my contribution is that, first of all, Madam Chairperson if you look at Rule 21 it says, - this is just to take us back to build my argument or my point - *that subject to Rule 47 of these Rules where a Motion on Article has been moved and debated, a delegate may move that the question be now put and unless...* that is the emphasis - *...unless it appears to the Chairman that the Motion is an abuse of these Rules or are infringement of the right of any delegate...* That is where I stop, Madam Chairperson.

I am raising this point because I believe myself and everybody here are taking this learning process as a very serious one, we are getting acquainted with the rules and people are quoting the rules which to me is a very healthy thing and I think we are all learning and let us continue to learn but the point which I wish to draw to the attention of the Chairperson is that you are going to use this rule very often and therefore you have got a very important judicious role there that it is up to you to weigh when a person says the debate be closed. It is a very judicious decision you are going to make and you weigh and in the process of weighing, your decision, in most cases, is final unless challenged according to this rule; there is a method of challenging it. So, while I bring it to your attention and to Members, that it will help us and the Chairman will weigh. People will come and say *'close'* like Hon. - I am raising this point because I believe myself and everybody here are taking this learning process a very serious one. We are getting acquainted with the rules and people are quoting the rules, which to me is a very healthy thing, and I think we are all learning and let us continue to learn.

The point which I wish to draw to the attention of the Chairperson is that we are going to use this rule very often and, therefore, you have got a very important judicious role there, that it is up to you to weigh when a person says the debate be closed. It is a very judicious decision you are going to make and you weigh, and weighing your decision is in more cases final unless in the process of being challenged. According to this rule, there is a method of challenging it. So, while I bring this to your attention and to

Members that it will help us and the Chairman will weigh - people will come and say close, like Hon. Matembe came yesterday and said *'close the debate'* and suddenly the debate was closed. I think Members were not very happy, but it happened and it took place. So, in most cases, Madam Chairperson, you will have to use this judgement and see whether a person who comes out to preempt people to close a debate, and which may leave this House hanging.

The second point, Madam Chairperson, is exactly on this rule of consideration, rule 48 (17) which states that *'No amendment shall be made which is inconsistent with any article already agreed upon by the Assembly...'* and the second part is or *'...any decision already come to by the Assembly'*. Madam Chairperson, this has got to be read together with Rule 48 (11) which says that, *'The Amendment which in the opinion of the Chairman departs furthest from the text under discussion shall be debated and disposed of first'*. The problem we are having this morning, and I think what Members should bear in mind, is that we have not been able to put our Amendments in writing and, therefore, the Clerk and the Chairman would have looked at all these Amendments and as their opening remark they would have told us that today we have five Amendments on Article 1. And in the opinion of the Chairman, I think, we better start with the Amendment of Hon. Wagira. Supposing Hon. Ogola had put that Amendment in writing, in my opinion that Amendment would have been debated first because he wants the whole of Article 1, deleted. So, that would most likely, in the opinion of the Chairman and the Clerk, have been proposed first. So, the point is that all the Amendments really should be given an opportunity to be debated and Members, therefore, should bear in mind that this is Constitution making, it is just not somebody waking up and saying, *'I have got an Amendment'*. This is Constitution making, try to put your Amendments two or three days as the regulation wants, and the Chairman or the Chairperson will be able to decide that these are the Amendments and we are going to start with this. So, this is why the view of Hon. Mayanja may defeat exactly what we want in the sense that since we have basically an Amendment before the Chair in the sense of the Amendment of Wagira, it may, therefore, be argued that Article 1 is already approved and, therefore, you cannot bring another Amendment. But that may not be the case, Madam Chairperson, in the sense that, what sub rule 48 (17)

is saying that we should not waste. Once a decision is taken, a member should not re-introduce the same amendment in another way, otherwise, we shall be going round and round and we shall not reach a decision.

But what is important here is that if you say 'democratic institutions', is it different from saying 'democratic institutions of the state'? And, therefore, it is up to the Chair to say, No, I think we have taken a decision on democratic institutions of the state, but we can still debate an amendment which proposes only democratic institutions. And this is now the ruling which the Chairman can say no. But to me, in my view, we have not yet approved Article 1, we have dealt with an amendment. The view is whether by approving the amendment of Hon. Wagira which says democratic institutions of the state; if we accept the Amendment which talks of democratic institutions only, are we really debating the same thing at the same time and, therefore, this is where the decision of the Chair may have to come in, but in my view - in view of what has been going on this morning, I think, to say that we have closed the debate on Article 1, may not be proper for this Assembly. Thank you very much.

**AN HON. DELEGATE:** Madam Chairperson, thank you very much indeed. I share the view that we have not yet adopted Article 1. What we have adopted is an Amendment offered by the Member from Kibuku; now, other Amendments are yet to come - Madam Chairman, while the Assembly definitely is sovereign in its own rules, we appear to have denied ourselves the legal Counsel to this Assembly, to which the Chairman is entitled. I am now addressing this to the Secretariat which appears to be mute on this matter, because on matters of procedure the interpretation of the rules finally must come from the Counsel to this Assembly. There are so many lawyers here, they may have a different interpretation which is why we are quoting different rules, and in terms of the conference procedure, the advice given by the Counsel to the Assembly should prevail, regardless of what other lawyers say, that is my understanding. Having said, Madam Chairman, I would like us to give the Hon. Kivejinja the opportunity to introduce his Amendment which has been seconded. Now, it will be for you to decide whether that is contradictory to Hon. Wagira's Amendment, because you cannot definitely, Madam Chairman, read sub rule 12 of 48 because we have already adopted Hon. Wagira's Amendment. You

cannot, therefore, ask Hon. Kivejinja to go and negotiate with him a compromise on the basis of sub article 12 or rule 48.

**THE DEPUTY CHAIRMAN:** I think we better get going. I feel we should allow Hon. - because it was the Amendment that has been passed. So, we are still amending. I do not see any contradiction there; that was my earlier stand. Hon. Kivejinja has the Floor as he had.

**MR. KIRUNDA KIVEJINJA:** Thank you very much, Madam Chairman. I propose that Article 1, as amended be amended to read as follows: '*All power belong to the people who shall exercise their sovereignty through the democratic institutions of the people in accordance with this Constitution*'.

**AN HON. DELEGATE:** Seconded.

**MR. KIRUNDA KIVEJINJA:** Madam Chairperson, I am moving that Amendment for the following reasons:

What we are trying to set up here is a people's Constitution, and the people must be the first article of this Constitution. And if we say all power belongs to the people, the people must have a method of expressing that sovereignty. Two or three people cannot meet in the street and riot and they say they are exercising their sovereignty. My Amendment, therefore, takes care of that the people are free to organise in any form so long as they do so in accordance with the Constitution and in a democratic frame work (*Applause*). The reason why I did not take and I did not support the state which - as it has been reasoned out - the state structures are all undemocratic, because we must also define what is the state. Its coercive organs which the Executive use to impose itself on the population. Now, you cannot say the Army cannot be democratic by its work; the Civil Service cannot be democratic because it must get orders from the above; the Judiciary cannot be democratic; and the monitor system cannot be democratic. The way the people can exercise their sovereignty is when they decide in a democratic institution and in accordance with this Constitution, say here we form our organisation. So, this also caters for all those who may want to put up their own parties, because they will be exercising their democratic rights, but in accordance with the Constitution and in a democratic form. So, this one is very important and I beg and I pray to the House that we must accept this

as it caters for exactly the job which brought us here. Thank you, Madam Chairman. (*Applause*).

**MR. RINGWEGI (Padyere County):** Thank you, Madam Chairperson. Madam Chairperson, I would like to oppose the proposed Amendment by Hon. Kirunda Kivejinja on the following reasons: When we are talking about democratic institutions what defeats me is that democracy has no objective test; it tends to be subjective. So, we leave it to only the subjectivity of a few persons who will have decided whether this is a democratic institution or not. Now, when we do not have an objective test for democracy, it would also be futile to put it in our Constitution that such and such an institution although described in the name of the people is democratic. I think the Amendment that has been proposed and passed, by Hon. Wagira Moses, should remain as it is. We should only subject ourselves to the authority of the Constitution (*Applause*). We should not try to be superfluous by putting the word 'democracy' for the sake of pleasing the people! We have already said all power belong to the people and if we are looking for the people, the word 'people' to be as the first word in the article, then the word 'people' is already catered for, we should only leave the Amendment as it stands. I oppose the proposed Amendment. Thank you, Madam Chairperson.

**MR. KAYONDE (Gomba County):** Thank you, Madam Chairperson. I support the Amendment. In the process of trying to protect the sovereignty of the people, we may deny them the opportunity to exercise that sovereignty by removing this 'democratic institutions'. Through the entire Draft there are provisions which are giving democratic institutions like Parliament and the representation of the people, and these are the institutions we are talking about. Now, if they cannot exercise their democratic rights or their sovereignty through these institutions, where else will they do it? Because in this Constitution we have not listed the institutions, the democratic institutions, and therefore, I think since these institutions are going to be established in accordance with the Constitution - (*Interjections*) - Let me finish and I will get - Madam Chairperson, what I am saying is that we cannot detail here all democratic institutions. Parliament is going to periodically debate and establish structures, democratic institutions, and therefore, we should have an enabling Clause and by retaining democratic institutions so that even those institutions which are not in the Constitution as long as they are established, according to the Constitu-

tion, then. Therefore, I strongly support the Amendment that through the democratic institution of the people is the only sure way that the sovereignty of the people will be exercised in accordance with the Constitution and in accordance with the democratic institutions established therein. Thank you.

**MR. MUSHEMEZA:** Point of clarification. I would like to clarify to Hon. Kayonde and Hon. Kivejinja that the Amendment he moved, supported by Kayonde assumes that there cannot be democracy without institutions. On the contrary there can be democracy in certain situations without institutions. For instance, the Ugandan market where the forces of demand and supply determine the price, allows all citizens to participate freely in the market! This is economic democracy. Democracy is not only political but also economic. Therefore, Madam Chairperson, the amendment of Wagira is quite embracing and justified and should remain undisturbed. Thank you, Madam Chairperson.

**MR. OMARA ATUBO:** Point of clarification. Madam Chairman, I would just like to draw the attention of this House, when Members are debating this particular proposal, to article 50. Because they are talking of democratic institutions and how they are going to be exercised. So, if you look at Article 50 of the Draft Constitution it will help you to decide whether to support Hon. Kirunda Kivejinja's amendment or to go with the approved amendment of Hon. Wagira. There, one of the powers and sovereignty of the people as far as fundamental human rights and freedoms of the individuals enshrined in this shall be respected, upheld and promoted by the Executive, the Legislature, the Judiciary and also by all organs and agencies of Government and by all persons in Uganda. All it says is that, Hon. Wagira's proposal covers that by saying 'in accordance with this Constitution'. So, that was the Clarification I wanted to give to help you.

**MR. KATUREEBE BART (Bunyaruguru County):** Madam Chairman, I oppose the proposed Amendment by Hon. Kivejinja. If we say, *all power belongs to the people and the people shall have their sovereignty*, then you start talking of they will go through *institutions*, before you even describe them as *democratic* or *of the state* or what have you, that, actually, restricts the way people may exercise that supremacy. (*Applause*) But I would also like to go further that, people universally now know that the supreme weapon through with people exercise their

supremacy is the ballot box. People must elect their representative who in turn go and form institutions, whether of the State, that govern the people. Hon. Omara Atubo has brought our attention to Article 50, talking about basic human rights; and I would like to fortify my argument by looking at similar provisions in the Universal Declaration of Human Rights which could persuade us to see how people express their supremacy. If you look at Article 21, sub article 3, of the universal declaration of human rights, it might help to guide us. It says: *"The will of the people shall be the basis of all the authority of government."* that is the supremacy of the people. *"This will shall be expressed in periodic and genuine elections which shall be by universal adult suffrage and shall be held by secret vote or by equivalent free voting procedures."* That is the only way that the people can express their supremacy, not through any other institutions. I have, therefore, agreed in principle with the proposed Amendment by Hon. Wagira, that we remove that whole reference to institutions. But at the same time, I buy Hon. Karuhanga's argument that someone leading this Constitution, if you open the first page and you say power belongs to the people, and then you do not say in the very first sentence how the people will exercise their power, and you say in accordance with the Constitution, that means you expect the ordinary person on the street to open the Constitution, go through the articles to find where he may exercise his power. I have, therefore, proposed an Amendment which I have already sent to the Clerk and I sent it to Hon. Wagira, I have no doubt he agrees with it; that when we delete this first line this line *'the democratic institutions of the state'* we replace it with: *"All power belong to the people who shall exercise their sovereignty thorough periodic, genuine, fair and free election."* Madam Chairperson, I am still contributing. The institutions that are talked about in this are made by the people. The institutions that Hon. Kivejinja is talking about are made by the people and for the people. There is no other justification for the existence in this Constitution or elsewhere for an institution unless it is created by the people and for themselves. And the people have created, for example, this Constituent Assembly. How did they do it? By an election. Therefore, urge that I support the basic Amendment by Hon. Wagira, and my proposed Amendment when it comes. Thank you, Madam Chairman.

**MR. ATAMVAKU (Arua Municipality):** Madam Chairman, while I share some sentiments in the

Amendment proposed by Hon. Kivejinja, on the whole I disagree and oppose that Amendment. On the onset we agree that all power belongs to the people, and once you do that then you proceed to qualify that they should exercise their sovereignty through the democratic institutions whether of the State or institutions of the people. That qualification itself, 'the democratic institution', is in itself a limitation and, therefore, a contradiction of the sovereignty of the people (*Applause*). I will explain that, once you say they ought to exercise their sovereignty through the democratic institutions, the adjectival use of the word 'democratic' calls for a definition. Who defines it? Will the people define it spontaneously or certain institutions of the state define it according to the interest of the state? There is, therefore, a loophole introduced here. That limitation introduces a loophole whereby there is a danger by the state defining whatever is democratic to suit its own interest and, therefore, curtail the right of the people to exercise their sovereignty. I would rather say that we stick to the original Amendment of Hon. Wagira, because - (*interruption*).

**MR. MULINDWA BIRIMUMAASO:** Point of order. Madam Chairman, is it in order for the Hon. Zubairi to imply that even mob justice should be constitutionalised? Is it in order, Madam Chairman?

**THE DEPUTY CHAIRMAN:** He did not say so, so that does not arise.

**MR. MULINDWA BIRIMUMAASO:** But, Madam Chairman, that is what he implied, mob justice - (*Interruption*).

**THE DEPUTY CHAIRMAN:** That is your own interpretation.

**MR. WAGIRA:** Thank you, Madam Chairperson. Is it in order for some Members to keep getting back to the same thing. I did say in my submission that I am not creating a situation of anarchy, and that is why I did not have the whole sentence deleted to the end. I insisted on the words 'in accordance with the Constitution' remaining there; and that takes care of Hon. Kirunda Kivejinja's fears that seven people will sit at a street and violate peace. There is the Constitution which is the supreme law and in any case we are saying we give power to the people, do we give them this power directly unqualified by saying they are the sovereigns or must we again qualify it and say they should exercise it but indi-

rectly through the people, and in any case who are these people? We know that many institutions have been formed by and for the people only to be usurped by dictators. Take the Cooperative Movement, it was formed as a people's organisation. Are we aware that it was usurped? We had a bus company called the People's Transport, it has collapsed. Is it because of the people? This word has been abused. There are institutions which have been called people's institutions when in essence the reality is different. That is why I have to say that we cannot have the word removed but we are saying we give power to the people. We again want to qualify that power which we are giving to the people that you exercise it but via this institution. Are we underestimating Ugandans to fail to organise themselves in a democratic means? Must we do it for them? And in any case somebody says where else will people exercise their power if it is not through the democratic institution? What democratic institution should people exercise a referendum through? Thank you.

**MR. ATAMVAKU:** Madam Chairman, I thought I was still on the Floor, a point of order was raised, so I thought I would resume. I proceed by saying that if we are going to qualify the exercise of the sovereignty of the people through institutions whether we call them democratic or not, we are surely limiting it, because we are going to call for a definition we shall have to be provided by a State structure, which state structure serves the interest of the State, and the state is not the same as the people. The State in reality is abstracted from the people, is apart from the people. For that matter we state that the adjective use of democratic institutions should not be re-introduced, rather we simply say *'in accordance with this Constitution'* (Applause). Madam Chairman, that also will leave room open for other non-state institutions, like the civic organisations, cultural associations, institutions of learning which are not necessarily state institutions. Professional associations are also other avenues through which the people can exercise their sovereignty, and they do not necessarily belong to the State. But if you are going to say democratic institution of the people, by the virtue of the fact that these people cannot spontaneously come to define whatever is meant by democratic, then I am sorry, Madam Chairman, we are giving people the power with a right hand and withdrawing it with the left hand. For that matter I beg to oppose Hon. Kivejinja's Amendment. Thank you. (Applause).

**MISS. BYANYIMA (Mbarara Municipality):** Madam Chairperson, I am of the view that we should be brief and very precise in what we want to say. And in that light I thought that I agreed with the Amendment of Hon. Wagira, but would have liked that, and I will be proposing in another Amendment, that we do keep the word *'democratically'*. I feel it is very important that the power belongs to the people but they should exercise it democratically according with the Constitution. Madam Chairperson, if I have a chance I will want to propose an Amendment that all power belongs to the people who shall exercise it democratically in accordance with this Constitution. Thank you Chairperson.

**MR. DIDIAGARD (Moyo West County):** Thank you, Madam Chairman. I wanted this Hon. House to consider the seriousness of the Constitution and allow that all Amendments should be circulated before. In Parliament this is done. Part of this confusion is because we have not known what these Amendments are about. We have a legal and drafting committee who could even advise us in marrying some of the Amendments which all differ in detail. I believe, Madam Chairman, if in your wisdom you will consider for Members to circulate all amendments to the Secretariat, it will help us to move forward. This is done even in Parliament, and a Constitution is a far more important document. And I do not think we should just hurry without the Amendments being circulated. I thank you.

**MR. ELYAU (Kalaki County):** Madam Chairman, I also stand in support of Hon. Kivejinja for one reason. How do you organise our people in case somebody comes and takes over the government tonight, and tomorrow people hear the information and they get scared? How will you organise the people here to come and do something serious, unless there are some channels in which these people will use the exercise? So, I think institutions should be left to a democratic - so that they can rise and after such rising they have a - (Interruption).

**LT. COL. SSERWANGA LWANGA:** Point of clarification. Thank you, Madam Chairman. My name is Sserwanga Lwanga. I am seeking clarification from Hon. Elyau how he considers rebellion being a democratic institution. Is rebellion a democratic institution? Could you clarify that to me?

**MR. ELYAU:** Madam Chairman, it is true. What did the NRM do when they went to the bush? They

got organised so that the ability was achieved through such a scheme! So, although it was undemocratic but later on it was realised to be democratic because they were fighting for the people. So, here is the case where people should really organise themselves and fight for their rights.

Madam, I think the organisation must be there so that people are organised in a more democratic system - *(Interruption)*.

**DR. HIGIRO SSEMAJEGE:** I support the word 'democratic' to be inserted because - *(Interruption)*

**MR. KARUHANGA:** Point of order. Madam Chairperson, the Hon. Member on the Floor cannot now start supporting the word 'democratic' because it is not in the Amendment of Hon. Kirunda Kivejinja. Can we now please request you to put the question so that we finish Hon. Kirunda Kivejinja's and anybody who wants to introduce the word 'democratic' can also make a move. Because we cannot have two Amendments being discussed at the same time.

**THE DEPUTY CHAIRMAN:** He is still completing.

**MR. ELYAU:** Madam Chairman, I was saying so that the people organise in case of crisis and should know how to organise and go around certain things. Because if you leave people like that, tell me how would they organise themselves in case of a rebellious coup with people who are armed. So, people should be given a chance to organise through organisations like say institutions, so that they know how to form themselves, like students, workers and what have you. So, I support what Kivejinja is trying to say.

**MR. BASOGANSAJU (Busiki County):** Madam Chairperson, I want to observe that I think we have had sufficient debate on Hon. Kirunda Kivejinja's Motion; I now beg to move that you put the question so that we dispose of it and attend to other Amendments *(Applause)*.

**THE DEPUTY CHAIRMAN:** Okay. I propose that the question be put that the Amendment by Hon. Kivejinja be - *(Interruption)*.

**AN HON. DELEGATE:** Point of order. Madam Chairperson, the question to be put should be whether the question should be put. I think the

question to be put is not whether the Amendment by Hon. Kirunda should be part of the Constitution.

**THE DEPUTY CHAIRMAN:** Okay, I now propose that a question be put.

*(Question proposed)*

**THE DEPUTY CHAIRMAN:** I now put the question that the Amendment of Article 1, of the Draft Constitution as moved by Hon. Kivejinja stand part of the Constitution.

*(Question put and negated.)*

**THE DEPUTY CHAIRMAN:** I think now we go - *(Interruption)*.

**MR. BABU:** Madam Chairperson. I would like to request that Hon. Didi's proposal be taken into account. Instead of taking us backwards and forwards, if there are people who have got Amendments, instead of wasting so much time the Secretariat should help us and collect them - we are getting to about the time to adjourn which will be in about 30 minutes or so. I would like, therefore, to propose:

1) That these people do give in these Amendments so that we stop this kind of debate we have had this morning, and

2). At the same time we request the business committee to go back and sit and come out with methods that are going to expedite these debates;

3) The Legal and drafting Committee should also sit and help us if they could fuse most of these Amendments so that we come out with certain Amendments that we can debate here.

Thank you very much.

**MRS. DHUGIRA OPOTI (Okoro County):** Thank you. Madam Chairman. I do concur with Hon. Babu, that we cannot continue at this rate. We have just seen the way the Secretariat has acted very quickly to circulate this information asking us not to press the buttons before we are given chances to speak. On order from the chair, the secretariat should get the Amendments circulated to this House. And as we are looking at them during this stage we would be abreast with exactly what is before hand. So, I beg the Chair to consider and enable us to do a better job by circulating the amendments than moving here and there on issues which are not going to lead us anywhere in our work.

**MR. TIBAMANYA (Kashari County):** In the light of the contribution by Hon. Babu and a Member immediately before me. I propose that we adjourn until this afternoon. Thank you.

**HON. DELEGATES:** Until tomorrow, tomorrow.

**MR. TIBAMANYA:** I propose that we adjourn until tomorrow at 8.30 a.m. Thank you.

**THE DEPUTY CHAIRMAN:** Is that seconded?

**HON. DELEGATES:** No.

**THE DEPUTY CHAIRMAN:** Okay, there is a procedural issue here.

**MR. BIDANDI SSALI (Nakawa Division):** Madam Chairperson, I personally do assume that the Amendments which were said to have been presented do not touch on Article No. 1, and since we have already discussed the Amendments on article 1: is it not proper that we dispose of this particular article, in light of the absence of more Amendments so that when we resume we start with article 2?

**MR. NYAI (Ayivu County):** Thank you, Madam Chairperson. I would like to suggest that or to advise that the Secretariat gathers all the suggested Amendments, the proposed Amendments to Article 1, and that tomorrow they all be read out, and those which are seconded will be disposed of from the furthest. I think that way, Madam Chairperson, we shall move very expeditiously.

**MR. KARUHANGA:** Point of procedure. Thank you very much, Madam Chairperson. I wish to appeal to the delegates to consider discussing all Amendments they may have on Article 1 now. So that, at least, we can say that at the end of our day we have done something. I feel that it will be terrible for us to adjourn now until tomorrow without doing some work at least, on Article 1. There was so far only one Amendment that I heard people had in mind, and that was by Hon. Delegate from Mbarara, Hon. Byanyima. Why can she not bring her Amendment, we dispose of it and you put the question and we go on. We still have an hour to 1.30. I do not see why we do not go on! Madam Chairperson, please can you ask Hon. Byanyima to make the Amendment and we proceed. She is putting up a hand.

**THE DEPUTY CHAIRMAN:** Before we proceed, there was earlier on another Motion by Hon. Birimumaaso. The madam down there, had an Amendment together with Hon. Kivejinja. At least, it was passed on to the Secretariat.

**MRS. NTABGOBA (Women - Kisoro):** Thank you, Madam Chairman. I support the Amendment made by Hon. Birimumaaso, but I beg to move an Amendment further that, the words beginning with 'who' after 'people' should be struck out and the Article should read: '*All power belongs to the people...*' Why I am saying this, Madam Chairman, *-(Interruption)*.

**AN HON. DELEGATE:** Seconded, seconded.

**THE DEPUTY CHAIRMAN:** Hon. Ntabgoba, are you saying that you want only '*All power belongs to the people.*'

**MRS. NTABGOBA:** Correct. I give my reasons, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Yes, it is seconded. Let her give her reasons.

**MRS. NTABGOBA:** The reasons are very simple. Hon. Members, you know why we are here - we are making a Constitution for Uganda and for all Ugandans. In our general communication most of us suggested that the future Constitution of Uganda should be simplified and not verbose this is a step forward therefore to start making a small Constitution which is very clear. If it stands as I have proposed then other laws to follow will be in detail to clarify those powers given to people of Uganda. Madam Chairman, if we had taken my Amendment earlier on, I believe we would have saved a lot of time instead of talking about the '*democratic rights*' which some people are accusing to divert their wishes. Some people already are saying that the rights if we take an example of party politics, some people will be opposing those parties and, therefore, there will be leaving out the rights of most Ugandans as a whole. So, Madam Chairperson, since we have got a Committee of Draftsmen and women, I would move this to be accepted '*All power belonging to the people*' as article 1. It is understandable by all of us here. Hon. Members and by all Ugandans at large and, thereafter, other laws will be drafted. Thank you, Madam Chairperson.

**PROF. KABWEGYERE (Igara West, County):** I rise to oppose the Amendment. Madam Chairperson, although we must be brief, we want to have very short articles, but sometimes an extra word or two may help clarity, may help to carry the message more effectively. Now, all power belongs to the people. Yes, but that power does not translate into sovereignty automatically. The power becomes sovereign when it operates within a mode that is acceptable to the people, in which case continuing like we have already accepted the proposed Amendment that we have had already passed, which is no longer an Amendment - yes, an Amendment to this Article as it now stands, gives coverage because you are exercising power in accordance with the Constitution. Man's power is enormous, although we say we should not limit it, but there ought to be boundaries beyond which that power is unacceptable. So, it is sovereign; it is all embracing but in accordance with the Constitution. I, therefore, Madam Chairperson oppose the Amendment.

**MR. NDEGE (Luuka County):** I join Prof. Kabwegyere in opposing that Amendment. I think if you just say all power belongs to the people you are really not being serious. So, I support the first Amendment which is very clear that, all power belongs to the people, and they have power to exercise their sovereignty through the document which we are going to pass here, which is the Constitution. So, if you do anything unconstitutional, you must be punished. So, you exercise all the sovereignty you want either thorough the papers. *Munno* or *The People* Newspapers and not democratic institutions but you can exercise your sovereignty through writing whatever you want, drawing cartoons of the President doing anything, that is your sovereignty. Therefore, I support the first Amendment. Let us be very specific and let us not qualify the sovereignty of the people, we just leave it very simple and specific. So, I still support the first Amendment and we leave the first Article to read. *'all power belongs to the people who shall exercise this sovereignty in accordance with the Constitution'*. I think that is very simple and very clear and I think we should not spend a lot of time on this. Madam Chairman. Thank you very much. *(Applause)*

**MR. MULENGA (Democratic Party):** Madam Chairman, thank you. I also oppose the Amendment on the Floor now. Not only because of its simplicity, but also because it does not appreciate what we are doing here. The people of Uganda are gathered in

this hall, through their representatives, to exercise their power to determine how they shall exercise their sovereign power. Therefore, it is important that the first Article says it that: *"All power belongs to the people who shall exercise their sovereignty in accordance with this Constitution."* That is the purpose of that Article to say how the people shall exercise their sovereignty. So, to cut that out would make the sentence, as proposed by Hon. Ntabgoba, hang in the air. Second point, Madam Chairman, is that a proposal has been made, namely that we find some order of taking these Amendments, and that is first of all the amendment should be circulated. Secondly, the Chair can read the amendment in the order of appearance according to what the Business Committee might recommend so that the Chair calls the amendment in an orderly way. Once an Amendment is finished either adopted or discarded, the Chair calls the next person who is listed as having an Amendment. We have already heard of yet another Amendment to be moved by Hon. Byanyima, which seems to attract some delegates. I think it is about time we debate that one too. But for the time being I propose, Madam Chairman, that we put the question on that one of Hon. Ntabgoba, because really it should not take our time. *(Applause)*.

**MR. CHEBET MAIKUT:** Madam Chairman, the question of whether a question should be put on Hon. Ntabgoba's Motion does not arise - *(Interjections)* - Sorry, I would like to seek clarification from the Chair as to why a debate should arise on the Motion of the Amendment moved by Hon. Ntabgoba, because as far as I can recall there was no Hon. Member who seconded that Amendment moved by Hon. Ntabgoba.

**THE DEPUTY CHAIRMAN:** It was seconded. Can somebody who seconded the Motion give his or her name? He is Hon. Nsibambi.

**MR. CHEBET MAIKUT:** Then I withdraw

**PROF. NSIBAMBI:** And I am ready to speak; I am ready to articulate.

**THE DEPUTY CHAIRMAN:** No, no. I am not giving you the Floor. I was just asking you to give evidence that you seconded the Motion. I now propose the question.

*(Question proposed)*

**THE DEPUTY CHAIRMAN:** I now put the question that the Amendment to Article 1, of the Draft Constitution as moved by Hon. Ntabgoba Jeninah stand part of the Constitution.

*(Question put and negatived.)*

**MISS. BYANYIMA (Mbarara Municipality):** Thank you, Madam Chairperson. My Amendment would be amending the Amendment of Hon. Wagira, and I would want Article 1, to read that: *'All power belongs to the people who shall exercise it democratically in accordance with this Constitution.'* In other words remove the word 'sovereignty' since it repeats the power, and call it 'it' and say in accordance with this Constitution, that all power belongs to the people who shall exercise it democratically in accordance with this Constitution.

**THE DEPUTY CHAIRMAN:** Is that Motion seconded?

**HON. DELEGATES:** Yes.

**THE DEPUTY CHAIRMAN:** It is seconded by Hon. Babu. Then you can explain.

**MISS. BYANYIMA:** Thank you, Chairperson. The reasons why I propose this Amendment is that when I read Article 1, and as I listen to the debate, Madam Chairperson, I notice that there were three main elements to the Article. The first one being that all the power belongs the people; the second one being how it should be exercised, and in that case it seems that there were two things about how it should be exercised *-(Interjections)-*

**THE DEPUTY CHAIRMAN:** Excuse me, can we have some order in the middle of the Assembly. I can see some people giggling. Please, continue.

**MISS. BYANYIMA:** Thank you, Madam Chairperson. It seems that most delegates, from what I understand in the debate this morning, want that power of the people exercised democratically and also with respect to the Constitution and giving respect to the Constitution. Hence, I would like the word democratic to be retained in the Article, and I introduced it by adding it where we say *'all power belongs to the people who exercise it democratically and then in accordance with the Constitution'*. That covers the power of the people, the exercise of it democratically and also in accordance with the Constitution. Thank you, Chairperson.

**MR. ERESUELYANU (Kaberamaido County):** Madam Chairman, I oppose the amendment because when we introduce the concept 'democratically' or to exercise that power democratically it means we have someone in place to determine whether the exercise is democratic or not, and who is this person? I would imagine we are drawing closer to a situation where someone in the State machinery will be the referee to determine whether the exercise of that power is democratic or not. And for that reason, Madam Chairperson, with your indulgence I beg that this Amendment should not be adopted.

**THE DEPUTY CHAIRMAN:** No, you had suggested that, after I had asked somebody to take the Floor.

**MR. KAGGWA (Kawempe Division South):** Thank you, Madam Chairperson. I would like to oppose the amendment by Hon. Byanyima, on the simple reason that, we are now developing or making a constitution, whereby the sovereignty of the people we have been talking about gives them opportunity to resist any misuse of power. Now, if you look at Article 3, 4 and 5 - the moment you introduce this democratic thing, you have denied them the fundamental right of resisting abuse of the constitution. So, on those grounds, I feel the word democratically should be out.

**MR. ODUR (Dokolo County):** I would like to oppose the amendment on the Floor for the simple ground that, once you act according to the constitution, you are actually acting democratically, and there is therefore, no need to include that word in our amendment.

**MR. RWABIITA (Ibanda South):** Thank you very much, Madam Chairperson. Madam Chairperson, it seems we are diverting the topic into a diverse scope. Madam Chairperson, if you are giving the people power, let us give them the power, and totally with no definition, with no limitations. Madam Chairperson, if you are talking of democracy, there are other chapters e.g. representation of the people which gives people power to vote and elect democratically. So here, let us concern ourselves with the sovereignty and the power of the people, and I would support the amendment of Hon. Wagira as he put it. We leave it at that. *(Applause)*. Other considerations, other definitions, other limitations can come in other chapters. Therefore, Madam Chairperson, I move that you put the question.

**THE DEPUTY CHAIRMAN:** Thank you very much, honourable. I now propose that we put the question.

*(Question proposed).*

**THE DEPUTY CHAIRMAN:** I now put the question that the amendment to Article 1 of the Draft Constitution, as moved by Hon. Byanyima, stand part of this constitution.

*(Question put and negatived).*

**MR. SABIITI (Rukiga County):** Madam Chairperson, I fully support Hon. Wagira's amendment. As he has clearly stated, power should belong to the people, and no one should take this power from them. The people should exercise their sovereignty in accordance with the provisions of the constitution. The provisions referred to here are contained in Chapters 5 and 6 - that is on Human Rights and representation respectively as clearly articulated by Hon. Omara Atubo. People's power should be expressed through a good political system which has full support of the people. I therefore, propose that we should not waste much of our time on this matter. People's power and sovereignty is a must and it cannot be shifted to institutions of state. I would therefore suggest that a question be put and we dispose of this particular article. *(Applause).*

**THE DEPUTY CHAIRMAN:** I now suggest the question, that the question be put.

*(Question put and agreed to)*

If somebody wants to be clear, let us clear the cloud. There is a first point of order here. Order takes precedence.

**MR. MUSUMBA:** Point of order. Is it in order, Madam Chairperson, that when a Delegate like me who still has something to say - I have been seated here trying to catch your eye, but because of the angle at which I am seated, and all this obstruction, I have not been successful. Is it in order that, at this moment, before I have made my contribution to this discussion relating to Article 1 it should be brought to an end. Is it in order Madam Chairperson?

**THE DEPUTY CHAIRMAN:** Next time, I think I should get a small pillar to sit on, so that I can see you. Now I know you are there, I will take care.

**MR. WANENDEYA:** Point of clarification. Thank you, very much, Madam Chairperson. Madam Chairperson, the clarification, I want is this. That the democratic institutions as is always known by people almost throughout the world who exercise democracy, are the Executive, the Judicial and the Legislature. So, I do not see any harm, because those three branches of Government or democratic institutions, are the ones who regulate power on behalf of the people - *(Interruption)*

**THE DEPUTY CHAIRMAN:** Hon. Wanendeya, you are out of order. That was closed long ago. I now put the question that, article one of the draft constitution as amended by Hon. Wagira, do stand part of this constitution.

*(Question put and agreed to)*

**AN HON. DELEGATE:** Madam Chairperson, I am seeking your indulgence that, our records be corrected. That the question which was put, article as amended as to who moved the amendment is no longer an issue, because we amended it as a House. Thank you, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Unless Members have a burning issue which can be ironed out within two or three minutes, we have a time constraint. Okay. Let us see from the centre.

**MR. KAGIMU KIWANUKA:** Point of clarification. Thank you, Madam Chairperson. I agreed to the amendment, but I want clarification from the Chair and from the Hon. Members. There is this word *'all power belongs to the people'* - Now, which people? Do we take it for granted or we leave it like that?

**THE DEPUTY CHAIRMAN:** Okay, I think we have taken note.

**MR. KARUHANGA (Nyabushozi County):** Madam Chairperson, let me take this opportunity to congratulate our colleagues for at least writing the First Article of the Ugandan Constitution.

Secondly, I wish now to say that, in light of what we have gone through this morning, and the experience we have acquired, and the problems we have encountered, I would like to suggest that, tomorrow, our proceedings be made a little faster and more organised. Any Member I propose, who has any amend-

ment to make, should make the amendments today and get them circulated tomorrow to all the Members. And if any Member has *-(Interruption)-*

**THE DEPUTY CHAIRMAN:** There is a point of order on the Floor. I have given this one to the gentleman in glasses. Can you give your name please?

**LT. COL. GUMA:** Point of order. Is it in order for Hon. Karuhanga, to take over responsibilities that are supposed to be for the Chair? Thank you, very much.

**THE DEPUTY CHAIRMAN:** He got my permission, so it is as if I delegated.

**MR. KARUHANGA:** Thank you. And I was only making proposals, Madam Chairperson, which proposals of course, can be *-(interruption)-*

**THE DEPUTY CHAIRMAN:** He is still on the Floor. The point of order has been cleared.

**MR. KARUHANGA:** Thank you, very much. Thank you for giving me the opportunity to make these proposals, and I am not insulting anybody's Chair, Madam Chairperson. So, I was proposing that, just for the benefit of our work and for our business, the rules notwithstanding, that Members do make proposals and be circulated tomorrow. And that, when we proceed tomorrow, if any Member has a proposal but has not actually circulated it and it comes out as a result of the amendments being made, they can probably still make them orally - tomorrow. After that, in the next week, we should try our best and make sure that we circulate our amendments, so that we can move faster. That is my proposal.

**THE DEPUTY CHAIRMAN:** Thank you, very much.

**MR. MALINGA (Usuk County):** Madam Chairperson, I would like to ask the indulgence of the Assembly that, I have a proposal that, what we have just passed stands part of the constitution. But I would rather have it as the Second Article, and the Second Article as the first one. So, I intend to move that we pass that. I do not know how we should proceed about it. In numbering, I agree as to the principle; I want Number 2 to be 1.

**THE DEPUTY CHAIRMAN:** Okay, let us hear from behind.

**DR. OKULLO-EPAK:** Thank you, Madam Chairperson. Madam Chairperson, I would like to suggest by way of supporting what Hon. Karuhanga has just said that, we should facilitate our work and work in an orderly manner. If we could make the useful provision of our rules of procedure - rule 14 requires that, we submit our Motions or propose amendments in writing to the Clerk, and that the Clerk although he is not provided for, should assist us by circulating those submissions to all Delegates. Secondly, Madam Chairperson, I would suggest that, if you and the Secretariat sat and went through all the amendments submitted, it would do us a lot of good, if once again, you use the provision of sub rule 12 of rule 48, which tends to provide for harmonization or ordering of those submissions. I think these will make our work much, much more orderly, efficient and faster. The amendments which are proposed but are differing narrowly, the proposers should be asked to sit and probably try to harmonize them and then we have one submission, supported by all of them. I think this will make our work very easy, Madam Chairperson. I thank you, very much.

**THE DEPUTY CHAIRMAN:** Thank you very much. But I moved from this way?

**AN HON. DELEGATE:** Yes, you have been moving from that way but stopping from the middle, and this end we were about to demonstrate, Madam Chairman. First of all, I have an important amendment to the Article one which we have been debating, which I have had no opportunity to give and which I have already given to the Clerk in writing, but which I hope will be circulated tomorrow, and the substance of that amendment is that, I wanted to propose that, Article 8, sub article 1 to 3, should be moved to article one; so that, they become one article. Members should look at those articles and see whether that, does not make sense, and whether some of the arguments that have been put here, would not have been put if I had been given the opportunity to put those proposals forward. Thank you, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Thank you very much. I am sorry, we do not have your changes. But as you, we still have the reconsideration stage.

**MR. WANENDEYA:** Thank you very much, Madam Chairperson. Madam Chairperson, with all due respect to Hon. Abu Mayanja, I believe that rule 48 sub rule 12; is applicable in doing our work. Madam Chairperson, the point over here is that, we meandered quite a bit. But if we had listened to Hon. wagira's amendment first and all other amendments brought together, we could have moved a bit faster. Therefore, I am requesting, that tomorrow and subsequent meetings, if somebody brings about an amendment which is similar, we should use rule 48 sub rule 12 and move rather than you know, meander here and there. Thank you, Madam Chairperson.

**THE DEPUTY CHAIRMAN:** Thank you very much. But that presupposes that we had the Motions. This is a unique day, because we were starting from zero. So, I think that is understandable. According to my watch, we have run out of time. I propose that we adjourn. Okay, Members are saying that, we leave the Secretariat to do the homework. As we have adjourned early, let us be here by 8.30 a.m.. We still have that problem; I will not get tired to go on reminding you. And secondly, I just want to reiterate the significance of what other members have hinted on. And I want it to be my last note this morning that, Members please, when we leave, even before you leave, all of you with burning issues on your minds put them on paper and hand them over to the Secretariat. Otherwise, even tomorrow, we shall come here, and we will not have any work. If you bring them early in the morning, we will be starting, so there will not be time to work on them. So, please this afternoon, the Secretariat will be here, let us do something and at least be able to proceed smoothly. Now, we adjourn.

*(The Assembly rose at 5.30 p.m. and adjourned until 8.30 a.m. on Friday, 26th August, 1994).*